



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h
Tzvi Gershon ben Yoel (Harvey Felsen) o”h

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Rav Ashi said: Since we have learned that a chalalah can only come from transgressing a Kohanic prohibition, if a Kohen would cohabit with his sister, she would be rendered a zonah. If he then cohabits with her again, she will be rendered a chalalah. (77b4 – 78a1)

Multiple Lashes

Rav Yehudah says: If a Kohen Gadol marries a widow and then cohabits with her, he has violated two transgressions: One for the verse: And he shall not take a widow in marriage. And the second for the verse: He shall not profane her.

The Gemora asks: Has he also not violated the following verse: He shall not profane his offspring? - The Gemora answers: He did not complete the act of cohabitation.

Rava asks from a Mishnah: If a Kohen Gadol marries a widow who is also a divorcee and then he cohabits with her, he receives lashes for two transgressions. [Seemingly, the two transgressions are for a widow and a divorcee; but according to Rav Yehudah, he should receive lashes for profaning her!?] The Gemora answers: The Mishnah means that he receives two lashes for sinning with a widow and two for sinning with a divorcee.

If so, consider the second clause: [For] a divorced woman and a chalutzah he is liable only on account of one? — This is its meaning: he is liable only on account of one [designation], yet after all, for two injunctions.

Now, is a chalutzah [forbidden only] by Rabbinical law? Surely it was taught: [They shall not take a woman that is a zonah. . . and a woman] that is divorced. I know it only of a

divorced woman; how do I know it of a chalutzah? Because it is said: ‘and a woman’. — It is Rabbinical, and the verse is a mere support. (78a1 – 78a2)

Lashes for Betrothing and Cohabiting

Abaye said: If a Kohen betroths a woman who is forbidden to him, he receives lashes; if he cohabits with her, he receives lashes. If he betroths her, he receives lashes, for he has violated the verse: He shall not take her in marriage. If he cohabits with her, he receives lashes, for he has violated the verse: He shall not profane her.

Rava said: If he cohabited with her (after betrothing her), he will receive two sets of lashes. However, if he did not cohabit with her (even if he did betroth her), he will not receive any lashes. Because it is written: He shall not take ... He shall not profane. The reason why the Torah stated “He shall not take her in marriage” is in order that “He shall not profane her.”

Abaye admits that if one betrothed his divorced wife, but he did not cohabit with her, he will not receive any lashes. The Merciful One said: [he may not] take her again to be his wife, which is absent here.

And Rava admits that if a Kohen Gadol cohabited with a widow, but did not betroth her, he will receive lashes. The Merciful One said: and he shall not profane his offspring among his people, whereas he has profaned [it].

They both will agree that if one cohabited with his own divorcee, but he did not betroth her, he will not receive any lashes. The Torah forbade it by way of marriage. (78a2)



Chalal – Chalalah

The Mishnah had stated: Rabbi Yehudah says: The daughter of a male convert is like the daughter of a male chalal.

The Gemora cites a Baraisa: Rabbi Yehudah said: The daughter of a male convert is like the daughter of a male chalal. And logic proves it. If a chalal, who [though he] comes from a fit origin, [yet] his daughter is unfit; then a convert, who comes from an unfit origin, his daughter is surely unfit! - As for a chalal, [it may be argued,] that is because his own formation is in sin! Then let [the union of] a Kohen Gadol with a widow prove it, for his formation was not in sin, yet his daughter is unfit. - As for a Kohen Gadol and a widow, that is because his cohabitation was in sin! Then let a chalal prove it. - And so the argument revolves: the distinguishing feature of one is not that of the other; it can be derived from a tzad hashavah (the common characteristic of two or more halachos) that they are unlike the rest of the congregation (and their daughters are forbidden to a Koen), so too, regarding a convert, who is unlike the rest of the congregation (for he was born from non-Jewish parents), his daughter will be unfit to marry into the Kehunah. - [No:] what is the feature common to both? That they have an element of sin! — Do not say, let [the union of] a Kohen Gadol with a widow prove it, but say: from a first-generation Egyptian convert. As for a [converted] Egyptian of the first generation, that is because he is ineligible to enter into the assembly [at all]! Then let a halal prove it. And so the argument revolves, the distinguishing feature of one not being that of the other. The feature common to both is that they both are unlike the rest of the congregation (the Egyptian cannot marry a Jew and the chalal was created in sin) and their daughter is unfit to marry into the Kehunah, so too, regarding a convert, who is unlike the rest of the congregation (for he was born from non-Jewish parents), his daughter will be unfit to marry into the Kehunah. - But a convert is dissimilar to them with respect to the following halachah: If a chalal or a first-generation Egyptian convert cohabit with a Jewish woman, they render her unfit for the Kehunah. A convert, on the other hand, does not render a woman unfit for the Kehunah!? - The Gemora answers:

