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Nazir Daf 43

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***Tumah after Tumah***

Rabbah had stated that if a *nazir* touched a corpse and simultaneously touched another corpse, he will only be liable once because he was already *tamei*. If so, why does Rabbah rule that if he was carrying a corpse and he enters a room that contains a corpse, he is liable for two transgressions? When he entered the room, he was already *tamei*!

Rabbi Yochanan said: When Rabbah said that he is liable for two transgressions, he was referring to a case in a house (*a tahor person entered a house that contained a corpse; he was warned not to come upon a dead person and not to contaminate himself; since he violated both of these transgressions simultaneously, he is liable twice*). When Rabbah said that he is only liable for one transgression, he was referring to a case in a field (*where there is no roof; if he would touch two corpses at the same time, he would not be liable twice, for he is not violating two different transgressions*).

The *Gemora* asks: Even in the case of the house (*it should not be regarded as violating two transgressions simultaneously*), as soon as his hand enters the house, he becomes *tamei* (*as if he touched a corpse, for the house is regarded as if it was filled with the tumah of the corpse*), and when he enters the house completely (*only when most of a person’s body is inside the room containing a corpse, do we say that he has entered a*

*house*), he is already *tamei*! (*He should therefore not receive lashes for violating the transgression of “coming upon a dead person”!*)

Rabbi Elozar suggests the following: If he enters the house with his hands first, he has violated the transgression of “*becoming tamei*,” but he has not violated the transgression of “*coming upon a dead person*.” However, if his entire body enters the house at one time (*his hands were at his sides*), the two transgressions occur at once (*and he will be liable twice*).

The *Gemora* asks: But inevitably, his nose will enter first, and he becomes *tamei* before he has entered the house!

Rather, Rava explains as follows: If his head enters first, he has violated the transgression of “*becoming tamei*,” but he has not violated the transgression of “*coming upon a dead person*.” However, if his entire body enters the house at one time (*he tilts his head backwards, so his nose does not enter first*), the two transgressions occur at once (*and he will be liable twice*).

The *Gemora* asks: But inevitably, his toes will enter first, and he becomes *tamei* before he has entered the house!

Rather, Rav Pappa explains as follows: The *nazir* went into the house inside a carriage, chest or closet and a fellow came along and removed the floor from under him (*rendering the person inside the box tamei*). The two transgressions occur at once (*and he will be liable twice*).

Mar bar Rav Ashi suggests an alternative explanation: The *nazir* entered the house when the other fellow was in a vegetative state, and while the *nazir* was sitting there, the fellow died. The two transgressions occur at once (*and he will be liable twice*). (42b2 – 43a1)

#### **Until he Dies**

The *Gemora* cites a *Baraisa*: [It is written regarding a *Kohen*: He shall not defile himself...to profane himself.] “To profane himself” teaches us that one cannot become *tamei* from a person until the moment that he dies (*the word “I’heichalo” resembles the word “I’chalal,” to a person that has been slain; we therefore derive from this verse that one cannot become tamei from a person who is still living*). Rebbe says: [It is written regarding a *nazir*: He may not contaminate himself with them in their death.] “In their death” and “He may not contaminate himself” teaches us that one cannot become *tamei* from a person until he dies.

The *Gemora* asks: What is the difference between them?

Rabbi Yochanan says: The source for this *halachah* is the difference between them (*there is no halachic difference between them*).

Rish Lakish says: A person in a vegetative state is the difference between them. According to the *Tanna Kamma*, who derives this *halachah* from the word

“*I’heichalo*,” a person in a vegetative state would also be included (*he can be referred to as a person that has been slain, since he will most probably die*). According to Rebbe, who uses the verse “in their death,” only a dead person can transmit *tumah*, but a person in a vegetative state cannot.

The *Gemora* asks: What does the *Tanna Kamma* derive from the verse “in their death”?

The *Gemora* answers: It is used to teach a ruling from Rebbe. For we learned in a *Baraisa*: Rebbe said: A *nazir* cannot become *tamei* to a corpse, but he can become *tamei* from someone with *tzaraas* or *zivah*.

The *Gemora* asks: How does Rebbe learn out both *halachos* from the same verse?

The *Gemora* answers: The Torah could have written “in death.” By the fact that it wrote “in their death,” both *halachos* may be derived from there.

The *Gemora* asks: What does Rebbe derive from the verse “to profane himself”?

The *Gemora* answers: This teaches us that the prohibition (*of a Kohen contaminating himself*) is only applicable to someone who is not already profaned. However, someone who is already profaned is excluded from this prohibition.

The *Gemora* asks: How does the *Tanna Kamma* learn out both *halachos* from the same verse?

The *Gemora* answers: The Torah could have written “to profane.” By the fact that it wrote “to profane himself,” both *halachos* may be derived from there.

The *Gemora* asks on the *Tanna Kamma* (according to *Rish Lakish*, who holds that a person in a vegetative state can transmit *tumah*) from the following *Mishnah*:

A person who is mortally wounded or in a vegetative state cannot transmit *tumah* until he actually dies! Now according to the one who bases the rule on 'to profane himself', does it not say here that they do not transmit *tumah*?

