



לע"נ ברוך בענדיט וברכה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

לע"נ אסתר אביגיל בת חיה רבקה וציפורה רחל בת אסתר מחלה THE DIMONT FAMILY EDITION

THE DAF OF THE WEEK MATTERS

שבת קודש פרשת ויקרא | מסכת יבמות דף צ"ה

INSIGHTS FROM OUR CHABUROS

Don't drink the water

ואפילו אמר אין אני משקה

Rambam writes (Hilchos Sota 2:12) that a woman must drink the bitter waters if she had been warned by her husband and if she was subsequently seen secluded with the suspected adulterer. If she does not drink the waters for whatever reason, whether because her husband did not want to subject her to the sota procedure, or if she was the one who refused to drink, in all these cases the woman remains prohibited forever to marry the suspected adulterer, just as she is prohibited to her husband forever.

The Rambam asks why is it that the woman should be prohibited to the adulterer in a case where the husband decides not to have his wife drink the bitter waters? The woman is here and she is insisting that she is innocent. She is even insisting that she be able to drink the waters in order to prove her innocence, and just because the husband does not want to cooperate, why should this woman suffer the fate of remaining prohibited to the man of whom she insists that nothing wrong has happened between them. From where does the Rambam find a source for this halacha?

Beis Shmuel (ibid. note 2) writes that the explanation is the once this woman has been caught in seclusion with this man whom she was warned not to be with, she immediately becomes prohibited to marry him ever again. The only way for her to resolve this doubt is to drink the waters, but this procedure can only be done with the consent and cooperation of the husband. As long as he is reluctant to do so, the woman has no recourse, and even her crying out will not change the fact the waters are not available without the husband's consent.

PARSHA CONNECTION

In this week's daf the Gemara discusses the קרבן that a woman brings if she mistakenly remarried believing that her husband had died, and then he subsequently returns. חומש ויקרא, discusses the various קרבנות which were brought in the Mishkan. The second passuk says: דבר אל בני ישראל ואמרת אליהם אדם כי יקריב מכם קרבן לד' וכו'. The passuk starts in the singular (אדם) but then switches to the plural (מכם). Additionally, it should have said אדם מכם כי יקריב if the desired meaning was to say "one of you". The אלשיך הקודש explains that the Torah is teaching us a very important message regarding our collective responsibility. When "one" brings a קרבן for a חטא, it is מכם, upon all of us, because everyone bears some responsibility when one member of כלל ישראל sins.

STORIES OFF THE DAF Two Sisters

אותה אותה שכיבתה ואין שכיבת אחותה אוסרתה

Our Gemara teaches that a woman is only punished by the sotah waters or is judged forbidden to her husband because of her own illicit relations, but if she herself is innocent of wrongdoing, she is not punished for the forbidden relations of her sister. Rashi in Chumash refers to an aggadata in the Medrash Tanchuma as an example of such a case:

There were once two identical-looking sisters who lived in neighboring towns. One of the sisters was unfaithful, even though her husband had warned her not to be alone with a certain man. When the husband caught his wife flagrantly disregarding his warning, he acted according to the halachah and separated from her until she would be brought up to Yerushalayim to publicly drink from the sotah waters.

The accused secretly left her town to visit her sister. When she arrived, the innocent sister asked, "Why have you come?" The guilty one answered, "My husband is going to force me to take the bitter waters."

The innocent sister understood her guilty sister's intention. "Don't worry. I'll go and drink instead. No one will realize it's me since we look alike."

The accused gratefully said, "Yes, please go in my stead." They exchanged garments and the innocent sister went to the guilty sister's house and pretended to be her sister. Even the betrayed husband was fooled by this unexpected plan. He brought his "wife" to Yerushalayim, where the innocent sister refused to admit to any crime and drank the bitter waters instead.

The first thing she did after they established her innocence was to run straight to her guilty sibling. When she arrived, the woman who had escaped punishment was overjoyed and ran out to greet her. They kissed one another on the mouth and a trace of the waters was transferred to the lips of the guilty woman. As soon as the sotah waters found their mark, the unfaithful woman died immediately!

