

שבת קודש פרשת ויקרא | מסכת כתובות דף כ"ח

לע"נ ר' שלמה זלמן בן ר' חנוך הכהן עהרנטריי

IYUN ON THE DAF

By Rabbi Yitzchok Gutterman

The גמרא says that if a ישראל divorces his wife and she remarries then they cannot live in the same שכונה. If a כהן divorces his wife, even if she doesn't remarry they cant live in the same מבוי. What if the ישראל's wife doesn't remarry? The ריטב"א says it is a דבר פשוט that they can live wherever they want since there is no איסור for the ישראל to remarry her. However, the רמב"ם in ביאה פרק הלכות איסורי ביאה disagrees and says that even a ישראל cant live in the same חצר as his divorced wife since we are afraid it may lead to זנות. The מגיד משנה says that the רמב"ם must have had the גירסא of גירסא לא תנשא instead of our גירסא לא תדור בחצרו. בשכונתו. The הפלאה makes the following fascinating הערה: The רמב"ם holds that if a person is על הפנויה, they get מלקות because of קדשה. לא תהיה קדשה. So it makes sense that the רמב"ם would hold that even a ישראל would not be allowed to live near his ex-wife lest they come to זנות. What's surprising is that the רמב"ם holds that if a כהן is על הפנויה, they get מלקות since there is no איסור. לא יקח. If so, it comes out that the איסור of ישראל is more חמור than the איסור of כהן that he has due to כהונה. If so, why is it that we are more מחמיר by a כהן than by a ישראל in terms of how far away the have to live from their ex wives? He answers that since a ישראל at least has a way to do it בהיתר via קידושין so we aren't as concerned that it will lead to זנות.

PARSHA CONNECTION

In this week's daf the גמרא relates a story about אלעזר ברבי יוסי רבי who said that he never testified, except one time when he testified about an עבד, and it almost led to a עבד being elevated to כהונה. The פרשה this week addresses a witness who withholds his testimony. The פסוק says: ונפש כי תחטא ושמעה קול אלה והוא עד. Why does it say ונפש as opposed to אדם? Furthermore, why does the פסוק say כי תחטא before describing what he did, at this point he did not do anything wrong, meaning what he did wrong is not testifying AFTER hearing the אלה? Finally, what does the פסוק mean when it says ונשא עונו? What is he carrying and why is it stated as "ונשא" meaning AND he will carry his sin? The אלשיך הקודש explains that usually a person who does one עבירה will be more likely to do another עבירה, this is hinted when it says תחטא כי תחטא because it is the נפש which was affected by one עבירה and this will lead to the current עבירה of not testifying. Finally, since by not testifying he caused a wrong outcome between the two disputants he is now carrying a double burden, one his failure to testify and second the loss he caused to the injured party who lacked his testimony. This is exactly the opposite of what occurred in our גמרא, where אלעזר רבי testified and was saved from causing a bad outcome!

STORIES OFF THE DAF

The Condemned Merchant

אין הקב"ה מביא תקלה על ידם צדיקים עצמם לא כ"ש...
 ומה בהמתן של צדיקים

On this week's daf we find that Divine Providence protected Rebbi Elazar b'Rebbi Yossi from causing damage with mistaken testimony. This is because Hashem protects even the animals of the righteous from sinning inadvertently.

Two Jewish merchants from Hamburg were once captured by pirates and sold as slaves. They were purchased by the same cruel master, who decided one day to punish them for their perceived indolence by putting one of them to death. The condemned captive was tied to a log and the master stalked off, with the threat that he would be dead by nightfall. Just before the two merchants were separated, the condemned man begged his friend to ensure that he would, at least, receive a proper burial.

Toward evening, an Arab trader passed by with another slave and noticed the man bound to the log. Thinking that the prisoner would suit his needs better than his own slave, the Arab trader decided to exchange them. That night, the original master returned and failed to notice that his prisoner had been replaced. The build of the Jewish merchant and the Arab's slave was similar enough, and the cruel master killed the poor slave before he even thought to protest. Later, in the depth of the night, the other Jewish merchant fulfilled his friend's last request and buried the body, thinking it was his fellow Jew.

Years later, this merchant managed to escape and he immediately returned to Hamburg. He submitted his testimony to the Rav of the city, Rav Yitzchak Halevi Horowitz, zt"l, that the man who had accompanied him on his journey years ago was without a doubt dead. Based on this testimony, the Rav permitted the man's agunah to remarry.

At the very same time, the one who had been in the service of the Arab was released. When he arrived at Altona on his way home to Hamburg, he discovered that his wife was slated to be married to a different man that very day! There was nothing he could do to prevent this since the distance was too great to cover before the marriage. Incredibly, the Rav of Hamburg was in Altona at the time, and the missing man found him and told him his tale. The Rav was so devastated that he threw himself on the ground and pleaded with Hashem to have pity and spare him from causing an illicit marriage. He stayed prostrate on the ground crying until after chatzos, after which he got up, smiled, and said, "The wedding has been delayed until tomorrow!" The man arrived in Hamburg in time to avert the catastrophe!

