



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 **שבות** MATTERS

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INSIGHTS FROM OUR CHABUROS

Learning Torah and performing mitzvos

אמר רב פפא אמר קרא "ולמדתם אותם ושמרתם לעשותם" כל שישנו בעשיה ישנו בלמידה. כל שאינו בעשיה אינו בלמידה

Rav Pappa teaches that learning Torah must be joined with the aspiration to fulfill the mitzvos. Often, the Torah instructs us "to observe" the mitzvos or "to do" the statutes. The verse in Vayikra 26:3, however, tells us תלכו אם בכוחתי—if you go (walk) in the mitzvos—then we will be deserving of reward. What is the meaning of "walking" in the mitzvos? Let us illustrate with a parable. Several people were sitting around a table, eating and drinking. While they were still eating, there was nothing unusual or noticeable about the members of the group. After they finished their meal, and they got up to leave, one of the group was left behind, still sitting in his seat. The waiters were surprised to see that this one man remained by himself, even after everyone else had left, and they approached him to ask him why he did not leave. Only then did it become obvious that this man did not have legs and could not move on his own. While they all ate, this disability was not noticed, because they were all in their seats. However, now that it was time to move, this cripple remained conspicuously behind, and his immobility was unmistakable. This phenomenon also occurs among various people who are all involved in the worship of Hashem. Many join together and sit in the same yeshiva for several years. Often, while students join together and study in yeshiva for several years, it is difficult to notice substantial differences between one student and another. When are the individual talents and abilities of each person more pronounced? It is when the students leave to "go on their way" in the world at large. It is then that we can see who can stand on his own feet, and who is unable to move. There are those who are shaken and who become disoriented by the slightest disturbance, while others remain strong and in control as they encounter challenges, and even in times of crisis. The reason may be, as stated in our Gemara, that they never learned with the intent to ever stand on their own feet and apply their lessons in a practical manner. The Torah tells us to "go in the ways of the statutes." We must prepare ourselves to have a firm footing as we travel through good times as well as difficult moments, and in all circumstances. In this way, we can proudly proclaim (Tehillim 18:37): "You have widened my stride beneath me, and my ankles have not faltered."

PARSHA CONNECTION

In this week's daf the Gemara says "קשים גרים לישראל כספחת בעור" the רמב"ם describes it as צרעת as is pointed out by the ג' (see ה"ח). דף מז ע"ב חס גליון הש"ס. (רמב"ם איסורי ביאה פי"ג) this is also the punishment for speaking לשון הרע which is the subject of what happened to מרים in this week's Parsha, when she spoke with אהרן about רבינו. The Torah writes in ב' פסוק that ה' heard their conversation. וישמע ד' and later in ט' פסוק it says that he got angry at them, ויחר אף ה'. Usually someone will get angry initially and later calm down, but here the reverse happened, ה' first heard and discussed their conversation, and only afterwards got angry. We need to learn from here, the importance of being in control of one's emotions. While ה' is obviously in control of everything, we can try and emulate this very important characteristic. In fact the ספר חסידים writes that a person should always wait overnight before reacting to an event that angered them. (See אלשיך הקודש).

STORIES OFF THE DAF

Today's questions with yesterday's answers...

עצמו לדבר הלכה ... ומדמי מילתא למילתא תוקע

Rav Shach, zt"l, had literally thousands of students and visitors who came to him for advice. It was amazing to see how the gadol hador carefully considered every single question despite the great burdens placed on his time and energy, how he dealt delicately and shrewdly with every single questioner and his problem. Once, Rav Yaakov Horowitz, shlit"a, went with Rav Shimshon Pincus, zt"l, to Rav Shach to present a certain delicate question. As was his practice, Rav Shach started deliberating about the problem and tried to examine the issue from various angles. After quite some time considering the somewhat complex question, he issued his answer.

A member of the Rav Shach's household asked him afterward, "As the Rosh Yeshiva surely remembers, there was a similar inquiry several days ago and the conclusion was the very same. Why agonize? Why not give the same answer to begin with?" The gadol responded, "I never decide today's questions with yesterday's answers."

Rav Chaim Kanievsky, shlit"a, explained the Rosh Yeshiva's source for this practice. "In Yevamos 109b, we find that Rashi explains the phrase עצמו לדבר תוקע

to mean that a Rav might decide one halacha falsely on the basis of a similar halacha he had already clarified. The Baraisa condemns such a practice, and it was this that Rav Shach was careful to avoid.