HALACHA HIGHLIGHT

An Extramarital Affair Upon Hearing that One's Husband Died

ואמר ר' הונא כגון שקדש אחיו את האשה וגו'

R' Huna explained that the dispute concerns a case where the brother betrothed the woman etc.

There was once a married woman who received false information that her husband was dead, and she subsequently had an extramarital affair. Her husband then returned, and the question arose whether she was permitted to return to her husband. Rav Avrohom Borenstein¹, the Avnei Nezer, began his analysis of this question with our Gemara. R' Huna explains that Rav and Shmuel disagree about a man who betroths a woman, goes out of the country and his brother, upon hearing of his brother's death, performs yibum with his sister-in-law. Rav maintains that she is considered a married woman and prohibited to her husband. The reason is the concern that people will mistakenly assume that the first kiddushin was performed with a stipulation, that was not fulfilled, the second marriage was valid and if she returns to her husband people will erroneously think she is violating the prohibition against marrying a brother's wife. Shmuel disagrees maintaining that we are not concerned that people would erroneously think the first kiddushin was performed conditionally. If, however, the first marriage had reached the stage of נישואין, all opinions would agree that she is permitted to her husband because no one would assume that she divorced the second brother to marry the first brother since that would violate the Torah's prohibition against marrying a brother's wife.

Rema rules in accordance with Rosh that a married woman (נישואה) who does yibum because she mistakenly thinks her husband died is permitted to return to her husband. Shulchan Aruch, on the other hand, does not cite this halacha because he expressed uncertainty about whether this is the halacha. Beis Shmuel explains that Rema maintains that the reason, in general, a woman may not return to her husband is the concern that people will mistakenly think that her husband divorced her and is now violating the prohibition of remarrying his divorcée after marrying another man. Therefore, in a case of yibum where this concern does not apply, since it would be prohibited for the brother to marry his brother's wife, it is permitted to return to her first husband. Shulchan Aruch holds that the reason she may not return to her first husband is a punishment for not having sufficiently researched that her husband died; it won't matter whether the second husband is the brother of the first. Seemingly, the case of the woman who had an extramarital affair would be another example of a case where Shulchan Aruch and Rema would disagree. Shulchan Aruch would apply the punishment even in this case, whereas according to Rema she would be permitted to return to her husband since the prohibition against remarrying a divorcée does not apply if she did not marry.

1. ע' שו"ת אבני נזר אה"ע סי' צ"א שמביא כל המראה מקומות

POINT TO PONDER

The Gemara tells of a case of someone who did an עבירה with his mother-in-law, and רב יהודה permits the man to marry to his wife. How is this case different from the גמרא on כו concerning someone who was suspected of having done something inappropriate and the Gemara stated that he cannot marry the lady's daughter?

Response to last week's Point to Ponder:

The Gemara discusses the משנה which says that if two witnesses told a woman that her husband died and then her son died, and later she is told that it was actually her son who died first and therefore she needs יבום, she cannot stay with her current husband. The גמרא suggests that the second pair is believed because they were עדי הזמה and a גזירת הכתוב says we believe them. Since עדי הזמה are testifying that the first pair were not in the purported place at the purported time, but are not addressing the actual facts of the case, how can this fit into the משנה which says אמרו לה חילוץ והיו הדברים?

It is possible that the second pair of עדים testified about the facts of the case as well as testifying that the first pair of עדים were not there at the time. In order to be considered זוממים they would have to first testify that they first pair were lying about being at the scene and then testify about what took place. Otherwise it would be a הכחשה and we cannot believe one pair over the other. (See רמב"ם ערוך לנר who explains that according to the רמב"ם, this answer would not work).

REVIEW AND REMEMBER

1. Do relations with one's wife's sister render his wife prohibited?
2. In what way is the prohibition of sotah considered a lenient prohibition?
3. How does R' Ami explain the dispute between Tanna Kamma and R' Yosi in the Mishnah?
4. Explain the dispute between Rav and Shmuel according to R' Huna's explanation?

ר' יוסף שמואל שמעלקא ב"ר יצחק מערמעלשטיין ז"ל, Shelly Mermelstien, לע"נ

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