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Kesuvos Daf 7

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Tzvi Gershon Ben Yoel (Harvey Felsen) o”h

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Consummating a Marriage on Shabbos

Rabbi Ami permitted a groom to cohabit with his wife for the first time on Shabbos. The Rabbis said to him: But they haven't written a kesuvah? **[The Rabbis decreed that a married woman must always have a kesuvah in order for a couple to have marital relations.]** Rabbi Ami answered: They made sure to have her grab hold of some of his movable possessions (as a lien in place of the monetary guarantee of the kesuvah).

Rav Zevid permitted a groom to cohabit with his wife for the first time on Shabbos. Some say that Rav Zevid himself cohabited with his wife for the first time on Shabbos. (7a1)

Consummating a Marriage on Yom Tov

Rav Yehudah permitted a groom to cohabit with his wife for the first time on Yom Tov.

Rav Pappi said in the name of Rava that one should not think that Rav Yehudah only permitted this on Yom Tov and not Shabbos. He permitted it in principle on Shabbos as well. The incident in which he was asked merely occurred on Yom Tov.

Rav Pappa in the name of Rava stated that this is permitted on Yom Tov, but not on Shabbos.

Rav Pappi asked Rav Pappa: Why do you think that this is correct? It must be [that you are assuming] that because it is permitted on Yom Tov to make a wound for the (food) needs of Yom Tov, it is also permitted without such a need. **[This is the principle of 'mitoch.']** If this were the case, it would be permitted to burn incense on Yom Tov, as since it is

permitted to burn something if there is a (food) need on Yom Tov, it is also permitted when there is no such need!?

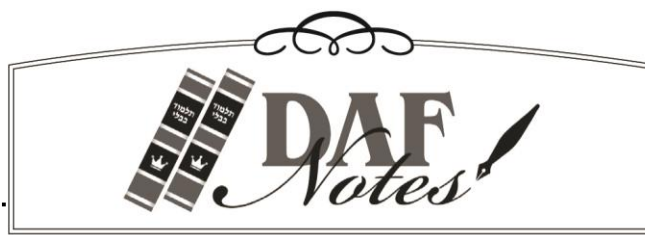
Rav Pappa answered: Regarding your question, the verse states: *only that which is eaten for every person*. This teaches us that only something that is considered equally needed by every person (as opposed to incense, which is not a need, is permitted on Yom Tov).

Rav Acha the son of Rava said to Rav Ashi: But now (according to this reasoning), if someone happened across a deer on Yom Tov, since it is not "equally needed by each person," it would also be forbidden to slaughter! He answered: I was talking about something needed by every person. A deer is (food) needed by every person (even if it is not common to all people). (7a1 – 7a2)

Rav Yaakov bar Idi said: Rabbi Yochanan in Sidon ruled that it is forbidden for a groom to cohabit with his wife for the first time on Shabbos.

The Gemora asks: Is this considered to have the strength of a ruling? **[It should not be regarded as a 'ruling,' when it is a stringent decision, for absence of any absolute decision, one must act stringently; a lenient decision, however, can be regarded as a 'ruling.']**

The Gemora answers that yes, this is possible. This is evident by Beis Hillel's ruling in a Mishnah that Queen Helena needed to repeat her seven years of being a Nazarite when she arrived in Eretz Yisrael. Alternatively, this is evidenced by the Baraisa that quotes Rebbe as stating that an animal that had most of its spine cut (crosswise, not lengthwise) is rendered a tereifah (a sick animal that is forbidden to eat,



even if slaughtered properly). Rabbi Yaakov said that even if it the spine had a hole in it, it is considered a tereifah. Rebbe ruled like Rabbi Yaakov. Rav Huna argued that the halachah is unlike Rabbi Yaakov. [See *Mitzpeh Aisan at length regarding why two answers were given, and how they answer the question of how can one rule stringently in such a case.*]

Rav Nachman bar Yitzchak taught the following: Rabbi Avahu said that Rabbi Yishmael ben Yaakov from Tyre asked Rabbi Yochanan in Sidon, and I heard *(their conversation)*: Can a groom cohabit with his wife for the first time on Shabbos? Rabbi Yochanan answered that this was forbidden.

