

20 Nissan 5782
April 21, 2022



Yevamos Daf 45

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Tzvi Gershon Ben Yoel (Harvey Felsen) o”h

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Rabbah bar Bar Chanah said in the name of Rabbi Yochanan: Everyone agrees that a Canaanite slave or an idolater who cohabits with a Jewess, the child born will be a *mamzer*.

Who is “everyone agrees”? The Gemora explains: Shimon Hatimni, for even though Shimon Hatimni maintains that a marriage which is subject to a negative prohibition will not produce a *mamzer*, these words are only to the offspring of a union forbidden under the penalty of lashes, since the betrothal in such a case is valid, but here, in the case of an idolater and a slave, since betrothal in their case is invalid, they are like those whose union is subject to the penalty of *kares* (so he will agree in this case since *kiddushin* does not take effect with them).

The Gemora asks from a Baraisa: A Canaanite slave or an idolater who cohabits with a Jewess, the child born will be a *mamzer*. Rabbi Shimon ben Yehudah maintains that a *mamzer* can only be produced from a marriage which is a prohibition of *ervah* and punishable by *kares*. [This Tanna follows Shimon Hatimni’s opinion and nevertheless, he does not agree by a Canaanite slave or an idolater.]

Rather, Rav Yosef explains Rabbi Yochanan’s statement differently: Who is “everyone agrees”? Rabbi Yochanan is referring to Rebbe. Although Rebbe quoted Rabbi Akiva who holds that a *chalutzah* is like an *ervah* in respect to the child being a *mamzer* (since he maintains that any union with a relative subject to a negative prohibition will produce a *mamzer*), Rebbe does not subscribe to this view; nevertheless, Rebbe would agree that a Canaanite slave or an idolater who cohabits with a Jewess, the child born will be a *mamzer*.

This is known because Rav Dimi arrived in Bavel from Eretz Yisroel, he said in the name of Rav Yitzchak bar Avudimi in the name of Rebbe that a Canaanite slave or an idolater who cohabits with a Jewess, the child born will be a *mamzer*.

The Gemora cites a related incident: Rabbi Acha Lord of the Birah and Rabbi Tanchum son of Rabbi Chiya, who was a resident of Kfar Acco ransomed Jewish captive women who were coming from Armon to Teveria. There was one woman among them who became pregnant from an idolater. They came before Rabbi Ami, and he said: Rabbi Yochanan, Rabbi Elozar and Rabbi Chanina all say that a Canaanite slave or an idolater who cohabits with a Jewess, the child born will be a *mamzer*.

Rav Yosef asked: What is special about listing names who all hold the same way? Rav and Shmuel from Bavel, Rabbi Yehoshua ben Levi and Bar Kappara from Eretz Yisroel (and some omit Bar Kappara’s name and insert instead the Elders of the South) say: A Canaanite slave or an idolater who cohabits with a Jewess, the child born will be fit.

Rather, Rav Yosef said: [The child is indeed a *mamzer* because] it is the opinion of Rebbe, for Rav Dimi arrived in Bavel from Eretz Yisroel, and said in the name of Rav Yitzchak bar Avudimi in the name of Rebbe that a Canaanite slave or an idolater who cohabits with a Jewess, the child born will be a *mamzer*. [Rebbe’s opinion is authoritative.]

Rabbi Yehoshua ben Levi said that the child is damaged.

The Gemora analyzes this ruling: In regard to whom? If you say in regard to the congregation (the child is a *mamzer* – this cannot be) because Rabbi Yehoshua ben Levi said before

that the child is fit. He must mean that the child is tainted for the *Kehunah*. For all the Amoraim who declare the child fit admit that he is ineligible for the *Kehunah*. This is derived through a *kal vachomer* from the prohibition of a widow to a *Kohen Gadol*. The prohibition regarding a widow is not applicable to all men, only to a *Kohen Gadol*, and nevertheless, a child from such a union will be tainted for the *Kehunah*; then certainly regarding a Canaanite slave or an idolater who cohabits with a Jewess, which is applicable to everyone, the child should be tainted for the *Kehunah*.

The Gemora asks on this *kal vachomer*: We cannot bring proof from a widow because we rule strictly there; a widow who cohabitates with a *Kohen Gadol* becomes disqualified herself. Perhaps that is the reason that the child will be tainted for the *Kehunah*. A Jewess, who cohabits with a Canaanite slave or an idolater does not become disqualified for *Kehunah*; perhaps the child is not tainted either.

