

שבוע Matters

THE DIMONT FAMILY EDITION

לע"נ אסתר אביגיל בת חיה רבקה וציפורה רחל בת אסתר מחלה

שבת קודש פרשת ראה | מסכת יבמות דף קי"ט

INSIGHTS FROM OUR CHABUROS

A Single Witness

שתי יבמות... לזו עדים ולזו אין עדים-את שיש לה עדים אסורה ואת שאין לה עדים מותרת

Earlier (93b), the Gemara discussed the issue of whether a single witness is believed regarding the death of a yavam in order to permit the yevama to marry at large (לשוק). The two sides of the issue were an analysis of why a single witness is ever believed to testify about the death of a woman's husband. Is a single witness credible because the death of a person abroad is something which will eventually become known, and a witness will not lie in cases involving facts which eventually become known? If this is the case regarding testimony about the woman's husband, it will also be true if he testifies about the death of the yavam. Or, is the trust of a single witness founded upon the awareness that the wife herself will only remarry if she is also certain that her husband is dead? The single witness is not believed on his own, but together with relying upon the wife's confidence, we allow her to remarry. If this is the case, then in reference to the yavam there is no added trust that the woman will not proceed unless she knows that the yavam died. So a single witness would not be trusted. The Gemara left this issue unresolved (תיקו).

Rambam (Yibum v'Chalitzah 3:5) and Rif rule that a single witness is believed to say that the yavam died, while Rosh rules that a single witness is not believed in this case.

The wording of our Mishnah seems to corroborate the opinion of Rosh. The Mishnah clearly presents a situation where testimony is available regarding the death of a yavam: "לזו עדים" "this one has witnesses..." We see that it is not one witness which is available, but rather two witnesses, as Rosh had said. Nevertheless, Rambam (ibid. Halacha 8) presents the halacha of this Mishnah, and he presents it in terms of one witness who comes, being consistent with his approach in Halacha 5.

PARSHA CONNECTION

In this week's daf the Gemara discusses the concept of רוב, which can be used to decide a halachic dilemma. This principle also has an important application in this week's Parsha. The Mishna (סנהדרין פרק י משנה ד') writes that if most of the people in a city worshiped זרה עבודה, the whole city is considered a עיר הנידחת. Although not everyone in the city is guilty based on the concept of רוב ככל the entire city must be destroyed and can never be rebuilt. In regard to an עיר הנידחת says פסוק: "ולא ידבק בידך מאומה מן החרם למען ישוב ה' מחרון אפו" רחמים after destroying a עיר הנידחת? The עיר הנידחת explains that people are affected by their actions, so if we kill out a city, even though it's a מצוה, the act of killing even if warranted can nevertheless cause people to become cruel. Therefore there is a special ברכה רחמים so that the people involved will not become cruel. The צרור המור writes that the word חרם has the same letters as מחר (See also אור החיים הקדוש).

STORIES OFF THE DAF

Considering the Minority

לימא ר"מ היא דחייש למיעוטא

When Rav Tzvi Hirsch of Zidichov, zt"l, was a young man he was already known for his tremendous erudition and sharp intellect. Throughout his life he was ceaselessly working to bridge the gap between the Chassidim and their opponents. To this end, he met with countless Chassidic Rebbes as well as many leaders of the Misnagdim. He also met with two of the leading Gedolei Torah of his generation, Rav Yaakov Orenstein, zt"l, and Rav Yaakov of Lissa, zt"l, the author of the Nesivos on Choshen Mishpat and many other seminal works.

Once, Rav Tzvi Hirsch took very ill. Because of the medical facilities in Lvov, the city was a place where many Rabbonim and Rebbes would travel seeking a cure. Rav Tzvi Hirsch's worried family rushed him to Lvov where they hoped that the many famous professors and physicians congregated in the city would be able to help him. However, it appeared as though their arrival in Lvov only precipitated Rav Tzvi Hirsch's dramatic deterioration; at a certain point, he was in a state of absolute gesisah. Everyone at his side knew that if he lived through the day it would clearly be a miracle.

Suddenly, the Rebbe commanded those attending him to give tzedakah immediately to the kuppah of Rabbi Meir Baal HaNes. He explained, "The Gemara in Gittin 28a states that most gosesim are slated to die. Only a minority of them recover. In Yevamos 119a we find that Rabbi Meir Baal HaNes is the one who takes account of, or is chosheish, the minority. Now we need to give in his merit so as to arouse a parallel aspect of Providence in heaven. Hashem will be chosheish for the minority who pull out of gesisah and I will recover!"

Shortly after they located such a pushkah and obeyed the Rebbe's order, Rav Tzvi Hirsch had a complete recovery!