The Gemora says that the halachah is that it is permitted for a groom to cohabit with his wife for the first time on Shabbos. (7a2)

Sheva Berachos

[For seven days after their wedding, the chasan and kallah continue to joyously celebrate their marriage. Upon the conclusion of a festive meal held in their honor, seven additional blessings (Sheva Berachos) are recited after Birkas ha-mazon is completed. Our Gemora initial discusses the blessings recited in connection with the chuppah.]

Rabbi Chelbo says in the name of Rav Huna, who said in the name of Rabbi Aba bar Zavda in the name of Rav that both a virgin and a widow require Sheva Berachos (the seven blessings recited before marriage).

The Gemora asks Did Rav Huna say this? Doesn't Rav Huna say that a widow does not require these blessings?

The Gemora answers that this is not difficult *(to resolve)*. He required the blessing in our Gemora in a case where a man who was never married proceeded to marry a widow. He did not require these blessing in a case where a widower married a widow.

The Gemora asks: Is it true that a widower who marries a widow does not require these blessings? Didn't Rav Nachman say that Huna bar Nassan quoted to him a Baraisa *(in the opposite vein)*? The Baraisa asks: How do we know that the blessings for marriage require ten people to be present? The verse states regarding Boaz who was about to marry Rus: *And he took ten people from the elders of the city and he said, "Sit here," and they sat*. We know that Boaz was a widower who was marrying a widow *(Rus)*. *[This proves that the blessings of marriage must be said even when a widow is marrying a widower.]*

The Gemora answers: What did Rav Huna mean when he said that she does not require a blessing? Rav Huna must have meant that she does not require the recital of these blessings all seven days (Sheva Berachos), but she does require them for one day (after the festive meals held in their honor; this is required only on the day of the marriage).

The Gemora asks: The Baraisa states that the sages insisted for the good of Jewish girls that her groom should rejoice with her for three days. What is the case of the Baraisa? If it is referring to a man who was never married, you just said *(implication of Rav Huna's statement)* that this is seven days. If it is referring to a widower, you just said *(implication of Rav Huna)* that it is only one day!?

The Gemora answers: If you want, Rav Huna can be referring to a widower, and saying that while the blessings of marriage are recited for one day, the groom should rejoice with his bride for three days. Alternatively, the Gemora answers, if you want, Rav Huna can be referring to a man who was never married who marries a widow, and is saying that while the blessings of marriage are recited for seven days, the groom must only rejoice with his bride for three days.

The Gemora asks from a Baraisa: The blessings are recited for a virgin for seven days, and for a widow for one day. It must be that this is even talking about a widow who marries

a man who was never married (*and the blessings are only recited for one day, unlike what we said above!*)?

The Gemora answers: No, this is in reference to a widow who marries a widower.

The Gemora asks: However, if she would marry a man who was never married, the (implication would be that the) blessings would be required for seven days. If so, the Baraisa should state that blessings are recited for a virgin for seven days, and for a widow who marries a man who was never married for seven days, and for a widow (*who marries a widower*) for one day!?

The Gemora answers that the Baraisa said a set statement - that there is no virgin who has less than seven days of blessings, and no widow who has less than one day. (7a3 – 7b1)

Sheva Berachos Requires the Presence of Ten People

Let us discuss the matter itself. Rav Nachman says that Huna bar Nassan quoted to him a Baraisa. How do we know that the blessings for marriage require ten people to be present? The verse states regarding Boaz who was about to marry Rus: *And he took ten people from the elders of the city and he said, "Sit here," and they sat.* Rabbi Avahu said that (the Baraisa stated that) it is from here: *In gatherings bless God, Hashem, from the womb of Israel.* [An 'assembly' consists of at least ten people. The 'womb' is regarded by R' Avahu, as an allusion to the nisuin, which will lead to procreation. The derivation of the verse is thus as follows: *When a marriage, pertaining to the Jewish womb, is celebrated, a blessing needs to be said in the presence of ten people.*]

The Gemora asks: What does Rav Nachman derive from the verse quoted by Rabbi Avahu? He requires it for the Baraisa that states that Rabbi Meir used to say: From where do we know that even the fetuses in their mothers' wombs uttered a song at the Sea (az yashir)? For it is written: *In assemblages*

bless God, Hashem, from the source of Israel (the source refers to the womb).

