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Yevamos Daf 85

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Daf Notes is currently being dedicated to the neshamah of

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

(The Gemora had stated that the daughter of a Kohen is permitted to marry a chalal.) Rav Pappa and Rav Huna the son of Rav Yehoshua visited Hintzevu, the town of Rav Idi bar Avin. The following question was asked of them: Were legitimate women forbidden to be married to disqualified men or not? Rav Pappa replied: You have learned the answer from the following *Mishna*: Ten different genealogical classes went up from Bavel (in the times of Ezra): *Kohanim, Leviim, Yisroelim, chalalim*, converts, and freed Canaanite slaves, *mamzeirim, nesinim, shetukim* (someone whose father is unknown) and *asufim* (his mother and father are unknown). *Kohanim, Leviim* and *Yisroelim* may intermarry with one another. *Leviim, Yisroelim, chalalim*, converts, and freed Canaanite slaves may intermarry with one another. Converts, freed Canaanite slaves, *mamzeirim, nesinim, shetukim* and *asufim* are permitted to intermarry with one another.

Rav Pappa concludes his proof: The *Mishna* did not mention that daughters of *Kohanim* may be married to a *chalal*. This would indicate that such a union is forbidden.

Rav Huna the son of Rav Yehoshua said to him: Only cases where the women may marry the men, and the men may marry the women were enumerated; the case regarding the daughters of *Kohanim*, however, was not mentioned, because a *chalah* is forbidden to him.

They came before Rav Idi bar Avin: He said to them, “Children! Rav Yehudah said in the name of Rav: Legitimate women are permitted to be married to disqualified men, such as a *chalal*. (85a1 – 85a2)

The Mishna had stated: There are secondary *arayos* that are only forbidden on account of a decree by the Soferim (early Sages).

The men of Biri enquired of Rav Sheishes: Is a woman who is a secondary *ervah* to her husband but not to her yavam entitled to claim her kesuvah from the yavam or not? Do we say that since a master said that her kesuvah obligation rests on the estate of her first husband (and not on the yavam’s personal property), she has no kesuvah, or, perhaps, since the Rabbis have ordained that wherever (by another yevamah) she is unable to obtain it from her first husband (such as a case where he didn’t leave any property for her), she may collect it from the second, she (therefore, in our case) is entitled to claim it from the yavam?

Rav Sheishes replied: You have learned this in a braisa: Her kesuvah obligation rests upon the estate of her first husband, but if she was a secondary *ervah* to her husband she receives nothing even from the yavam.

The Gemora asks: Does the expression (she receives nothing even from the yavam), however, imply that a yevamah may receive her kesuvah from the yavam (but the braisa explicitly taught that the kesuvah obligation rests upon the property of the first husband)?

The Gemora answers: It is as if there are missing words, and the following is what it meant to teach: Her kesuvah obligation rests upon the estate of her first husband; and if she obtains nothing from the first (such as a case where he didn’t leave any property for her), the Rabbis have ordained that she is to receive it from the second; but if she was a

secondary ervah to her husband, she receives nothing even from the yavam. (85a2)

The Mishna stated: If a widow is married to a *Kohen Gadol*, a divorced woman or a *chalutzah* to an ordinary Kohen, a *mamzeres* or a *nesinah* to a *Yisroel*, the daughter of a *Yisroel* to a *nesin* or to a *mamzer*, they receive their *kesuvah*.

Rabbi Elozar inquired of Rabbi Yochanan: Do these women have the right to sustenance as well, or not?

The *Gemora* clarifies the question: If she is still living with him, he must arise and divorce her; she obviously is not entitled for sustenance. The inquiry must be referring to a case where the husband went overseas, and she borrowed money to support herself. Is the husband required to pay back her debt? Since the sustenance is among the conditions of the *kesuvah*, she is entitled to sustenance just as she is entitled to the *kesuvah*, or is she entitled to the *kesuvah* only because she receives it and leaves (the marriage), but not to sustenance, which might induce her to remain with him?

Rabbi Yochanan replied: She is not entitled to sustenance.

The *Gemora* asks: But we have learned in a *braisa* that she does get sustenance.

The *Gemora* answers: The *braisa* is referring to a case where the husband died without divorcing her. She is entitled to collect from the husband's estate just as any other widow would.

The *Gemora* cites a different version of the above discussion: Rabbi Yochanan replied: We have learned in a *braisa* that she does get sustenance.

Rabbi Elozar asked: But he is in a situation where he is obligated to get up and divorce her (and yet, you will rule that he is obligated to sustain her)?

Rabbi Yochanan counters: But how then would we explain the *braisa* that rules that she does get sustenance?

Rabbi Elozar answered: Perhaps the *braisa* is referring to after the death of the husband. (85a2 – 85a3)

The Rabbis taught in a *braisa*: A widow who was married to a *Kohen Gadol*, or a divorcee or *chalutzah* who was married to an ordinary Kohen is entitled to her *kesuvah*, produce (even if the husband has already consumed the *melog* property), sustenance and depreciation (if the husband made use of her *melog* property until it was worn-out, he is required to pay her its monetary value) but she becomes disqualified to a *Kohen*, her child is also disqualified, and the husband is compelled to divorce her.

The *braisa* continues: In a marriage between secondary *arayos*, the women are not entitled to their *kesuvah*, produce, sustenance and depreciation. They remain qualified for the *Kehunah* and her child is also qualified, but the husband is compelled to divorce her.