Rabbi Yehudah holds that a convert does render a woman unfit for the Kehunah, and he derives this halachah from the same tzad hashavah. (78a3 – 78a4)

Convert Less than Three

The Mishnah had stated: Rabbi Eliezer ben Yaakov says: If a Yisroel married a female convert, his daughter is permitted to the Kehunah, and if a convert married the daughter of a Yisroel, his daughter is permitted to the Kehunah, but if a male convert married a female convert, his daughter is forbidden to the Kehunah.

The Gemora cites a Baraisa: Rabbi Shimon ben Yochai said: If a girl under three years old converts, she is qualified for the Kehunah. [We do not consider her a zonah because cohabitation under three years of age is not legally regarded as cohabitation.] He cites Scriptural proof for this. It is written [Bamidbar 31:18]: But all the children among the women who have not known cohabitation with a male, spare for yourselves. [It emerges that some of the Midianite girls taken in captive were permitted to be taken as wives by the Jewish soldiers.] The Gemora states: Pinchas the Kohen was among them, and he was included in this permission (proving that if a girl converted before she was three years old, she is permitted to a Kohen).

The Chachamim disagree with Rabbi Shimon ben Yochai, and they understand the verse to be referring to female slaves (to be taken as wives for their male slaves). (78a4 – 78a5)

Scriptural Sources

The Gemora comments: All four Tannaim (mentioned in the Mishnah) derive their opinion from the same verse: They may not take a widow or divorcee for themselves, only virgins from the “seed” of the House of Israel.

Rabbi Yehudah holds that a woman is permitted to the Kehunah only if the primary seed (her father) was from Israel (this is why he holds that daughter of a male convert is forbidden to the Kehunah). **Rabbi Eliezer ben Yaakov** holds the term “from the seed” teaches us that a woman is

permitted to the Kehunah even if her partial seed was from Israel (this is why he holds that if a convert married the daughter of a Yisroel, his daughter is permitted to the Kehunah). **Rabbi Yosi** holds that a woman is permitted to the Kehunah as long as she was seeded in Israel (and that is why he holds that if a male convert married a female convert, his daughter is permitted to the Kehunah). **Rabbi Shimon ben Yochai** holds that a woman is permitted to the Kehunah as long as her virginity was completed in Israel (and that is why he holds that if a girl under three years old converts, she is qualified for the Kehunah).

Rav Nachman asked Rava: The beginning of the verse is referring to a Kohen Gadol, and the conclusion of the verse is referring to an ordinary Kohen!? Rava replied: This is indeed correct!

Rav Nachman asked him: And does Scripture write that way? Rava answered: Yes it does. This can be proven from the following verse: And the lamp of God had not yet gone out, and Shmuel was lying down in the Sanctuary of Hashem. Could Shmuel have actually been lying down in the Beis HaMikdash? But we learned that one is not permitted to sit in the Temple Courtyard unless he is a king from the House of David? Rather, the verse must be interpreted as follows: And the lamp of God had not yet gone out in the Sanctuary of Hashem... and Shmuel was lying down in his place.

And a widow that is the widow of a Kohen they shall take. Only of a Kohen, but not of a Yisrael? — This is the meaning of ‘of a Kohen they shall take’: those of the other Kohanim may take. It was taught likewise: . . . of a Kohen they shall take’: [i.e.,] those of the other Kohanim may take. Rabbi Yehudah said: of those who can give [their daughters] in marriage to the Kehunah they may take. Rabbi Yehudah is in line with his reasoning, for he said: The daughter of a male convert is as the daughter of a male chalal: when you may marry his daughter, you may marry his widow; and when you may not marry his daughter, you may not marry his widow. (78a5 – 78b1)

Rulings

The Mishnah had stated: Rabbi Yosi says: Even if a male convert married a female convert, his daughter is permitted to the Kehunah.

