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Yevamos Daf 34

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Daf Notes is currently being dedicated to the neshamah of

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The Mishnah states: If two men betrothed two women, and if at the time when they entered the *chuppah*, they exchanged this one's wife for that one, and that one's wife for this one (*and they cohabitated with each other's wife*), they are liable for cohabitating with another man's wife.

If the two men were brothers, they will also be liable because of the prohibition against taking one's brother's wife. If the two women were sisters, they will also be liable because of the prohibition against taking one's wife's sister. If the two women were menstruants, they will also be liable because of the prohibition against cohabitating with a menstruant.

(The women go back to their rightful husbands.) They are required to separate from their husbands for three months, lest they be pregnant. If they were minors who are not able to bear children, they restore them immediately. If they were daughters of kohanim, they are disqualified from *terumah*. (33b3)

The Mishnah had stated: They exchanged this one's wife for that one, and that one's wife for this one.

The Gemora asks: Are we dealing with wicked men?

And furthermore, Rabbi Chiya taught a Baraisa (explaining the Mishnah) that there are a total of sixteen chatas offerings; and if the transgressions were done willfully, would there be any liability for an offering?

Rav Yehudah answered: The Mishnah should read: if they were exchanged, meaning inadvertently.

This may also be proved by logical reasoning. For in the latter clause it was stated: If they were minors incapable of bearing children they may be restored at once. Now, if the act had been intentional, would [this have been] permitted! — This is no difficulty. The seduction of a minor is deemed to be a violation, and a violated woman is permitted to a non-Kohen.

The Gemora cites support for this reading from the following halachah in the Mishnah: They are required to separate from their husbands for three months, lest they be pregnant. We can infer from here that if they are not pregnant, they would be permitted to their husbands. If the Mishnah's case is referring to a willful cohabitation, the women will be forbidden to return to their husbands. This is indeed a proof that we are discussing a case where the women were exchanged by mistake. (33b3 – 33b4)

The Gemora inquires: Who is the Tanna of our Mishnah which maintains the position that [one prohibition may take effect upon another prohibition, whether it is a] 'more inclusive prohibition', a 'a more extensive prohibition' and 'simultaneous prohibitions'? [Rabbi Chiya cited a Baraisa that stated that one can be liable to bring four separate chatas offerings if he cohabitated with his brother's wife, who was his wife's sister, while she was a menstruant. This Tanna must maintain that an inclusive prohibition, an extensive prohibition and a simultaneous prohibition will all take effect on an existing prohibition.

(When Reuven married Rochel, she simultaneously becomes forbidden to Shimon on two accounts; she is now a married woman and she is his brother's wife. When Shimon marries Leah, Rochel's sister, Rochel and all of Leah's sisters become forbidden to Shimon on account of being his wife's sister. This is an inclusive prohibition. When Rochel becomes a menstruant, she becomes forbidden to all men in the world, and thus will become forbidden to Shimon as well. This is an extensive prohibition.) Which Tanna holds that the second prohibition will take effect upon an existing prohibition in all of these methods?]

Rav Yehudah said in the name of Rav: It is the opinion of Rabbi Meir. The Mishnah (Shabbos 102a) cites the opinion of Rabbi Meir: If a person who is *tamei* eats *cheilev*, (forbidden fats of an animal that was slaughtered) and the fats were *nosar* (left over from *kodoshim*, consecrated sacrifices), and the eating occurred on Yom Kippur, he will be liable four *chatas* offerings and one *asham* offering. He is liable for the prohibition of a *tamei* eating food that is consecrated, for eating *cheilev*, for eating *nosar*, and for eating on Yom Kippur. He is also liable an *asham* offering because he has been *moel behekdesh*, using consecrated property illegally. Rabbi Meir maintains that if the act occurred on Shabbos and he carried the food in his mouth outside, he is liable for transgressing the Shabbos. Rabi Meir maintains that although he has violated the prohibition of carrying on Shabbos, eating catalyzed the sin. The Chachamim, however, maintain that the sin is carrying and not related to the eating. (It emerges that Rabbi Meir holds of all three methods mentioned before. When an animal is born, its *cheilev* is forbidden for consumption, but one is permitted to derive benefit from it. When it becomes consecrated, the *cheilev* (together with the rest of the animal) is subject to the *halachos* of *me'ilah*, which prohibits anyone from deriving benefit from the *cheilev*. Since this prohibition added a new restriction to the *cheilev*, it adds the eating prohibition as well. This is an

example of an extensive prohibition. When the animal is left over from its allotted time, it becomes *nosar*. This also creates a new prohibition, namely that it cannot be offered on the *mizbeach*. Since this prohibition added a new restriction to the *cheilev*, it adds the eating prohibition as well. This is another example of an extensive prohibition. When the person became *tamei*, he is prohibited to eat all *kodoshim*. Since this prohibition includes other objects, the *cheilev* is also forbidden to him. This is an example of an inclusive prohibition. The identical reason applies to the prohibition of eating on Yom Kippur. The prohibition of carrying on Shabbos and eating on Yom Kippur occur simultaneously, precisely at nightfall. This is an example of simultaneous prohibitions taking effect.) (34a1)