The Gemora asks: What does the other opinion (*Rabbi Avahu*) retort?

The Gemora answers: If this is the intent of the verse, it should have said: from the stomach (*not 'from the womb'*). Why does it say "*womb*"? It must mean that the gatherings (*of ten*) should bless Hashem regarding matters of the womb (*procreation*).

The Gemora asks: What does Rabbi Avahu derive from the verse quoted by Rav Nachman?

The Gemora answers: He understood that the elders were required to teach "an Amoni (*man from Amon*) and not an Amonis (*woman from Amon*), a Moavi (*man from Moab*) and not a Moavis (*woman from Moav*)." [The Torah states that an Amoni and Moavi cannot convert and marry into Bnei Yisrael. Rabbi Avahu explains that the elders needed to confirm that the Torah is only referring to males, not females of these nations, in order for Boaz to be able to marry Rus who was a Moabite.] He continues: If you will think that this is teaching us about the number of people required for marriage blessings (*opinion of Rav Nachman*), it is clear that this could have been done without the elders (*and the verse would not have mentioned that the elders were called*).

The Gemora asks: How does Rav Nachman refute this?

The Gemora answers: If it was just to confirm this teaching, it would it not have been possible without ten people (*why would ten people be required*)?

The Gemora defends Rabbi Avahu by stating that yes, it would have made sense to specifically have ten people, in order to publicize the ruling (*that it was permitted to marry a Moabite woman who converted*). This is similar to what Shmuel said to Rav Chana of Baghdad: Go out and get me ten people, and I will say to you in front of them that if

someone grants possession of something to a fetus (in its mother's womb), it (the fetus) has indeed acquired it.

The Gemora concludes, however, that the halachah is that the acquisition is ineffective. (7b1 – 7b2)

The Gemora cites a Baraisa: The marriage blessings are recited in the house of the groom (*under the wedding canopy of the marriage, see Rashi*). Rabbi Yehudah says that it can even be recited in the house of betrothal.

Abaye said that Rav Yehudah was talking about betrothal's in Yehudah (*geographical part of Eretz Yisrael called Yehudah*), as they used to have the groom seclude himself with the bride after betrothal (*before marriage, see Rashi*). (7b2 – 7b3)

Another Baraisa states that the marriage blessings were recited in the house of the groom and the betrothal blessings were recited in the house of betrothal.

The Gemora asks: What is the betrothal blessing?

Ravin and Rabbah, the sons of Rav Ada, both said in the name of Rav Yehudah that he recites: Blessed are You, Hashem, our God, King of the Universe, Who has sanctified us with His commandments, and has commanded us against forbidden relations, and Who has forbidden betrothed women to us, and Who has permitted to us those married women (nesu'os) through chuppah (*bringing them into our house, wedding canopy*) and kiddushin.

Rav Acha the son of Rava concluded the blessing in the name of Rav Yehudah: Blessed are You, Hashem, Who sanctifies Yisrael through chuppah and kiddushin.

The Gemora notes: The opinion that did not conclude it in this manner held that it was similar to blessings on fruit and mitzvos (*that do not contain two blessings*). The one who did conclude it in this manner held that it was akin to kiddush (*on Shabbos*). (7b3 – 7b4)

DAILY MASHAL

The Marriage of the Torah

The mention in our blessings of betrothal of Hashem, Who sanctifies Yisrael through chuppah and kiddushin, notes the Maharsha, is actually a reference to the Giving of the Torah.

R' Pinchas HaLevi Horowitz and the Aruch HaShulchan comment that Hashem's lifting of the mountain over the heads of Klal Yisroel (Shabbos 88a) represented the "chupah," whereby a nisu'in with Hashem took place. And we remained for a full year at the piedmont of Sinai, writes the Maharal, because that represented our "shana rishonah" (first year) of joy after the nisu'in between us and Hashem.

