

**שבת קודש פרשת ואתחנן | מסכת כתובות דף מ"ו**

לע"נ חיים ברוך בן בנימין

**INSIGHTS FROM OUR CHABUROS**

**The Case of according to Rebbe Eliezer ben Yaakov**

נמצא ששם רע אינו שם רע הוא לוקה ונותן מאה סלע, בין בעל בין לא בעל. רבי אליעזר בן יעקב אומר לא נאמרו דברים הללו אלא כשבעל

The Gemara presents an argument between Rabbanan and Rebbe Eliezer ben Yaakov regarding the circumstances of the episode of רע מוציא שם רע in the Torah. Rabbanan hold that case of the husband accusing his new wife is where he brings witnesses to testify that she committed adultery during the engagement period. If he is guilty of purporting a false accusation, the husband may be liable whether or not he had relations with this woman. Rabbi Eliezer ben Yaakov argues and contends that the case of a false accusation where the new husband is liable for lashes and to pay a fine can only be speaking in a case where the man himself had relations with his new wife, and, as a result, he claims that she was not a בתולה.

The Gemara brings a series of indications from the verses which indicate that the understanding of Rebbe Eliezer ben Yaakov is correct. Among them is the verse "ופרשו השמלה"—and they shall spread the sheet before the elders of the city." This suggests that we bring evidence to the man's claim that the woman was not a בתולה, and this supports the view that the nature of the claim must be based upon the husband's bringing direct proof of his claim. Tosafos asks that the case is one where the woman might be found guilty and be put to death. This certainly cannot be simply based upon where the husband brings a clean sheet to court to prove his assertion. Rather, the case is where there are witnesses who testify that the wife committed adultery. We might wonder, then, asks Tosafos, what is the purpose of bringing the sheet to the court? We will rely only upon the witnesses, and the sheet will therefore be unnecessary. Why should it be brought if it will be irrelevant?

Tosafos explains that the case must be where the witnesses did come, but they were proven to be liars or conspirators. The husband insisted on proving his assertion that the woman was disloyal, so he then brought the sheet to the court. He is then guilty of slandering this woman, and therefore liable for רע שם רע when the sheet which he brings is shown to be soiled, thus proving him a liar.

**STORIES OF THE DAF**

**"All the Praise of Youth Belongs to the Father"**

"כל שבח נעורים לאב..."

The Beis Yisroel of Ger, ז"ל, was known to be very adept at offering empathetic support to his students and followers even as he goaded them on to striving for greater heights in serving Hashem. During certain times like chol hamoed, many Chassidim of other Rebbes would also come to him for advice and inspiration.

Once, when a group of Karliner Chassidim came before the Beis Yisroel, he related a personal anecdote to encourage them to expend more effort in avodas Hashem. He confided in the group, "When I was young, I saw how much I was accomplishing and I figured that if this is what I was managing when young, surely I would achieve much more as I grew older. However, now I am older and I see that I achieved all that I did then because my strength in my youth was so much greater than what it is now. So make sure to capitalize on these essential years of spiritual growth of your youth! You won't get a second chance!"

When recounting this story, Rav Shmuel Aharon Leider, shlit"a said, "This important lesson is encapsulated in the Gemara in Kesuvos 46b which teaches that all the revenue of an unmarried girl goes to her father. In Aramaic, the phrase is: כל שבח נעורים לאב - literally, all of the praise of youth is the father's. This can be construed to mean the strength of one's younger years. One must make sure that all the strength of youth goes to the Av, our Father in Heaven!"

**PARSHA CONNECTION**

In this week's daf the גמרא explains that the words of ויסרו אותו in the פרשה of רע שם רע refer to the punishment of lashes imposed on the husband. A very similar word is used in this week's פרשה Veschanan (פרק ד פסוק לו) as follows: מן השמים השמיעך את קלו ליסרך ועל הארץ הראך את אשו הגדולה ודבריו שמעת מתוך האש. How do we understand the word מן השמים in the context of הר סיני? We also need to understand why it says in this פסוק that we heard the sound השמים which seems redundant to what earlier in פסוק לג it says 'השמע עם קול אלקים וכו'. The הקודש explains that the overall message in these פסוקים is that we have a direct relationship with הקב"ה and we should therefore refrain from looking for any intermediaries. The word ליסרך according to the אלשיך means to give you מוסר, namely that we saw הקב"ה speak to us directly "מן השמים" and we should therefore always remember that our relationship is a direct connection with הקב"ה. May we be זוכה to witness the rebuilding of the המקדש and בית המקדש בימינו!

## HALACHA HIGHLIGHT

### The Custody of Sons

האב זכאי בביתו וכו'

*A father has rights in his daughter etc.*

**R**ambam<sup>1</sup> rules that when a couple divorces, the children are placed in the custody of the mother until they reach the age of six. At the age of six, custody of the boys is given to the father. From that age the father has the right to demand that if the boys live in his house he will support them, but if they remain with their mother he will not continue to provide them with financial support. The rationale behind this ruling, explains Chelkas M'chokeik<sup>2</sup>, is that the father has the right to say that he does not have a tzedaka obligation to support his children if they do not listen to come live with him to learn Torah and other things.

