

INSIGHTS FROM OUR CHABUROS

By Rabbi Yitzchok Gutterman

The Gemara brings a discussion whether a woman is allowed to use a *moach*. The Gemara explains that the three women mentioned in the *Brayta* may use a *moach* and the *Chachamim* hold they may not. As to the danger to life of these women the *Chachamim* say they should rely on the *shomer pataim*. The obvious question is how and where could or should one apply this? Surely one cannot run in front of a truck and say *shomer pataim* (and such a person certainly qualifies as a *patil*!) Because of this question the *Risbak* disagrees with *R* (as does the *Tosafot*) and says that these three women must use a *moach* and all other women may use a *moach*. The *Shitufim* in *Kubetz* explains for *R* that what the *Chachamim* are telling us is that one has a right to do a dangerous action if that is the *דרך* meaning a risk that people normally are willing to take. So a possible example would be riding in a car which is technically a dangerous act but one accepted by society. Rav Moshe says that *shomer pataim* can only be applied where the majority of people who engage in this risk do not suffer any consequences. However, if most people are harmed and they do it anyway that would not be the *היתר*.

PARSHA CONNECTION

In this week's *daf* the Gemara explains that there is a difference between someone being forced to do something rather than doing the same thing willingly. We find a similar psychological phenomenon in this week's Parsha when some of Klal Yisrael felt that they were being forced to eat the same food every day. Like the *posuk* ויהי העם כמתאננים רע באזני ה' וישמע ה' ויחר אפו: *פרק* יא פסוק א: *Later* in *פרק* י: *וישמע משה את-העם בכה למשפחתיו איש לפתח אהלו* as follows: *וישמע משה את-העם בכה למשפחתיו איש לפתח אהלו* *ויחר-אף ה' מאד ובעיני משה רע* *כמתאננים* which means "like" complainers instead of *מתאוננים*? In the second *פרק* it says that *ה'* was very upset yet *משה רבינו* was just somewhat annoyed. If *הקב"ה* is very upset how can this only annoy *משה*? When we look at the *פרשה* we find that Klal Yisrael complained about the *מן* and later cried at the entrance of their tents, which *ר* explains was because of the recent *איסור*. The *קדוש* explains that Klal Yisrael had two complaints, one about the *מן* and the second about the *עריות*, but only verbalized the complaint about the *מן*, while the other complaint was only in their minds. This is why it says *כמתאוננים*, referring to the complaint about *עריות* which wasn't verbalized. The real complaint was about *עריות* and that complaint was hidden. With this we can understand the difference between *משה's* reaction and *הקב"ה*, since *משה רבינו* didn't know about the hidden complaint he was merely annoyed, but *הקב"ה* who understood the "real" complaint was very upset.

STORIES OF THE DAF Modern Miracles

"ובשיתא ירחי מי קא ילדה..."

Someone once asked Rav Shlomo Zalman Aurebach, *zt"l*, to explain the fact that, nowadays, we see that even extremely premature babies can survive. How can this be reconciled with the statement of Chazal that it is impossible for a woman to give birth to a viable child in less than six months? The *gadol* explained, "Chazal only recorded what they observed in the absence of this modern simulation of the womb—the incubator."

He concluded, "Don't forget to be filled with gratitude to Hashem for the lifesaving wonders of modern medicine!"

A newly observant woman from New England once related, "I didn't know the phrase 'השגחה פרטית' until recently, but my story cannot be anything but that. When I was pregnant with my second child, I was told that the pregnancy was going well, but in my heart I knew that something was wrong. So I called my doctor and insisted on a second-level ultrasound. My doctor complied and found a mass next to the baby, but he told me it's nothing to worry about, since my blood tests were all normal. Well, a few weeks later, my son was born at only 24 weeks, and he weighed only 673 grams (1 pound, 7.5 ounces). That same week, I was diagnosed with stage IV carcinoma—the mass that had showed up on the ultrasound. On looking back in my records, the doctors found that they had misread my earlier lab reports. So that mistake was the first in a series of miracles, because if those lab reports had been read accurately, I'm sure the doctors would have convinced me to terminate the pregnancy in order to save my life. Instead, I had a precious baby. But the doctors told me the baby would probably die, or suffer from severe physical and mental handicaps—and I also was quite ill myself at the time.

"I decided to try to learn how to pray and to try to start to observe some of the mitzvos. My baby was discharged from the hospital after three months in an incubator, on *erev Pesach*, and during the holiday we saw further miracles because he went through a crisis while at home.

Now my baby is five and a half years old, a perfectly healthy, normal, lively child, who will, *אם ירצה ה'*, start kindergarten this fall at a Jewish day school where he will learn about *השגחה פרטית*. Oh yes, and I have recovered completely from my cancer, *ברוך ה'*, and we are growing in our Judaism."