Nisu'in, of course, is the culmination of the kiddushin, that which earned its name, for the chosson has thereby "made her forbidden to the entire world as hekdesch (things consecrated to the Holy Temple)" - Kiddushin 2b. Marriage hinges on the notion of exclusivity, as its name, its essence, is formed when the kallah becomes exclusive to her chosson. And that was the essence of Matan Torah as well: the Giving of the Torah atop a mountain forever labeled as Sinai because of the hatred that descended upon all those who were left out of the close relationship forged between the Chosson and His exclusive kallah.

INSIGHTS TO THE DAF

Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: A Canaanite slave is disqualified from serving as an agent to receive a woman's get from her husband because he is not included in the halachos of divorce and marriage.

Tosfos in Kesuvos (7b) writes that Eliezer was the agent of Yitzchak to marry Rivkah. The Panim Yafos asks: How could Eliezer serve as the agent for marriage, when he was not included in the halachos of marriage. He answers that this



principle is only applicable when he is serving as an agent for another person. However, a slave may serve as an agent of his master for marriage and divorce, since he is considered the hand of the master. This explains why Eliezer began by saying, "I am the slave of Avraham."

The Pardes Yosef asks that this does not explain how Eliezer could marry Rivkah on behalf of Yitzchak! Eliezer belonged to Avraham; not to Yitzchak!? He answers that this is why Avraham gave over all his possessions to Yitzchak, including his slave, Eliezer. Once Eliezer belonged to Yitzchak, he could serve as his agent.

Mitoch

Our Gemora (Kesuvos 7a) states the principle of "mitoch." Since kindling is permitted on Yom Tov for the sake of food preparation, it is also permitted when it is not for the sake of food preparation. The Gemora applies this to the prohibition of causing a wound as well.

The Gemora states: This is only applicable if it is something that is enjoyable to all. The Gemora explains that one would be permitted to slaughter a deer on Yom Tov even though only rich people eat deer. This is because it is enjoyable to all; practically speaking, only the rich eat it, but that does not effect the halachah. Placing incense on the coals, which is only enjoyed by few would be prohibited.

This brings up the question regarding smoking on Yom Tov. We cite many of the opinions below, but we would like to add the ruling of Rav Elyashiv Shlita. He states that those that permitted smoking on Yom tov (for the reasons mentioned below), that was only in previous generations, when it was done for medicinal purposes. Nowadays, where it is well documented that smoking is unhealthy and extremely dangerous, and people are definitely not smoking to improve their health, and it is not something that is enjoyable by all because the majority of people do not smoke, smoking would be prohibited on Yom Tov.

UPDATE : Many people have mentioned that the number one issue should be second hand smoke - now that it has been proven that this is extremely dangerous. Here is a ruling issued by the Tzitz Eliezer. "כִּן כְּשֶׁמַּעֲשִׂים וְכַמוּ... במקומות ציבוריים יכול שפיר כל אחד ואחד מהנמצאים שם החושש מזה לפיגוע בבריאותו, למחות בידי המעשנים שלא יעשנו"

When one is smoking in a public place, anyone in the vicinity who is concerned about his personal health can protest and demand that the person should not smoke in the area.

HaRav Moshe Feinstein Zt"l writes scathing words for those who smoke in a Beis Medrash, Yeshiva or kollel building. חריפים יותר על חומרת איסור העישון בבית המדרש בישיבות דברים) הגר"מ פיינשטיין שליט"א, ראה צילום מכתבו להלן עמ' ובכוללים, כתב 248-251.

Please read this introduction again from the Kollel Iyun Hadaf: Most contemporary authorities state that there is no allowance to smoke at all, even on an ordinary weekday, due to the established and documented health hazards which the effects of cigarettes and second-hand smoke pose to the smoker and to those around him.

I have recently been asked during the Daf Yomi shiur a few times regarding smoking on Yom Tov. Does the principle of 'mitoch' apply? Is it a 'dovor hashaveh lechal nefesh'? If it's unhealthy for the lungs, can the logic of calming the digestive system outweigh the health factors? There are many issues. Kollel Iyun Hadaf has done extensive research on this topic and I copy it here for you. Please visit their site often as there is a wealth of information there.

