

שבת קודש פרשת וירא | מסכת כתובות דף ט'

INSIGHTS FROM OUR CHABUROS

In Case of Doubt

ואמאי ספק ספיקא הוא וכו'

Our Gemara reports that a case of a double doubt (ספק ספיקא) is treated leniently. The claim of the husband that his wife was not a בתולה would therefore be dismissed because even if the husband is accurate in his observations, we do not know if the act was done during the engagement, which would be problematic, or beforehand. And even if it did take place during the engagement, we still do not know if she participated willingly, which would be problematic, or if it was done against her will. Because most women are only prohibited to their husbands if the act took place both during the engagement and if she participated willingly, the Beis din would not rule her to be prohibited. The Gemara concludes that the rule of R' Elazar, that the husband's report alone is enough to make his wife prohibited from him, is speaking about where there is only one element of doubt. This would be where the woman is the wife of a kohen, where the only doubt is whether the act happened before or during the engagement, or where the father of the woman married her off before she was three years old, where the only doubt is whether the woman participated willingly or not. Why is a double doubt treated leniently? Rambam explains that the fact we rule stringently (לחומרא) even in a case of a single doubt in a case of Torah law is a rabbinic guideline. From the Torah's perspective, a single doubt could have been treated leniently, if, for example, we have other mitigating factors. When we have a double doubt, this reverts to being a doubt in a rabbinic realm, and we can now rule leniently. Rashba explains that a single doubt is a 50-50 case, while a second level of doubt diminishes the case to a statistical minority, where the argument to be strict is less than half. Here, we can be lenient. Rav Shimon Shkop, in his sefer שער יושר, explains that the status of this woman is that we do not know if she is prohibited to her new husband. The Torah only disallows us to proceed when there is a doubt whether our action is prohibited—ספק איסור. Here, however, the nature of the problem is whether the man may continue to take this woman. The man is not confronted with doing anything wrong, but rather with whether or not he needs to be cautious. In this case, when there is a doubt whether he needs to be cautious, he is allowed to proceed.

PARSHA CONNECTION

In this week's daf we learn about זוד המלך and שבע בת. The Parsha contains a fascinating מדרש רבה quoting the Passuk "מצאתי זוד עבדי" which says as follows: Hashem is saying that he found זוד in סדום. The commentaries explain that this refers to לוט, who were saved from סדום and gave birth to children who were the forefathers of רות and נעמה and ultimately to זוד המלך. The מדרש is based on the (בראשית י"ט טו) "ויאיצו המלאכים" and the word הנמצאות בלוט לאמר, קום קח את אשתך ואת שתי בנותיך הנמצאות" seems unnecessary because obviously he will take the daughters who are with him, it therefore learns that this is a reference to a special "find". (see פירוש מהר"א on the Midrash). Based on this שרדמ we have a beautiful explanation of another פסוק in the Parsha. The possuk (וי"ט טז) says: "ויתמהמה ויחזיקו האנשים בידו וביד אשתו וביד שתי בנותיו" why does it say that they held everyone's hands? The אלשיך הקודש explains that because לוט himself was not worthy of being saved, they had to hold everyone together including his daughters who had to be saved and as a GROUP all were saved. The אלשיך הקודש compares it to a story in the Midrash about דוסא בן חנניא who was looking to hire workers to help him move a big rock ירושלים. Hashem sent him five מלאכים who looked like workers, and they asked him to lend his hand together with theirs and flew him to ירושלים. Here too the merits of the full group were needed for the miracle to take place.

STORIES OFF THE DAF | **Divorce in Preparation for War**

"כל היוצא למלחמת בית דוד גט כריתות..."

After the Holocaust, many of the survivors in the DP camps were terribly broken and some fell away from Jewish observance altogether. Others held fast, however, and one group of survivors decided to make a minyan for the first yomim noraim after liberation. Among them was one survivor who, since the war had ended, never wasted a second from his learning. Understandably, the minyan requested that this man share some inspiring words of chizuk but the masmid refused. Rosh Hashanah and the intervening days of repentance passed, and Yom Kippur arrived. After the davening on Yom Kippur night, the minyan again begged the masmid to say a few words. This time, he acquiesced. "Chazal say that the evil inclination is called our enemy since he is always trying different strategies to cause us to fall into gehinnom. The yetzer hara has many methods to overcome us. Sometimes he uses money; by chasing money or some other worldly need, one can lose a lot of valuable merit. A person might forgo davening with a minyan, he might be tempted to take interest, or steal, or cheat, or even violate the holy Shabbos! The masmid continued, "But at times we all want to improve. During the times that we feel inspired, the yetzer hara uses his strongest tactic of all. He tells us to start tomorrow! The Gemara in Kesuvos 9b states that the custom was for Jewish soldiers to give their wives a writ of divorce before going into battle. The Kotzker Rebbe, zt"l, taught a powerful lesson based on this idea to help us win the war against the evil inclination. The soldiers didn't only give their wives a גט in anticipation of dying in battle and possibly rendering them agunos. It was also because we fear that a mental connection with the sweetness of marriage might distract the soldier from his task at hand. Likewise, we too must sever all emotional connection to distracting and damaging behaviors before we will be able to defeat the yetzer. How do we do this? By resolving to change, not tomorrow, but today!"