The Gemora asks: According to which one of Rabbi Meir's teachers did he rule according to when he said that the man who cohabitated with his brother's wife, who was his wife's sister, while she was a menstruant would be liable to bring four *chatas* offerings even though he was attempting to perform the *mitzvah* of marrying. He cannot be ruling according to Rabbi Yehoshua because he holds that one is exempt from bringing a *chatas* offering when he commits a transgression while in the process of doing a *mitzvah*. (If there are two baby boys and one was born on Shabbos and one was born on Sunday and the Mohel erred and performed the circumcision on Shabbos upon the boy that was born on Sunday. Rabbi Yehoshua exempts him from bringing a *chatas* for the desecration of Shabbos since he was attempting to perform a *mitzvah* even though he did not fulfill any *mitzvah* at all.)

The Gemora answers: He is following the opinion of Rabbi Eliezer (who maintains that he will be liable to bring a *chatas* offering in this case).

Alternatively, he can be following the viewpoint of Rabbi Yehoshua for Rabbi Yehoshua only exempts him from bringing the *korban chatas* in the case of the babies,

where he is rushing to perform the *mitzvah* (since it must be performed on the eight day and not later). However, in the case of the Mishnah, there is no necessity to rush, and Rabbi Yehoshua will concede that he will be liable to bring a *chatas* offering.

The Gemora asks: But there is a case (where one sins) when eating terumah, where he was not rushing, and yet Rabbi Yehoshua still exempts him, for it was taught in a Mishnah: If a Kohen was eating terumah and it becomes known that he is a son of a divorcee or a *chalutzah*, Rabbi Eliezer says that he is liable to pay the principle plus a fifth (as the law is by a non-Kohen), and Rabbi Yehoshua says that he is exempt (since his error occurred while he was attempting to perform a mitzvah).

The Gemora answers: Rav Bibi bar Abaye says that the Baraisa is referring to a case where one was eating terumah (of chametz) on Erev Pesach, in which case, he was in a rush to fulfill the mitzvah in time. (34a1 – 34a2)

Alternatively, our Mishnah can be following the opinion of Rabbi Shimon, who maintains that simultaneous prohibitions take effect. It is understandable (regarding the first three cases in our Mishnah that) the prohibitions of a married woman, his brother's wife and his wife's sister can all occur simultaneously in the following scenario: Two brothers designated one agent to go and betroth two sisters. The sisters also appointed an agent to accept the betrothals for them. The agent of the brothers gave the two betrothals to the agent of the sisters simultaneously. The prohibition of a married woman, his wife's sister and his brother's wife occurred simultaneously, but how can the prohibition of cohabitating with a menstruant be explained with a simultaneous prohibition?

Rav Amram answers in the name of Rav: We are referring to a case where the sisters began bleeding prior to the thirteenth birthday of the brothers and prior to their

twelfth birthday. (Twin brothers were born on Rosh Hashanah and twin sisters were born the following Rosh Hashanah. On the Erev Rosh Hashanah before the boys become adults, they send money to the sisters with the condition that they will become married on the following day. All four prohibitions take effect by nightfall on Rosh Hashanah.) (34a2 – 34a3)

The Mishnah had stated: They are required to separate from their husbands for three months, lest they be pregnant.

The Gemora asks: But a woman cannot become pregnant from her first act of cohabitation!?

Rav Nachman answers in the name of Rabbah bar Avuha: We are referring to a case where the men cohabitated with the women multiple times.

The Gemora asks: Rabbi Chiya taught a Baraisa (explaining the Mishnah) that there are a total of sixteen *chatas* offerings, and according to you (that they cohabited with the women multiple times), the counting should be thirty-two!?

The Gemora counters: And according to your line of reasoning, following the opinion of Rabbi Eliezer, who maintains that there is liability for every sexual effort, are there not more? Rather, you are compelled to say that he only takes into consideration the first effort; well, here also, only the first cohabitation is taken into consideration. (34a3 – 34a4)

Rava asked to Rav Nachman: Didn't Tamar become pregnant from her first cohabitation with Yehudah?