Rav Hamnuna said in the name of Ulla: The halachah follows Rabbi Yosi. And Rabbah bar bar Chanah said like that as well. However, from the day that the Beis HaMikdash was destroyed and onward, the Kohanim acted stringently according to the viewpoint of Rabbi Eliezer ben Yaakov (that if a male convert married a female convert; his daughter is forbidden to the Kehunah). Rav Nachman said: Huna told me that if a Kohen comes to ask the halachah, we rule according to Rabbi Eliezer ben Yaakov. However, if he already married her, we do not take her away from him in accordance with Rabbi Yosi. (78b1)

Mishnah

If a father said, “This son of mine is a mamzer,” he is not believed (since the father is related to his son, he is therefore disqualified from testifying about him). And even if both of them (the father and the mother) admit regarding the fetus in her womb (that she became pregnant from some other man), they are not believed. Rabbi Yehudah said: They are believed. (78b2)

Believing the Father

Why [state], even if both [etc.]? — It is written in a ‘it is not really necessary to state’ format. It goes without saying that he - the father - is not believed for he is not certain from whom she became pregnant; and even the mother (who is certain) is also not believed. And it goes without saying where the son enjoys a presumption of legitimacy that they are not believed, but even in a case where the son does not have any presumption of legitimacy (in a case where he has not yet entered this world), they are still not believed.

Rabbi Yehudah said: They are believed. This is based upon the following Baraisa: It is written: He shall recognize. Rabbi Yehudah derives from here that a father is believed to say that this is his firstborn son. And just as a man is believed to

say that this is his firstborn son, so too, he is believed to say that his son is a son of a divorcee or a chalutzah (and if he is a Kohen, this will render the son a chalal, and he will be disqualified from the Kehunah). The Chachamim say: He is not believed (to say that his son is a chalal).

Rav Nachman bar Yitzchak asked Rava: As for Rabbi Yehudah, it is well: for that reason it is written: 'he shall acknowledge'. But on the view of the Rabbis, what is the purpose of, 'he shall acknowledge'? — Where acknowledgment is necessary.¹

The Gemora asks: Why do we need a verse to teach us that the father is believed regarding his firstborn with respect to giving him the double portion? If the father would want, he could write over all his possessions to that son (so even if he doesn't, he should be believed because he could have done that)!? The Gemora answers: The father is believed that the son is a firstborn even with respect to possessions that come to the father after he has declared that this son is a firstborn. And according to Rabbi Meir, who holds that one may sell something that is not yet in existence, what is the verse needed for? The verse is needed for a case where the property comes to the father's ownership when he is in a vegetable state. (78b2 – 78b3)

DAILY MASHAL

Responsa Chasam Sofer E.E. 2:174 relates that in Austria a highly positioned Kohein took a fancy to a madam who was divorced. Her previous marriage was such that the husband was of the classification that even if he did not want to divorce his wife, his behavior was such that the Rabbis may force him to divorce his wife, and this is exactly what happened. The Kohein claimed that the Torah only prohibits a divorcee to a Kohein because she is considered inappropriate for a Kohein, given that she was such a defective wife that she was divorced. Here, she was a very proper wife and it was a forced divorce, with all the blame

of the severance on the former husband. This in no way blemishes the woman for a Kohein. He readily agreed that the Rabbis prohibit this, but since their "Rabbinic stringency" is not written in the Torah, he is not bound to their rulings. Of course, the Rabbonim did not accept this and categorically refused to allow him to marry the divorcee. Being a man of highly-placed connections, he brought his case before ministers, and it eventually was brought as a theo-civil complaint to the king of Austria, who was quite intrigued with the reasoning. Not wanting to force the Rabbis to go against the laws of their religion, but at the same time, wanting to treat the petitioner fairly, he decided that a scholarly Jew, but specifically not a Rabbi, be asked to decide. An "enlightened" Jew was visiting the capitol city and was apprised of the case, and asked to rule. The Chasam Sofer, at this point, interjects that this person had already died at the time of writing this response, and that as a not religious person he had many sins, but that his death and his decision in this case be a merit for his soul.

He said that the Kohein was totally in the wrong. He has caught himself in a catch 22 situation. If he does not accept the rulings of the Rabbis, and only that which is explicit in the Torah, then the woman was never properly divorced, as the Torah clearly states that the man must instigate the divorce. It is the Rabbis who instituted that in certain given situations they would take action to force a divorce (done in an halachic manner that complies with the rule that the husband do so of his own free will, just the Rabbis guide him to do what he really wants to do of his own volition). If he accepts their ruling to consider the woman divorced, then he must likewise accept their ruling that this woman is just as divorced as a woman who divorced by her husband's wishes without Rabbinical intervention, and as such, she is prohibited to him as a divorcee. If he does not accept this, then she is still married to another. The king accepted this and the sin was not committed.

¹ The Gemora explains that the Chachamim use this verse to teach us that a father is believed that his son is a firstborn in a case of necessity (where the son arrived from abroad, and it was not known to us at all that he was a firstborn).