The Gemora answers: A Jewess, who cohabits with a Canaanite slave or an idolater does become disqualified for *Kehunah*. Rabbi Yochanan said in the name of Rabbi Shimon: From where do we know that a Canaanite slave or an idolater who cohabits with a *Kohenes*, *Leviah* or *Yisraelis* will render her unfit to eat *terumah*? He cites a verse in Vayikra 22:13 which teaches us that a *Kohenes* who marries a non-*Kohen* is not permitted to eat *terumah*. If she should become widowed or divorced without having any children, she returns to her father's house and may eat *terumah*. This is only when she was legally married to someone who can cause her to become a widow or get divorced; a Canaanite slave or an idolater are excluded because they cannot cause her to become a widow or get divorced. We learn from here that a Jewess, who cohabits with a Canaanite slave or an idolater does become disqualified for *Kehunah*. (44b2 – 45a2)

Abaye asked Rav Yosef: Why were you relying on Rav Dimi's report in the name of Rebbe; why don't you rely on Ravin? When Ravin came to Bavel from Eretz Yisroel he said: Rabbi Nosson and Rabbi Yehudah HaNasi ruled that the child is fit.

And who is Rabbi Yehudah HaNasi? Rebbe.

The Gemora states that Rav also ruled that the child is fit. There was once a man who came to Rav and asked him: "What is the law regarding a Canaanite slave or an idolater who cohabits with a Jewess?" Rav said: "The child is fit." The man said: "If so, give me your daughter to marry (*the man was from such a union*)." Rav replied: "I will not give her to you." Shimi bar Chiya said to Rav: "People say, 'A camel in Medea dances in a *kav* (*a camel can dance with its four legs in a small jar – a saying which means that people invent far-fetched stories from far away places that cannot be substantiated*).' We have the *kav* and the camel, and this is Medea, but it is not dancing (*if you ruled that it is permitted, give your daughter to him in marriage*)." Rav answered: "Even if he were as great as Yehoshua son of Nun, I would not give my daughter to him." Shimi told Rav: "If he were as great as Yehoshua son of Nun, even if you will not give him your daughter, others would certainly give him theirs; however, regarding this man, if you do not give him your daughter, nobody will." Rav refused to change his mind and the man did not leave Rav. Rav gazed upon the man, and he died.

The Gemora states: Rav Masneh also ruled that the child is fit. Rav Yehudah also permitted the child. A man from such a union came to Rav Yehudah and Rav Yehudah said to him: "Go to a place where they will not recognize you, and you can marry a Jewess, or stay here and marry someone of your same type. Rava told the man the same advice. (45a2 – 45a3)

The residents of Bei Michsei inquired of Rabbah: One who is a half slave and half free who cohabits with a Jewess, what is the halachah regarding the child? He said to them: If the halachah regarding a complete slave is that the child is fit, certainly regarding half a slave, the halachah should be the same?

Rav Yosef said: Rav Yehudah said that a Canaanite slave or an idolater who cohabits with a Jewess, the child born will be fit, but yet he also said that a half slave and half free who

cohabits with a Jewess, the child does not have any remedy (*he is a mamzer*). How can this be?

The Gemora answers: Rav Yehudah is referring to a case where the half slave, half free man married a Jewess and then cohabited with her. It emerges that the portion of him that is still enslaved (*where kiddushin is not effective*) is cohabiting with a married woman (*albeit, his own, and that would render the child a mamzer*). (*The ruling issued above that the child is fit and not a mamzer was referring to cases where the Jewess was unmarried, but if she would have been married, the child would be a mamzer.*)

The Gemora asks: Didn't the Nehardeans say in the name of Rabbi Yaakov that the one who considers this child a *mamzer* does so even in the case of an unmarried woman; and the one who maintains that the child is fit does so even in the case of a married woman? And the deduction by both was made from none other than the wife of one's father. He who regards the child as disqualified is of the opinion that as with the wife of one's father, betrothal with whom is invalid, the child is a mamzer, so is the child a mamzer in the case of all those betrothal with whom is invalid. And he who regards the child as legitimate is of the opinion [that the comparison is]: As with the wife of one's father, betrothal with whom is invalid in the case of the son only, but is valid in the case of others; an idolater and a slave betrothal with whom is in all cases invalid are consequently excluded!