Kollel Iyun Hadaf

HALACHAH: CIGARETTES ON YOM TOV
OPINIONS: The Gemara discusses the act of placing incense on coals on Yom Tov, which involves the Melachos of kindling and extinguishing. The Gemara's discussion is relevant to a debate among the Acharonim with regard to the question of whether or not one is permitted to use cigarettes on Yom Tov. Most contemporary authorities state that there is no allowance to smoke at all, even on an

ordinary weekday, due to the established and documented health hazards which the effects of cigarettes and second-hand smoke pose to the smoker and to those around him. Nevertheless, according to those who do permit a Jew to smoke, may one smoke on Yom Tov? (This discussion is a summary of the issues involved and is not intended as a Halachic ruling.)

There are four major issues involved with smoking on Yom Tov.

(a) The MAGEN AVRAHAM (OC 514:4) cites the KENESES HA'GEDOLAH who prohibits smoking on Yom Tov because it involves the Melachah of Mechabeh, extinguishing. In a lengthy Teshuvah, the DARCHEI NO'AM (#9) asks that the act of smoking appears to involve no act of Mechabeh, but rather an act of Hav'arah (burning). Any conceivable form of Mechabeh involved (such as diminishing the fire by squeezing the cigarette) would be a "Davar she'Eino Miskaven" and not a "Pesik Reishei," and thus should be permitted.

(b) The MAGEN AVRAHAM proposes a more basic reason to ban smoking on Yom Tov. Even if it does not involve Mechabeh but only Hav'arah, and Hav'arah is permitted on Yom Tov because of the principle of "Mitoch," the principle of "Mitoch" permits only an act which is "Shaveh l'Chol Nefesh," which everyone enjoys. Smoking is certainly not something which everyone enjoys.

However, the PNEI YEHOASHUA (Shabbos 39b, DH v'Omer) and RAV YONASAN EIBESHITZ (in BINAH L'ITIM, Hilchos Yom Tov 4:6) write that this reason is not enough to prohibit smoking on Yom Tov. TOSFOS in Shabbos (39b, DH u'Veis Hillel) discusses whether one may enter a bathhouse to sweat on Yom Tov. He writes that although the act of washing the entire body is not "Shaveh l'Chol Nefesh" and is therefore prohibited (see Tosfos to Beitzah 21b, DH Lo), nevertheless sweating is permitted because it is for the sake of maintaining one's health (Refu'ah) and not for pleasure.

Similarly, the medicinal properties of nicotine may be grounds to permit smoking.

HAGA'ON RAV YISRAEL ZEV GUSTMAN zt'l was asked if this argument is valid grounds to permit smoking on Yom Tov today, when the dangerous effects of smoking have been proven beyond any doubt. Rav Gustman answered that any person who smokes convinces himself that it is beneficial for him. The issue of whether an activity is considered one that merely provides pleasure or one that provides health benefits does not depend on whether or not the activity is objectively healthy, but whether the person himself does it for pleasure (in which case it is not "Shaveh l'Chol Nefesh" and is forbidden on Yom Tov), or for the perceived positive chemical effects that it has on his body. One who smokes presumably does so for the artificial calming effect of the nicotine. In that respect it could be considered "Shaveh l'Chol Nefesh," because with regard to acts of Refu'ah what matters is the ultimate effect and not what causes that effect, as the KESAV SOFER explains (Teshuvos OC #64). Since everyone appreciates the sense of being relaxed, any act which provides relaxing effects is considered to be "Shaveh l'Chol Nefesh."

The KORBAN NESANEL (Beitzah 2:22:10) cited by the BI'UR HALACHAH (511:4) mentions another rationale to consider smoking an act which is "Shaveh l'Chol Nefesh." Since many people, and not merely a few, have the practice to smoke, the act can be considered "Shaveh l'Chol Nefesh." The Bi'ur Halachah adds that this obviously applies only in a place where smoking is the accepted cultural norm and most people smoke. The KORBAN NESANEL himself, however, prohibits smoking on Yom Tov. The fact that in a certain place most people smoke does not make the act "Shaveh l'Chol Nefesh," because smoking is harmful to those who are not accustomed to it. Lighting the "Mugmar" and washing one's entire body are also things that many people do and are still considered things which are not "Shaveh l'Chol Nefesh" since some people do not appreciate such "pleasures." The PNEI YEHOASHUA (Shabbos 39b) also presents this argument.