HALACHA HIGHLIGHT

The Duration of the Period of Na'arus

אין בין נערות לבגרות אלא ששה חדשים

There is only six months between na'arus and bagrus

There was once a man who accepted kiddushin on behalf of his fourteen-year-old daughter without her consent. Four months later, when the girl heard what her father had done she accepted kiddushin for herself from a different person. This girl did not begin to menstruate until six days after her father accepted her kiddushin, and the question was whether her father's kiddushin was binding or whether the kiddushin she accepted was valid because she was already an adult at the time her father accepted kiddushin on her behalf. The Beis Yehudah¹ responded by first pointing out that being a niddah has no bearing on whether a girl is a minor, a naarah or a bogeres. Na'arus begins when a girl reaches the initial stage of physical maturity (שתי שערות) regardless of whether she becomes a niddah. He then questions whether the period of na'arus is always going to be six months, as mentioned in our Gemara or could it be longer or shorter.

He begins his analysis by citing our Gemara that states, "Didn't Shmuel state that there is only six months between na'arus and bagrus." The language "אין בין...אלא" clearly indicates that na'arus cannot be longer than six months. The other question of whether na'arus could be shorter than six months is more complex. Rashi's comments to the Gemara Kiddushin² indicate that he maintains that if a girl displays the physical characteristics of a bogeres less than six months after she became a naarah it is not necessary to wait until six months are over to categorize her as a bogeres. Rambam³, in contrast, writes explicitly that the period of na'arus is fixed at six months and gives no indication that a girl can become a bogeres by producing the characteristics of a bogeres. Shulchan Aruch⁴ mentions both possibilities, i.e. the passage of time as well as the physical signs of becoming a bogeres thus aligning himself with the position of Rashi that it is possible for a girl to become a bogeres in less than six months if she displays the characteristics of a bogeres.

1. שו"ת בית יהודה אה"ע סי' ל
2. רש"י קידושין ע"ט ד"ה אי נימא
3. רמב"ם פ"ב מהל' אישות ה"ב
4. שו"ע אה"ע סי' ל"ז סעי' ה' ו'י

MUSSAR FROM THE DAF

Take the Risk

ומן השמים ירחמו, משום שנאמר "שומר פתאים ה'

The Gemara brings a Machlokes between רבי מאיר and ר' Meir if in certain cases a woman is allowed to use a מוץ. R' Meir is חושש for the minor risk of a סכנה and the חכמים are not worried about this minor risk because of the שומר פתאים ה' כלל.

What is the source for the psak of the חכמים? Why aren't they concerned with the minor risk of סכנה? We know that in הלכות שבת we are concerned with even the smallest risk of סכנה. What is the difference here?

A Gadol was once asked about obtaining travel health insurance when someone was traveling abroad. Should they be worried about the minor risk? The Gadol responded that in the previous generation it would have been considered too much השתדלות to purchase life insurance as it was not something that was done. However, now that it is normative practice, we are expected to do that השתדלות. The Gadol then responded that the person should go and check if most people purchase travel health insurance. And if it is the normative practice then one needs to do that השתדלות because of that risk. However, if most people don't purchase it, there is no need and one can rely on Hashem to protect oneself from the limited risk.

Along those lines, Rav Elchanan Wasserman in סימן 136 קובץ שיעורים כתובות explains that one isn't obligated to change the way of the world (derech eretz) because of a limited risk. In such situations where the way of the world רבים ביה acts in a certain fashion, the Torah allows one to ignore the risks. Rav Elchanan is נחדש that we view such situations as if the person can't protect themselves, so we can rely on Hashem to protect us.

A practical application nowadays may be driving a car. A person doesn't have to abstain from driving because of their fear of an accident. It is normative practice to drive a car and therefore one is protected because of the Klal of Shomer Pesayim Hashem. Along those lines, people sometimes struggle to know when השתדלות stops and bitachon begins. There are many risks in life that can create all sorts of anxieties in a person. These anxieties can push a person to do all types of farfetched perceived השתדלות to mitigate those risks. We see from the חכמים in our Gemara that a person has to look at what is widely accepted as normative practice. If one ascertains that what they are doing is widely accepted, then they have no reason to worry about the minimal risk and they can trust that Hashem will protect them from any limited danger. ומן השמים ירחמו, משום שנאמר "שומר פתאים ה'!

POINT TO PONDER

The Gemara says that according to שמעון רבי an אונס shouldn't pay צער because such pain would happen anyways once the woman gets married. How does this change the fact that right now the אונס caused her צער and should pay? If someone for example breaks someone else's dish, can he claim that it would have broken anyway in the future?

Response to last week's Point to Ponder:

The משנה writes ונתגרשה ונתארסה. Would the din be any different if she was widowed?

The שיטה מקובצת writes that the דין would be the same. The reason why the משנה picked ונתגרשה is because if she was still married there would be מיתה and no נתארמלה either. It's interesting to note that the רמב"ם doesn't mention either.

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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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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