Rav Nachman replied: Tamar broke her hymen with her finger before she cohabitated with Yehudah, and that is why she became pregnant.

Rav Nachman quoted from Rabbi Yitzchak: All the brides of the household of Rebbe would break their hymens with their fingers before their marriages and were thus called "Tamar" after the Biblical Tamar, who broke her own hymen.

The Gemora asks: Didn't Tamar have relations with Er and Onan (*Yehudah's sons*) before cohabitating with Yehudah?

The Gemora answers: Er and Onan cohabitated with Tamar in an unnatural manner.

The Gemora asks from a Baraisa: The twenty-four months that a woman is nursing, her husband should thresh on the inside and winnow on the outside (*he should withdraw prior to ejaculation in order that she should not conceive which would force her to wean him and he could die*); these are the words of Rabbi Eliezer. The Chachamim told him: That is the manner of Er and Onan. It would seem that they had relations in a usual manner?

The Gemora answers: Like the practice of Er and Onan, and yet not [exactly] like the practice of Er and Onan: 'Like the practice of Er and Onan', for it is written in Scripture: And it came to pass, when he would come to his brother's wife, that he wasted it on the ground; and 'not [exactly] like the practice of Er and Onan', for whereas there it was an unnatural act, here it is done in the natural way.

[The source for] Onan's [guilt] may well be traced, for it is written in Scripture: That he wasted it on the ground; where however, [that of] Er? Rav Nachman bar Yitzchak replied: It is written: And He killed him as well, he also died of the same death.

[The reason for] Onan's [action] may well be understood, because he knew that the seed would not be his; but why did Er act in such a manner? — In order that she might not conceive and thus lose some of her beauty. (34a4 – 34b2)

The Gemora cites a Baraisa: [The woman, if a man lies with her....., they shall immerse...] 'with her' excludes a bride; these are the words of Rabbi Yehudah. But the Sages say: This excludes an unnatural cohabitation.

Hon the son of Rav Nachman said to Rav Nachman: Does this imply that Rabbi Yehudah is of the opinion that the Torah had consideration for the bride's adornments (i.e., her eye makeup and blush; the torah therefore relaxed its laws and did not require her to immerse in a mikvah, so the water shouldn't remove the makeup and blush)? Rav Nachman replied: It is because no woman conceives from her first act of cohabitation (and therefore she is excluded from the verse which states 'a discharge of seed,' for the seed that was implanted within her cannot produce a child).

The Gemora notes: On what principle do they differ? The Rabbis are of opinion that 'a discharge of seed' excludes the first stage of contact, and 'with her' excludes cohabitation in an unnatural manner; but Rabbi Yehudah is of the opinion that the exclusion of cohabitation in an unnatural manner and the first stage of contact may be derived from 'a discharge of seed,' while 'with her' excludes a bride. (34b2)

Ravin said in the name of Rabbi Yochanan: Any woman who waited ten years after the death of her husband and then remarries will not be capable of conceiving.

Rav Nachman qualifies this statement: This was taught only if she did not intend on marrying, but if she does intend on remarrying, she can still conceive.

The Gemora relates: Rava said to Rav Chisda's daughter (his wife, whom he married after a period of ten years had passed since the death of her husband, Rami bar Chama): The Rabbis are talking about you (that perhaps you were unchaste during widowhood, and that is why you were



able to conceive). She answered him: I had my mind on you.

A woman once appeared before Rav Yosef, and said to him: "Master, I remained unmarried after the death of my husband for ten years and now I gave birth to a child." He said to her, "My daughter, do not discredit the words of the Sages." She thereupon confessed, "I cohabited with an idolater." (34b2 – 34b3)

[The Gemora cites two versions of Shmuel's rulings regarding the waiting period of a woman before she gets married after cohabiting with a man.]

Shmuel, according to the first version states: All women, whose husband's died or they got divorced, are required to wait three months prior to getting married again (*this is done in order to determine the paternity of the child*), except for a girl who converted as a minor or a slave that was freed as a minor.

A Jewish minor, however, must wait three months. But how [was she separated]? If by a declaration of refusal, surely Shmuel said that she need not wait! And if by a letter of divorce, surely Shmuel has already stated this once! For Samuel said: If she formally refused him she need not wait three months; if he gave her a letter of divorce she must wait three months! - [It was] rather in respect of a girl who cohabited illicitly, the Rabbis having made the provision in the case of a minor as a precaution against one who is of age. - But is provision made in the case of a minor as a precaution against one who is of age? Surely we learned: If they were minors incapable of bearing children they may be restored at once! — Rav Gidel replied: This was a special ruling. Does this imply that such a case had actually occurred! — Rather [this is the meaning:] It was like a special ruling, since the exchange of brides is an unusual occurrence. (34b3 – 35a1)

INSIGHTS TO THE DAF

DESECRATION OF HIS WORD

The Mishnah in Makkos states that a person can commit one action of plowing and be liable for eight transgressions.