HALACHA HIGHLIGHT

Mourning for an Estranged Wife

מאי "ואת ערבתם תקח" תני ר' יוסף דברים המעורבים ביניו לבינה

What is meant by "and take their arubah?" It refers to the things that commingled between him and her

There was once a Talmid Chacham who did not merit to have a child with his wife of twenty years. Following a physical exam, it was discovered that the impediment came from her and the husband decided to divorce his wife so that he could fulfill the mitzvah of פרו ורבו. The wife refused to accept the גט and Beis din allowed him to marry a second woman with a Heiter Meah Rabbanim. The husband deposited a גט by a third party and sometime later his first wife died. The husband inquired whether he is obligated to mourn for his wife since technically they never divorced due to the fact that she never accepted the גט. The Yam Shel Shlomo¹ addressed a similar case in which a couple agreed to divorce but before they had a chance to have a גט written the woman died. He ruled that husband should not observe mourning practices, and it seems reasonable that he would rule the same in our case.

Pischei Teshuva² asserted that the two cases are not parallel. In the case addressed by Yam Shel Shlomo, there was discord in the marriage. How, then, could it be possible to require the man to mourn for someone for whom his heart does not mourn? In addition, he was actually in the process of divorcing her. In contrast, our case involves a man who loved his wife and was divorcing her merely to be able to have children. Since he still maintained strong feelings for her it is logical that since they were not yet divorced that he should mourn following her death.

Teshuvos Machanah Chaim³ writes that the lenient ruling of Yam Shel Shlomo can be understood in the context of the time when a man could divorce his wife without her consent. Under such conditions one could assert that once a man decided to divorce his wife it could be considered as if they are divorced and he does not have to mourn if she dies. Nowadays, a person may not divorce his wife without her consent. Therefore, they remain married as long as the wife has not accepted her גט regardless of how much they disliked one another.

1. מובא דבריו בפת"ש דלקמן

2. פת"ש אה"ע סי' צ סק"ח

3. שו"ת מחנה חיים ח"ג י"ד סי' ל"ט

MUSSAR FROM THE DAF

Don't Impose Your Standards

תנינא: האומר לאשה "קדשתיך", והיא אומרת "לא קדשתיני" - היא מותרת בקרובי, והוא אסור בקרובותיה

The Gemara teaches that If man who says to a woman: I betrothed you, and she says: You did not betroth me, she is permitted to his relatives, And it is prohibited for him to marry her relatives,

We see from the Gemara that one has the power to assur another (or something) on to themselves (לשווי עליה חתיכה דאיסורא). One does not, however, have the ability to create issurim on others. What is the difference?

The Gemara relates that the great sage Mar Ukva contrasted his approach to waiting after eating meat with that of his father: "If Father would eat meat now, he would not eat cheese until the next day at this time. I, though, will not eat [cheese] at this meal, but I will do so at the next meal" (Chullin 105a)

Why didn't Mar Ukva insist that his son wait between days before eating dairy like he did? His father decided to take on a chumra, but that didn't mean that his son needed to be limited to his stringency.

There is a yesod in the world of Mussar that while it can be admirable to take on chumras for one's self, one does not have the right to take on a chumra for others.

Perhaps that is the pshat in our Gemara. While one can make something assur upon himself that does not put him in a position to assur things on others

When deciding to be machmir in an area of halacha our personal stringencies should not infringe on others.

POINT TO PONDER

The Gemara says "האומר פתח פתוח נאמן לאוסרה עליו" what does it mean when it says that he is believed? If he has doubts regarding her status, wouldn't he be prohibited from living with her, even if we don't know? For example if someone doesn't know if his wife went to the מקוה he is אסור to live with her regardless of his נאמנות. Here too since he has doubts, it is שוויא אנפשיה, irrespective of whether we believe him?

Response to last week's Point to Ponder:

The Gemara's statement פיו ומוציא דבר נבלה מפיו seems redundant since the way a person would defile their mouth is by speaking not nicely?

The two expressions relate to two different actions. One is thinking of saying something inappropriate and the second is actually saying it. We show how grave a sin this is because the thought alone contaminates the mouth. We can also differentiate between saying something unintentionally versus saying it intentionally. (See ט"ז יורה דעה סימן קכד סעיף א' & הפלאה

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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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