(c) The PRI MEGADIM (OC 511) points out that an additional problem is involved when there is printing or letters on the outside of the cigarette wrapper, and by smoking one destroys those letters and transgresses the Melachah of Mochek (erasing). Because of this concern, some people who smoke on Yom Tov do not finish the cigarette when it burns down to the letters, but they let it burn by itself so that they should not transgress the Melachah of Mochek.

RAV HILLEL RUVEL shlit'a pointed out that this practice does not circumvent the problem of Mochek according to the NIMUKEI YOSEF in Bava Kama (22a). The Nimukei Yosef rules that when one lights a fire, he is considered to have burned everything that will eventually be burned by the fire. When Rav Ruvel brought this issue to the attention of Rav Gustman zt'l, Rav Gustman said that those who act leniently may rely on the OR SAME'ACH (Hilchos Shabbos 23:2) who says that one who burns a book on Yom Tov is not liable for the Melachah of Mochek, because Mochek involves taking away the words and not the entire paper.

(d) The KORBAN NESANEL (loc. cit.) writes that even if no Isur d'Oraisa forbids smoking on Yom Tov, it is almost impossible for one who smokes on Yom Tov to avoid transgressing Isurei d'Oraisa, such as Hav'arah when he attempts to light the pipe, cigar, or cigarette, or when he adds or removes tobacco from a pipe, or when he taps the ashes off of a cigarette. (This may be the intention of the Keneses ha'Gedolah cited in (a) above.) Other Acharonim (BIRKEI YOSEF OC 511) write that this reason cannot be used as grounds for prohibiting smoking on Yom Tov, because it is accepted that the sages today do not enact new Gezeiros. Since this reason entails making a Gezeirah (that one may not smoke lest he transgress an Isur d'Oraisa), today's sages cannot enact a rabbinical prohibition to prohibit smoking on Yom Tov in order to prevent one from transgressing Isurei d'Oraisa.

HALACHAH: The KORBAN NESANEL concludes in very strong terms that one who smokes on Yom Tov acts reprehensibly,

and "one who wants to honor Hash-m and his Torah should refrain from smoking for just one or two days (Yom Tov), even though his Yetzer ha'Ra might suggest ways to permit it based on the Shas." However, most Acharonim (as cited by the BI'UR HALACHAH loc. cit.) rule that in a city where most of the people smoke, the act of smoking can be considered "Shaveh l'Chol Nefesh" and thus one may smoke on Yom Tov. RAV MOSHE STERNBUCH shlit'a points out that nowadays, since even in places where people smoke they know that it is harmful to their health, and since in more and more places smoking is looked upon disapprovingly, it is very difficult to rely on these reasons to permit smoking on Yom Tov.

When asked by Kollel Iyun Hadaf whether smoking is permitted on Yom Tov, HAGA'ON RAV CHAIM PINCHAS SHEINBERG shlit'a said that it is certainly not considered an act which is "Shaveh l'Chol Nefesh" and thus it is forbidden on Yom Tov. Rav Sheinberg added that it has been proven that smoking is hazardous to one's health, and therefore smoking is never permitted, even on an ordinary weekday. (Regarding those who already smoke and who suffer from nicotine addiction, see IGROS MOSHE YD 2:49, and TESHUVOS V'HANGAHOS 1:316.)

Another interesting question raised by the Acharonim is whether one who maintains that smoking is forbidden on Yom Tov may light a cigarette for someone who is lenient. The KESAV SOFER (ibid.), based on the SHA'AR HA'MELECH (Hilchos Ishus 7:12), writes that if one person maintains that a certain practice is prohibited and he helps another person, who maintains that the practice is permitted, to do that act, he transgresses the prohibition of "Lifnei Iver." Therefore, one who maintains that smoking is prohibited may not help another person smoke on Yom Tov, and he must treat cigarettes and other smoking implements as Muktzah. However, the Kesav Sofer adds, if he maintains that the Halachah permits smoking but he personally is stringent and does not smoke, then he may light a cigarette for someone else who smokes.