The Gemora asks: Couldn't the Mishnah list a ninth; if he took an oath not to plow on Yom Tov?

The Gemora answers: He has already been sworn from Har Sinai not to violate Yom Tov and therefore the oath does not take affect.

The Ran explains the principle: An oath must be regarding something voluntary; anything that a person is obligated to do regardless of his oath is not binding. However, this is only relevant to the bringing of a korban chatas if he would violate the oath, but in respect of transgressing the oath intentionally, he would incur the thirty-nine lashes.

Reb Akiva Eiger asks on the Ran from the Gemora in Makkos: The Gemora was discussing the amount of lashes one could possibly receive for committing one action that entails many different transgressions. The Gemora states that an oath cannot be included for a person is sworn from Har Sinai prior to uttering the oath against plowing on Yom Tov. According to the Ran, it should still be included because it is another prohibition that incurs the penalty of lashes?

Reb Akiva Eiger understands the Gemora that the oath does not have any validity whatsoever because of the principle that one prohibition cannot take effect on an existing prohibition.

Reb Shmuel Rozovsky asks: Why don't both prohibitions take effect simultaneously; the oath does not take effect until the beginning of Yom Tov and that is precisely the

same moment that the prohibition against engaging in labor on Yom Tov commences?

Reb Elchonon Wasserman states: The principle that one prohibition cannot take effect on an existing prohibition is not applicable to an oath. He cites a Tosfos as proof to this: Tosfos states that the principle of one prohibition not taking effect on an existing prohibition would not apply to a case where one eats on Yom Kippur and simultaneously carries the food in his mouth from one domain to another. Although, the swallowing of the food causes both transgressions it is regarded as two different actions; swallowing and carrying.

Reb Elchonon explains regarding one who violates an oath by eating something he swore not to eat or by plowing a field when he swore that he wouldn't; the transgression is not the eating or plowing, but rather the desecration of his words the oath. It is therefore not considered the same action which causes the other prohibition, and the principle of one prohibition not taking effect on an existing one would not be applicable.

DAILY MASHAL

The Torah relates that Yehudah takes Tamar as a wife for his eldest son Er. Er is "evil in the eyes of Hashem", and Hashem causes him to die. Yehudah then asks his second son Onan to enter into a levirate marriage – "yibum" with Tamar to establish offspring for his deceased brother. Onan too is evil in the eyes of Hashem and is punished with death. Since Yehudah refuses to allow his youngest son Shelah the opportunity to marry Tamar, Tamar takes the initiative, creating a subterfuge that induces Yehudah himself into performing his levirate obligation to her. As a result of this union, Tamar gives birth to Peretz and Zerach. The Torah lists all seventy souls who descended to Mitzrayim. When recording Yehudah's children, the Torah lists Er, Onan, Shelah, Peretz, and Zerach, stating that Er and Onan are deceased. Why does the Torah

record the deceased brothers if they are not included in the seventy souls? Compounding this difficulty, we find Er and Onan mentioned again in the census of Bnei Yisroel taken in the desert. This census is taken in order to account for those who would receive a portion of land upon entering Eretz Yisroel. What possible benefit could there be in listing Er and Onan in this situation? Rabbi Yochanan Zweig explains: When Yehudah tells Onan to marry Tamar, he explains to his son that by performing this levirate marriage he will be "establishing an offspring for his brother". Rashi comments that the child born from this type of union is named after the deceased. The Ramban explains that there is no source which requires that the child born from a levirate marriage be named after the deceased brother. Rather, even prior to the Torah being given, the mystical understanding of the levirate marriage was already known; the child born from a levirate union receives the transmigrating soul of the deceased. Yehudah is instructing Onan to have a child with Tamar. In this manner the continuity of Onan is assured. Both Er and Onan die childless. Consequently, Yehudah's act of yibum is performed for both of his deceased children. This results in Tamar giving birth to twins, for each child represents the transmigrated soul of one of the deceased brothers. Zerach and Peretz are, in reality, Er and Onan. Therefore, whenever listing Zerach and Peretz, the Torah juxtaposes the deaths of Er and Onan to teach us that whatever potentials and capacities were contained within Er and Onan, were resurrected in Yehudah's latter children, Zerach and Peretz.