HALACHA HIGHLIGHT

A Fetal Kohen and a Corpse

היתה לה חמות וכו' יצתה מלאה וכו' ר' יהושע אומר אינה חוששת

If she had a mother-in-law... who left for overseas pregnant... R' Yehoshua says that the daughter-in-law does not have to be concerned that her mother in law had a child

The reason for R' Yehoshua's ruling is that there is the possibility that the mother-in-law miscarried and even if she has a viable child it is possible that it will be female. This constitutes a double doubt (ספק ספיקא) that permits the daughter-in-law to marry without hesitation concerning an obligation for yibum¹. Rokeach², based on this principle ruled that the wife of a kohen who is pregnant is permitted to enter a room with a corpse. The fetus may or may not be viable and even if it is viable it may be female for whom the restriction against טומאה does not apply. For this reason the mother is permitted to be under the same roof as a corpse. Rav Avrohom Avli Gombiner³, the Magen Avrohom, questions why Rokeach invoked this principle when it should be permitted based on the principle that swallowed (טומאה בלועה) does not transmit טומאה. Similarly, the fetus should be incapable of contracting טומאה while in the womb.

Radvaz⁴ suggested that the reasoning of Rokeach is necessary in a case where the mother is at the end of her pregnancy. Since the fetus' head may emerge, the fetus should be considered as if it has already emerged from the womb and thus able to contract טומאה. Therefore, it is necessary to invoke the principle of double doubt to permit the mother to enter into the room with the corpse.

Birkei Yosef⁵ argues that it is difficult to imagine that this was the intent of Rokeach, therefore he offers an alternative explanation. In the name of others he suggests that the principle that absorbed טומאה could not be applied in this case. Since halacha indicates that the fetus is considered part of the mother (עובר ירך אמו), once the mother enters the room with the corpse and becomes טומאה, the fetus should, by extension, also be טמא. Once it is established that the fetus could, in fact, become tamei while in the womb, it is necessary to invoke the principle of double doubt to permit the pregnant mother into the room with the fetus.

Mishnah Berurah⁶ rules that even when the due-date for the baby is near it is permitted for the mother to enter a room with a corpse because of the double doubt mentioned by Rokeach.

1. עי' רש"י ד"ה אינה חוששת
2. רוקח סי' שט"ו
3. מג"א סי' שמ"ג סק"ב
4. שו"ת הרדב"ח ח"א סי' ר'
5. ברבי יוסף שם סק"ד
6. משנה ברורה שם סק"ג

MUSSAR FROM THE DAF

From Stringency to Strength

The Gemara tells us that R' Meir is always concerned for the minority. If that is the case, shouldn't R' Meir hold that Demai (produce of an ignoramus who were are unsure whether he took the required tithes) is forbidden Min Hatorah? As we see in the Gemara in Chulin (6a) that we suspect all of the Kusim to be Balei Avodah Zarah, because of a minority group that was. Why don't we say the same in regard to Maaser, i.e., since a minority does not take off the proper Maaser we should be concerned about all? Tosafos on our Gemara answers that there is a big difference between Bnei Yisroel and Kusim. Since Bnei Yisroel are careful regarding Mitzva observance, there is a Chazakah that the Maaser was taken off, and therefore R' Meir is not חושש for the minority. The Kusim by contrast are not careful in their mitzva observance, and we therefore need to be חושש for the minority, and therefore we view all as being in the minority of Balei Avodah Zarah.

What is the connection between being נזהר במצות and being נחזק במצות so that even R' Meir is not concerned about the minority?

There is a story about the Brisker Rav who once took his son out of Yeshiva to spend time to look for a proper Lulav and Esrog. Why was the Brisker Rav so careful about this mitzvah that he needed to take his son out of Yeshiva. Perhaps he understood that the overall הנהגה of being נדקדק (i.e., זהר) in mitzvos is not only for that mitzvah itself, but it is a tremendous shmira for a person in all of one's mitzvos. Rav Wolbe (AleI Shur Chelek 1, page) explains that if one puts their full effort in being נדקדק במצות, this will necessarily arouse the עולם הפנימי (the inner world - i.e., the לב) and a person will be נחזק (strengthened) so that they won't lead to sin. This Yesod that Tosafos teaches us is crucial in a world which is full of the Yetzar Hara. Tosafos teaches us that when we are זהר in Mitzvos, when we put all full energy in performing the Mitzvos properly the benefit is not only for the Mitzvah which we are being careful with. There is also a very strong shmira that can protect us that so that we won't fall to the yetzer hara in other areas as well.

POINT TO PONDER

The Gemara regarding the question of whether a lady needs to be concerned with her צרה having a baby, says that רבי מאיר is רבי מאיר is רבי מאיר חייש מדאורייתא or is it only חייש למיעוטא?

Response to last week's Point to Ponder:

If a woman knows for sure that the husband she shares with a צרה died, she is no longer a צרה. Why then would she still want to hurt her co-wife?

The ספק whether משנה למלך הלכות גירושין פי"ב הלכה טז' we say that the hate that built up while they were צרות, remains even after they are no longer צרות. However the ערוך לנר writes that we see from our גמרא that this is not a concern which is why למסקנה she is not believed if she comes and claims that it was only said for spite.

ר' יוסף שמואל שמעלקא ב"ר יצחק מערמלשטיין ז"ל, Shelly Mermelstien לע"נ has been dedicated

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