The Gemora answers: Rav Yehudah is referring to a case where the half slave, half free man cohabited with a married woman (*not his own*). Here, the child is certainly a *mamzer* based on his free half. (45a3 – 45b1)

Ravina said: Rav Gaza told me that Rabbi Yosi bar Avin visited our city, and there was a situation where a slave cohabited with an unmarried Jewess, and he ruled that the child is qualified; there was another situation regarding a married woman, and he ruled that the child is a *mamzer*.

Rav Sheishes related this incident differently: Rav Sheishes said: It wasn't Rabbi Yosi bar Avin, but rather Rabbi Yosi the son of Rabbi Zevida. He ruled that the child is qualified in the case of the unmarried woman and in the case of the married woman.

Rav Acha the son of Rava said to Ravina: Ameimar visited our place, and he ruled that the child of a Jewess and a slave is qualified in the case of the unmarried woman and in the case of the married woman.

The Gemora issues a ruling: The halachah is that a Canaanite slave or an idolater who cohabits with a Jewess, the child born will be qualified whether in the case of the unmarried woman and whether in the case of the married woman. (45b1 – 45b2)

Rava ruled that Rav Mari bar Rachel is qualified and he appointed him as an officer in Bavel. (*Rav Mari's mother, Rachel, was taken captive and Issur, one of her captors, cohabited with her. She gave birth to Mari. Issur later converted.*) And although a master said: *You shall surely appoint him king over you* (one from among your brethren); and we derive from there that all appointments which you make must be made only 'from among your brethren' - but such a man (as Rav Mari), since his mother was Jewish, may well be regarded as 'one from among your brethren.'

The Gemora relates another incident: The slave of Rabbi Chiya bar Ami once made a certain idolatress immerse in a mikvah for a matrimonial purpose. Rav Yosef said: I could declare her to be a legitimate Jewess and her daughter to be of legitimate birth. In her case, in accordance with the view of Rav Assi; for Rav Assi said: Did she not immerse herself for the purpose of her menstruation (and therefore regarded as a convert)?! In the case of her daughter, because when an idolater or a slave cohabits with a Jewess, the child (born of such a union) is legitimate.

A certain person was once named 'son of the Aramean woman.' Rav Assi said: Did she not immerse herself for the

purpose of her menstruation (and therefore regarded as a convert)?!

A certain person was once named 'son of the Aramean man.' Rabbi Yehoshua ben Levi said: Did he not immerse himself in connection with his seminal contamination?! (45b2 – 45b3)

DAILY MASHAL

NOT KOSHER ENOUGH

The Gemora states that Rav also ruled that the child is fit. There was once a man who came to Rav and asked him: "What is the law regarding a Canaanite slave or an idolater who cohabits with a Jewess?" Rav said: "The child is fit." The man said: "If so, give me your daughter to marry (*the man was from such a union*)." Rav replied: "I will not give her to you." Shimi bar Chiya said to Rav: "People say, 'A camel in Medea dances in a *kav* (*a camel can dance with its four legs in a small jar – an saying which means that people invent far-fetched stories from far away places that cannot be substantiated*).' We have the *kav* and the camel, and this is Medea, but it is not dancing (*if you ruled that it is permitted, give your daughter to him in marriage*)." Rav answered: "Even if he were as great as Yehoshua son of Nun, I would not give my daughter to him." Shimi told Rav: "If he were as great as Yehoshua son of Nun, even if you will not give him your daughter, others would certainly give him theirs; however, regarding this man, if you do not give him your daughter, nobody will." Rav refused to change his mind and the man did not leave Rav. Rav gazed upon the man, and he died.

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*** Could Rav have said, "Even if he is as great as Moshe Rabbeinu"?

*** Why didn't Rav want to give his daughter to him if he himself ruled that the man was qualified?

*** Why did Rav have him killed?

*** How could they give advice to go to another city where they will not be recognized? Shouldn't this be *gneivas da'as*?

*** Does *lifnei iver* apply by a *chumrah*?

*** Can you sell or give someone something that is kosher, but not according to all opinions?

*** Is one required to notify his guest about the standard of kashrus regarding every item that he plans on serving him?