Rav Chaim concluded, "This is also the p'sak in Shulchan Aruch, Choshen Mishpat 10:2. 'Anyone who has a case to judge and compares it to a different case that came before him and which he already decided without duly considering the new case to determine if it is really the same...this person is in the category of the wicked whose hearts are גס בהוראה—are filled with hubris when they make their Torah decisions!'"

HALACHA HIGHLIGHT

Intent for the mitzvah of yibum

אבא שאול אומר הכונס את יבמתו לשם נוי לשם וכו', כאילו פוגע בעררה וגו'

Abba Shaul says that one who marries his yevama because of her beauty etc. it is akin to violating an ervah prohibition etc.

Poskim¹ discuss the parameters of this dictum of Abba Shaul. Is the concern that the yavam will direct his thoughts towards only the yevama's money or beauty but if he were to also intend to fulfill the mitzvah it is acceptable or is the concern that any intention other than the mitzvah undermines the mitzvah and thus even if he has mixed, mitzvah and non-mitzvah intentions he has undermined the mitzvah. Rav Yechiel Michel Epstein², the Aruch Hashulchan, writes that Abba Shaul and those who rule in accordance with his position and advocate chalitza instead of yibum, are concerned that the yavam will not have any thought related to the mitzvah, but if he intended to fulfill the mitzvah together with self serving intent there would not be a concern. Consequently, if a couple wants to do yibum, even if their desire is out of ulterior motives, it is allowed as long as someone teaches them to intend for the mitzvah since a mixture of intent is allowed. This clearly indicates that the concern is for someone who will only have in mind selfish motives and will be oblivious to the mitzvah.

Furthermore, Rav Ovadiah Yosef³ cites the opinion of Rav Yaakov Reisher⁴, the Shvus Yaakov, who maintains that Abba Shaul's position represents an extremely cautious perspective that a person may have self-serving intentions, but it does not create a prohibition against performing yibum. As evidence, Shvus Yaakov cites our Gemara. Bar Kappara teaches that one of the three activities to which one should attach himself is chalitza, and interestingly, when formulating his list of activities to be avoided he mentions yibum. The reason is that there is no prohibition, even as far as Abba Shaul is concerned; it is merely a precaution. Similarly, when Chazal warn against marrying a woman for her money because it will produce unfit children (בנים שאינם מהוגנים) is it realistic to think that the majority of people who marry out of some sort of self-serving and selfish motive are doing something improper? Obviously, there is no concern if there is a mixture of intent for marriage. Similarly, there is no concern if a couple does yibum with a self-serving intent, in addition to the intent to fulfill a mitzvah.

1. ע' שר"ת יביע אומר ח"ו אה"ע סי' י"ד
2. עררה"ש אה"ע סע' קס"ה סע' ח'
3. שר"ת יביע אומר הנ"ל
4. שר"ת שבות יעקב ח"ג סע' קל"ה

POINT TO PONDER

רש"י ד"ה גדלי בהדה ואע"ג דלא בעל writes that the original קידושין which was done when she was little, will now become fully binding and will remove the זיקה. Since the problem with doing a קנין with a קטנה is a lack of דעת, how can this work retroactively?

Response to last week's Point to Ponder:

According to רבי אליעזר that a קטנה בת כהן can even continue to eat תרומה after marrying a ישראל, what is the relevance of נזיון since she can marry someone else without performing נזיון, and even before she does anything she continues to enjoy the benefits of being single and part of her father's family?

There are two areas that may be impacted by a נזיון or lack thereof. One is whether she will need חליצה if her husband dies. And the second if she becomes a נערה and can no longer perform נזיון. In both cases we need to know if what happened before was an act of נזיון. (See קרן אורה).

REVIEW AND REMEMBER

1. How does a girl become "an orphan during her father's lifetime"?
2. What are the three traits to which a person should attach himself?
3. What is the negative trait of attaching oneself to a matter of Torah law?
4. Is a judge permitted to rely on his own powers of reason to render a decision?

ר' יוסף שמואל שמעלקא ב"ר יצחק מערמעלשטיין ז"ל, Shelly Mermelstien, לעינינו נאמרו

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