The Tzitz Eliezer<sup>3</sup> explains further. The verse *למחנותם לבית אבותם* indicates that children are associated with, and thus should be supported by, their father. This is the principle that grants the father the privileges mentioned in our Mishnah. Chazal, however, were sensitive to the fact that children benefit greatly from and need their mother. They therefore rescinded some of the father's rights and granted the mother custody of the children until the age of six. This enactment does not nullify the father's rights, and therefore during this time the father is given the opportunity to visit with his children, teach them Torah and mitzvot and develop a father/child relationship with them.

Accordingly, a dispute between Rambam and Ra'avad could be understood. Ra'avad<sup>4</sup> questioned Rambam's ruling that a mother should have custody of her child until the age of six. How is the father going to fulfill his obligation to teach his son Torah if the child is living with his mother? Tzitz Eliezer explains that both authorities agree that a mother contributes to the child in essential ways that the father is unable to do, and in ways that she could not do if the child was living with his father. Consequently, physical custody is granted the mother, but that does not override the father's mitzvah to teach his sons Torah. The disagreement between them is the age at which it is necessary for the child to be raised living with his father. Ra'avad maintains that at the age of four or five the son needs his father for optimal development whereas Rambam maintains that what the father contributes to his son at this age could be done while the child is living with his mother so it is unnecessary to take the child from his mother and her contributions.

1. רמב"ם פכ"א מהל' אישות הי"ז
2. חלקת מחוקק סי' פ"ב סק"ט
3. שר"ת ציץ אליעזר חט"ז סי' מ"ד
4. ראב"ד מהשגות על הרמב"ם הנ"ל

## MUSSAR FROM THE DAF

### Prepare Yourself Day by Day

“ונשמרת מכל דבר רע”, מכאן אמר רבי פנחס בן יאיר: אל יהרהר אדם ביום ויבא לידי טומאה בלילה

**R**av Pinchas Ben Yair learns from the possuk of “ונשמרת מכל דבר רע” that a person should not think impure thoughts by day and thereby lead one's self to impurity at night.

Why doesn't R' Pinchas Ben Yair simply state that one should not allow oneself to become impure?

Let's ask another question. If a person suddenly decides he wants to acquire the מצוה of chassidus, kedusha etc, what should he do? Can he just jump into those middos and then acquire them?

Another statement from R' Pinchas Ben Yair (Avodah Zarah 20b) which the Mesilas Yesharim bases his sefer on answers this question.

“מכאן אמר רבי פנחס בן יאיר: תורה מביאה לידי זהירות,....יראת חטא מביאה לידי קדושה,....רוח הקדש מביאה לידי תחיית המתים”

The Mesilas Yesharim through R' Pinchas Ben Yair teaches us that every trait can be compared to a rung on a ladder and a person cannot go to the next rung until they first can step on the rung beneath it. Rav Yerucham Levovitz elaborates on this concept in Daas Torah Devarim. He states that the determining factor of how successful a person will be with any particular מצוה, נסיון, is dependent on how much preparation one did leading up to the מצוה. נסיון. This כלל applies to mitzvot as well as to aveiros. The more that one prepares for the mitzvah, the more that one will be successful with that mitzvah. And conversely, if one begins an inappropriate action, it can מ"ח set one up for another inappropriate action. The same R' Pinchas Ben Yair who teaches us this כלל of the need for preparation regarding mitzvot in Mesilas Yesharim, is the same R' Pinchas Ben Yair who teaches us the same כלל with aveiros - If one doesn't want to reach a certain aveira (in our Gemara it is טומאה) they have to be careful to keep themselves away from another action (impure thoughts).

We learn an important כלל from our gemara. R' Pinchas Ben Yair teaches us if we truly want to keep away from certain actions - the only way to protect ourselves is to prepare ourselves and stay away from other actions which can מ"ח lead us into trouble.

## POINT TO PONDER

**The Mishna says** that a father is entitled to his daughter's קידושין. It than says *זכאי במציאתה וכו'*. Why did the משנה repeat the word זכאי, instead of just continuing to list the items that he is entitled to?

### Response to last week's Point to Ponder:

Why does the גמרא add the reason of גידולים שגידלתם for why a woman gets ראו גידולים שגידלתם בית אביה. It is not in the פסוקים. We don't find the גמרא giving a reason for similar punishments?

The מצויה of בית אביה is mentioned in the תורה regarding נוצייה. The גמרא is teaching us that the same rule would apply to a bride who was נזונה at her father's house even where the husband didn't make a claim. We therefore need to mention the reasoning to explain why the same מצויה applies even though it's not exactly the same case. (See יהושע)

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, [dafaweek.org](http://dafaweek.org), or download the app

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