HALACHA HIGHLIGHT

A Non-Jew in Attendance

דאמר ר' יהושע בן לוי אסור לאדם שילמד את עבדו תורה

As R' Yehoshua ben Levi said: It is prohibited for a man to teach his slave Torah.

The Gemara in Chagigah¹ relates that it is prohibited to give Torah to idolaters, but this ruling is not cited by the Poskim and instead they cite our Gemara that it is prohibited to teach Torah to slaves. Teshuvos Be'er Sheva² writes that this omission indicates that the Poskim do not hold of the prohibition, but Yam Shel Shlomo³ writes that it is, in fact a binding and very severe transgression. Rav Moshe Feinstein⁴ suggests that once the Poskim rule that it is prohibited to teach Torah to slaves it is certainly prohibited to teach Torah to idolaters who are inferior to slaves.

A common related question is whether it is prohibited to teach Torah to Jews if there are non-Jews in attendance. The Mishnah Halachos⁵ writes that as long as the class was organized for Jews, the teacher does not have to be concerned that non-Jews may be in attendance. The reason is that the teacher is not responsible if a non-Jew attends the class. Rav Moshe Feinstein⁶ also ruled that one is not required to refrain from teaching because there is a non-Jew in attendance. The reason is that it is the idolater that is violating the prohibition by listening. Furthermore, it is not considered to be assisting another to violate a prohibition (לפני עור) since the idolater chose on his own volition to attend the class and even while there he could close his ears to avoid hearing the Torah that is taught.

Rav Yosef Sholom Elyashiv⁷, in contrast, rules stringently on this matter. He writes that it is prohibited to teach a class in Gemara if a non-Jew will be in attendance unless the topic is one that a non-Jew is obligated to study, i.e. something related to the seven Noahide laws.

1. גמ' חגיגה יג
2. שו"ת באר שבע קונטרס באר מים חיים סי' י"ד
3. ים של שלמה ב"ק פ"ד סי' י"ט
4. שו"ת אגרות משה יו"ד ח"ג סי' צ' וז"ב סי' ק"ד
5. שו"ת משנה הלכות ח"ה סי' קע"ב
6. שו"ת אגרות משה הנ"ל
7. קובץ תשובות ח"ג סי' קמ"ב

MUSSAR FROM THE DAF

Extra Distance

תא שמע, דתניא: המגרש את אשתו — לא תנשא בשכונתו ואם היה כהן — לא תדור עמו במבוי

The Gemara quotes a ברייתא that teaches us that a divorcee may not live in the immediate vicinity of one with whom she was previously married to. One may ask, why do we have to take such extra precautions specifically with a former wife?

Let us take a look at another halacha. In Yorah Deah Siman 88, we learn all the halachos of how if one eats basar and chalav at the same table, one has to put down a heker at the table so that one doesn't eat from the other plate. Why don't we require the same level of הרחקות when there is treif at the same table? Rav Yosef Wagner explains that since basar and chalav were previously mutur, but now they are assur, there is a great risk that one may eat from the wrong plate and mix them together.

So too with our case. Since this woman was once permitted to this man, there is a need for greater הרחקות so that he doesn't slip up and do something improper. However, other women were never permitted to him, so we are not as concerned that something improper might occur.

There are many practical applications for us. Whenever we "divorce" ourselves from something which we once permitted ourselves to do, one has to put out extra הרחקות on that particular experience so that one does not slip up again. If there was an עבירה that one previously had trouble with, one needs to be sure that they don't put themselves in the same "neighborhood" of that עבירה, because for that person, that עבירה was at some time in the past "permitted" to him.

POINT TO PONDER

The Mishna says that certain types of testimony are acceptable even if the witness is testifying about something which they saw when they were a קטן and lists those situations. The משנה then lists things for which such testimony is unacceptable. Since we have already learned that only a limited number of circumstances where such testimony is acceptable, wouldn't we conclude that everything else is NOT acceptable? Why do we need another list?

Response to last week's Point to Ponder:

The משנה says: "עיר שכבשווה כרכום כל כהנות שנמצאו בתוכה פסולות". Why does the משנה say כל כהנות as opposed to saying כל הנשים? Shouldn't we be concerned about all the women in town who would now be questionable for either marrying or staying married?

The משנה is addressing two concerns when it talks about כהנות. One is her ability to marry a כהן or to remain in a marriage with a כהן and the other is eating תרומה. The second concern is only applicable to כהנות. (See שיטה מקובצת).

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

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