



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

THE SHABUOT MATTERS

שבת קודש פרשת עקב | מסכת יבמות דף קי"ח

INSIGHTS FROM OUR CHABUROS

By Rabbi Yitzchok Gutterman

The משנה says that if a woman says her husband died she is allowed to remarry but her cowife cannot. According to ר' טרפון, the צרה can continue to eat תרומה even if she is a בת ישראל שניסת לכהן. ר"ע disagrees and says she can no longer eat תרומה. The שמעתתא ז' פרק ד' שב שמעתתא brings the הלכות גירושין פרק י"ב הל' ט"ז ד"ה נסתפקתי in משנה למחר who has the following חקירה: when we say we don't believe the צרה, do we mean that we not believe her at all "בתורת ודאות" or do we just not believe her לקולא but if the צרה was מקבל קידושין from someone else we would require a גט? He answers that this חקירה is the מחלוקת between ר' טרפון ור"ע as well as the מחלוקת רמב"ם מחלוקת רמב"ם ר' טרפון where the הלכות תרומות פרק ט' in וראב"ד that the צרה can eat תרומה and the ר"ע paskens like ר"ע who holds she cannot. In other words, according to ר' טרפון, the wife's words are completely discounted in relation to her צרה and we are not חושש for them at all. Therefore, she can continue to eat תרומה. However, ר"ע does not discount her words completely and is חושש for them and she therefore cannot eat תרומה. The קצות himself disagrees and says that everyone agrees that if she received a קידושין from another man we would not be חושש for it at all. The reason is as follows: a wife shouldn't be believed at all to testify about her husband being dead because פחות משנים אין דבר שבערה פחות משנים. We only believe her because the חכמים were התורה because of עיגונא. Therefore, in cases where חז"ל didn't believe her (like the case of a צרה), it goes back to the default where an אחד is not believed at all and קידושין would not be תופס. The מחלוקת about her eating תרומה is because we have a principle of באיסורים. Therefore, even though the צרה may hate her, we should at least be לחומרא that the other wife is telling the truth and not let her eat תרומה. ר' טרפון and the רמב"ם who paskens like him and say she can continue to eat תרומה hold like the ר"ן in ל' דף ל' who says that if a given testimony is mostly about one thing (in his case ממונות) and it happens to affect something else (in his case איסור) then you must follow the rules of עיקר testimony (in his case it would mean you need 2 עדים and not one). Therefore, the קצות suggests that ר' טרפון and the רמב"ם held that since the main testimony here is about a שבערה but it happens to affect איסור, we would still need two kosher עדים and a lone צרה would not be believed even for איסור.

STORIES OFF THE DAF

The Pain of Being Alone

טב למיתב טן דו מלמיתב ארמלו

On this week's daf we find Chazal's dictum that women so much prefer marriage to being alone that they are often willing to remain married even when there is conflict between themselves and their husbands. "Better to live as a married pair than to be alone." In the following story, we see just what it can mean for a woman to forgive her husband for having consigned her to a life alone.

During the hostilities in Yerushalayim in 1967, the entire Mirrer Yeshiva was huddled in the dining room, its makeshift bomb shelter. The bombing was very intense and everyone davened with all their concentration. Although the shelter did offer some protection, it would have been practically worthless if the building were to sustain a direct hit. After the spate of bombing ended, people checked the roof and found that no fewer than three bombs had failed to detonate!

While everyone stood astounded at this open miracle, Rav Chaim Shmuelevitz, zt"l, exclaimed, "Do you think this is in the merit of the bnei yeshiva? Incorrect! Let me tell you who saved us all. One of our neighbors is an agunah whose husband abandoned her and their five young children, and they took shelter with us. Since the room was very crowded, I was forced to stand near her and I inadvertently overheard her heartfelt prayer to Hashem during the worst of the bombing. 'Master of the World! I am sure that when my husband finally comes to the next world I will have an ironclad claim against him. He left me in these difficult times to fend for our young defenseless children alone. I am forced to hire myself out to clean houses all day long for a pittance. I am sure that he will be found guilty and will have to make amends for what he has done. But Master of the World, let's make a deal! I am prepared to forgive my husband wholeheartedly for all the pain that he has caused me as long as You will forgive everyone here for our many sins. Let us all leave here healthy and well!'"

Rav Chaim concluded, "That woman's plea is what saved the Mirrer Yeshiva from destruction!"

PARSHA CONNECTION

In this week's daf we have a משנה discussing a woman who traveled overseas with her husband and son and comes back alone, testifying that her husband and son died overseas. The הפטרה which we read this week used this exact scenario when describing how בני ישראל felt. The פסוק says: ואתה בלבבך מי ילד לי את אלה ואני: "You say in your heart who gave birth to these as I had lost my children and my husband". The prophet uses this analogy to offer hope to בני ישראל, that ירושלים will be surprised by the return of the Jews to ירושלים. The פסוק seems repetitive in saying who gave birth to them, and who raised them. The אלשיך הקדוש explains that this refers to the fact that they will be צדיקים. And therefore it's a double surprise, one that they were born and second that even in exile they became צדיקים! May we all merit to see this במהרה בימינו fulfillment!