The *Gemora* answers: One who touches a person in a vegetative state will not become *tamei*, but he will have profaned himself. (43a1 – 43a2)

### **Only when the Corpse is Whole**

Rav Chisda said in the name of Rav: If a *Kohen's* father's head was cut off, the *Kohen* may not become *tamei* to him. The Torah says: *For his father*. If the father's body is whole, the *Kohen* can become *tamei* to him, but he may not make himself *tamei* to him, if parts of his body are missing.

Rav Hamnuna said to him: According to you, if one was walking in the barrens of Aravos (a place where bandits frequent) and they beheaded him, will the son be prohibited from becoming *tamei* to him? (Who will bury him then?)

Rav Chisda responded: Are you referring to an unattended corpse (*meis mitzvah*)? If a *Kohen* is permitted to bury an ordinary *meis mitzvah*, certainly if it would be his own father!

The *Gemora* asks: Is this indeed a case of a *meis mitzvah*? But we learned in the following *Baraisa*: What is a case of a *meis mitzvah*? Any corpse that has no people around to bury it, but if the *Kohen* can call other people and they will bury the corpse, it is not regarded

as a *meis mitzvah*. Now, here, isn't the son able to call others to bury his father?

The *Gemora* answers: Since he is going on the road, it is as if he has no buriers (for it was a dangerous area and people were not willing to help).

The *Gemora* asked from a *Baraisa*: For her shall he contaminate himself. He may become *tamei* for her (his sister), but he cannot become *tamei* to her limbs (whether it was severed from her when she was alive or dead), since he is prohibited from making himself *tamei* for the limb that has been severed from his live father (and certainly this *halachah* would apply to his sister). However, he may return to the place that he died for a bone the size of a barley grain. This would seem to indicate that he can make himself *tamei* for his father even though parts of his body are missing!

The *Gemora* answers that the *Baraisa* is in accordance with Rabbi Yehudah (who permits a *kohen* to become *tamei* in such a case). For we learned in a *Baraisa*: Rabbi Yehudah said: He may become *tamei* for her (his sister), but he cannot become *tamei* to her limbs (whether it was severed from her when she was alive or dead), since he is prohibited from making himself *tamei* for the limb that has been severed from his live father (and certainly this *halachah* would apply to his sister). However, he may become *tamei* for a limb that was severed from his father's corpse (provided that he had already become *tamei* from his father's body).

But Rav Kahana taught amongst [the *Baraisos* of] Rabbi Eliezer ben Yaakov [the following one]: For her may he contaminate himself, but he must not contaminate himself for limbs, thus excluding an olive's volume of [the flesh of] a corpse, or an olive's volume of netzel or a ladleful of corpse-dust. It might be

thought that he is also forbidden to contaminate himself for the spinal column, or the skull, or the greater part of the bodily frame [of his sister's corpse] or the majority [of its bones], but since it is written: and you shall say to them, it follows that Scripture has permitted you an additional tumah. It might be thought [further] that he is not to contaminate himself for the spinal column, or the skull, or the greater part of the bodily frame or the majority of the bones of the other [relatives], but I will tell you [why that is not so]. His sister is distinguished [from strangers] by the fact that her body depends on him [for its burial], and he is required to contaminate himself for the spinal column, or the skull, or the greater part of its bodily frame or the majority [of its bones], and so in all cases where the body depends on him [for burial], he is required to contaminate himself, for its spinal column, or its skull, or the greater part of its bodily frame, or the majority [of its bones]. [This contradicts Rav, does it not?]<sup>1</sup> — The author of this [Baraisa] too is Rabbi Yehudah, whereas Rav agrees with the following Tanna. For it has been taught: The story is told that the father of Rabbi Yitzchak died at Ginzak and he was informed three years later. He went and asked Rabbi Yehoshua ben Elisha and the four Elders with him, and they replied: For his father when he is whole, but not when he is defective. (43b1 – 44a1)

#### DAILY MASHAL

##### ***Buried on the Land where he Died***

The *Gemora* states that if a person dies and has no one to bury him, he is considered a *meis mitzvah*. The *halachah* is that he is buried on the land where he died,

<sup>1</sup> For according to this Baraisa, too, he is permitted to contaminate himself for a part of the body, in contradiction to the statement made by Rav Chisda in the name of Rav.

even if the land is privately owned. This is one of the ten conditions that Yehoshua made upon the division of Eretz Yisroel.

Why did Yehoshua make such a condition? Would it not be more appropriate to bury a person in a regular cemetery? The Chazon Ish<sup>2</sup> writes that there was a concern that one who dies without relatives would be left to the devices of other people who would neglect the dead body on the road, thus leaving the corpse unprotected. Yehoshua therefore decreed that a person who dies and has no one to attend to his burial should be buried where the body was found.

The Taz and Shach<sup>3</sup> write that nowadays in lands outside of Eretz *Yisroel*, we must bury an unattended corpse in the cemetery, because even if the person was buried at the site of his death, we are not certain that the site will be undisturbed.

Perhaps there is another aspect to burying an unattended corpse at the site of his death. It is said: *v'chiper admaso amo*, and He will appease His Land and His people, and this can be interpreted to mean that the land itself atones for the person. Burial is a sign of respect for the dead body, and although one normally buries a corpse in a cemetery, Eretz Yisroel is unique that anywhere in the Land is considered a respectful location. This would explain why Yehoshua was the one who set this condition, because the condition was unique for Eretz Yisroel.

<sup>2</sup> Oholos 22:22

<sup>3</sup> Yoreh Deah 364:3