HALACHA HIGHLIGHT

Testifying About a Brother's Death

ראין האיש נאמן חומר מת אחי שייבם אשתו

A man is not believed to say "My brother died" so that he should do yibum with his wife

Shulchan Aruch¹ rules in accordance with the Mishnah that a man is not believed to testify, "My brother died and I will do yibum with his wife." Rav Shmuel ben Moshe de Medina², the Maharashdam, notes that the language of the Mishnah indicates that the brother is not believed because he included in his testimony that he will do yibum with his brother's widow. This implies that the reason his testimony is not admissible is the concern that he is looking for a way to be able to marry his brother's wife. Therefore, if he testified that his brother died without mentioning yibum or if he mentioned that he will do chalitzah his testimony would be admissible. Furthermore, if the testifying brother was married at the time he filed this testimony he is believed even to perform yibum since under such conditions there is no suspicion that his testimony was to be able to do yibum. This is similar to the earlier ruling³ that a single witness is not permitted to marry the widow unless he was married at the time of his testimony.

Teshuvos Ginat Viradim⁴ challenges these rulings of Maharashdam from the earlier Gemara⁵ that rules that any witness who testifies that a woman's husband died is not permitted to marry the widow because of the concern that the witness is looking for a way to be able to marry the widow. Accordingly, there is no reason to think that the brother is different than any other witness and the halacha in both cases is that the one testifying is not permitted to marry the deceased but others would be permitted. He therefore suggests that the intent of Maharashdam is that if the yavam limits his testimony to the death of his brother, the testimony is accepted and others are permitted to marry the widow. On the other hand, if he included in his testimony a statement related to his intent to perform yibum even others would not be permitted to marry the widow.

1. שו"ע אה"ע סי' קנ"ח סע' א'
2. מהרשד"ם סי' ע"ה
3. גמ' לעיל כה
4. ספר גינת ורדים כלל ג' ס"א
5. גמ' לעיל כה

MUSSAR FROM THE DAF

Almost Alone

אמר ליה רבינא לרבא: המזכה גט לאשתו במקום קטטה, מהו? כיון דאית לה קטטה בהדיה זכות הוא לה. או דלמא, ניחא דגופא עדיף לה? תא שמע, דאמר ריש לקיש: טב למיתב טן דו מלמיתב ארמלו

The Gemara asks if one can give a get to a woman through a shliach appointed by the husband in a case where there has been a quarrel between the husband and wife. The question is whether in this unique situation giving a get to a woman is a זכות (benefit) for her or a חוב (detriment) for her. If it is a זכות for her then the shlichus would work, as we have a rule that we can מצכה a person even if they are not in front of us (i.e., through a shliach)

The Gemara answers the question by quoting a number of sayings which reiterate the concept that a woman would rather be married than single even if only to a lowly/blemished man. The Gemara concludes therefore that divorce would be considered a חוב for her to receive the get as she would definitely rather stay married.

We see from the Gemara's comparisons a very big yesod. When a woman is in a contentious marriage in her eyes it is as if the husband is physically blemished.

There is a very important lesson here. A man may feel it is okay to argue with his wife since he is so used to arguing with his Chavrusa or friends. He may think it is part of life when one wants to reach honest conclusions. However, for a woman it is much different. She views a quarrel as very serious and painful. Therefore in a marriage, a man must do whatever it takes to avoid any machlokes. He must learn how to be mevater whenever it is a viable option.

POINT TO PONDER

The Gemara discusses the נאמנות of a צרה to contradict the testimony of her co-wife. The גמרא suggests that she may claim that the husband they share didn't die even though she knows that he did die, just to cause her צרה grief. If she knows for sure that their husband died, so she is no longer her צרה? Why then would she still want to hurt her co-wife?

Response to last week's Point to Ponder:

The משנה lists five women who are not believed to testify on behalf of certain of their female relatives. Do we not believe them at all, and these women remain a איש או אישה, or does their testimony create a ספק.

Answer: The רמב"ם הלכות תרומות פרק ט' הלכה ד' writes that a wife of a חתן whose husband is missing and one of these five women testify that he died, the wife can continue to eat תרומה because we do not give this testimony any credibility. The ראב"ד argues and maintains that she cannot eat תרומה. Their מחלוקת seems to be regarding this specific issue of whether these women have no credibility or is it a ספק. (See 'משנה למלך הלכות גירושין פי"ב הלכה טז').

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

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Guterman, please visit our website, dafaweek.org, or download the app

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The shavua matters is published by the Daf a week program under the rabbinical guidance of Harav Meir Stern shlita and Harav Shmuel Kamenetsky shlita

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