Rabbi Shimon ben Elozar explains: Why was it ordained that a widow married to a *Kohen Gadol* is entitled to her *kesuvah*? It is because he becomes disqualified and she becomes disqualified, and wherever he becomes disqualified and she becomes disqualified, the Rabbis have penalized him by ordering him to pay her *kesuvah*. And why was it ordained that secondary *arayos*, who are forbidden by the ordinances of the Rabbis, are not to receive their *kesuvah*? It is because the man remains fit and the woman remains fit, and wherever they both remain fit, the Rabbis have penalized her by depriving her of her *kesuvah*. Rebbe said: The former are biblical prohibitions (*widow to a Kohen Gadol and a divorcee to an ordinary Kohen*), and Biblical prohibitions do not require reinforcement, whereas the latter are Rabbinical prohibitions, and Rabbinical prohibitions require reinforcement. Another explanation is: In the former case the man induces the woman into the marriage (*the woman is reluctant to contract a marriage which renders her and her children chalalim*), in the latter

case she induces him (*as the marriage subjects neither the woman nor her children to any disability, it is assumed that she, as a woman, is more anxious than the man to marry*). (85a3 – 85b1)

The *Gemora* asks: Who stated the 'other reason'? One opinion asserts that it was Rabbi Shimon ben Elozar who stated it; and he was giving the reason for his earlier ruling. Why was it ordained that when the man is unfit and the woman is unfit, the man is penalized by having to pay the *kesuvah*? It is because he induces the woman into the marriage. And what is the reason why when he remains fit and she remains fit, she is penalized by losing her *kesuvah*? It is because she induces him into the marriage.

Another opinion asserts that it was Rebbe who stated it, because the case of the *chalutzah* presented to him the following difficulty: A *chalutzah*, surely, is only Rabbinically forbidden to be married to an ordinary *Kohen*, and yet she receives her *kesuvah*. Thereupon he stated: Since the man disqualifies her by Rabbinical law, it is he, who in the former case, induces her into marriage, but in the latter case, it is she that induces him into marriage. (85b1 – 85b2)

The *Gemora* asks: What is the practical difference between Rebbe and Rabbi Shimon ben Elozar?

Rav Chisda replied: The practical difference between them is the case of a *mamzer* or a *nesinah* who was married to an Israelite. According to the one who gave the reason that the prohibitions were Biblical, then this case also is Biblical (*and the woman is therefore entitled to her kesuvah*), but according to the one who gave as the reason, that the man induces the woman into the marriage, then here, it is she that induces him into the marriage (*she, being in any case forbidden to marry an Israelite, has nothing to lose by her marriage which, under certain conditions, may even be advantageous to her, since according to Rabbi Tarfon (78a), it may enable her descendants to become proper Israelites; the woman, therefore, loses her kesuvah*).

The *Gemora* asks: According to Rabbi Eliezer, however, who stated that this child, who was born to a *mamzer* and a Canaanite slave woman is a slave and a *mamzer*, the woman, surely, would not induce the man at all?

Rather, said Rav Yosef, the practical difference between them is the case of the man who remarried his divorced wife after she had been married. According to the one who gave the reason that the prohibitions were Biblical, then this case also is Biblical, but according to the one who gave as the reason that the man induces the woman into the marriage, then here, surely, she induces him.

The *Gemora* asks: But according to Rabbi Akiva, who holds that any union with a woman subject to a negative prohibition will produce a *mamzer*, the divorcee will not induce the man to marry her (*because her subsequent children will be rendered mamzeirim*)?

Rather, said Rav Pappa, the practical difference between them is the case of a nonvirgin who was married to a *Kohen Gadol*. According to the one who gave as the reason that the prohibitions were Biblical, then this case also is Biblical, but according to the one who gave as the reason that the man induces the woman into the marriage, then here, surely, it is she that induces him.

The *Gemora* asks: But according to Rabbi Eliezer ben Yaakov, who holds that a child born from such a union (*even though it is only a positive commandment*) is a *chalal*, she will not induce the man to marry her?

Rather, said Rav Ashi, the practical difference between them is the case of the man who cohabits again with his suspected *sotah*. According to the one who gave as the reason that the prohibitions were Biblical, then this case also is Biblical, but according to the one who gave as the reason that the man induces the woman into the marriage, then here, surely, it is she that induces him.

The *Gemora* asks: But according to Rabbi Masya ben Chorosh, who holds that even if her husband was bringing her to drink the bitter waters (*he suspected her of committing adultery*), and he cohabited with her on the way (*a relatively minor transgression*), she is rendered a *zonah*, she will surely not induce him to cohabit with her?

Rather, said Mar bar Rav Ashi, the practical difference between them is the case of the man who cohabits with his wife after she became a confirmed *sotah*. (*According to the one who gave the reason that the prohibitions were Biblical, then this case also is Biblical and the woman is therefore entitled to her kesuvah, but according to the one who gave as the reason, that the man induces the woman into the marriage, then here, it is she that induces him into the marriage; the woman, therefore, loses her kesuvah*). (85b2 – 85b4)

INSIGHTS TO THE DAF

The Chasam Sofer asks: Why, in these cases (*where one betroths a woman subject to a negative prohibition, or a secondary ervah*) do we not say that the *Chachamim* revoked his *kiddushin*?

He answers, based upon Tosfos, who says that it is for this reason that the groom tells the bride that he is betrothing her according to the laws of Moshe and all of Israel. The *kiddushin* is only effective if Israel, i.e. the *Chachamim* consent to the marriage. However, one who is violating the Torah, or the sages, is obviously not marrying with such a stipulation and therefore, the marriage can still be effective.

DAILY MASHAL

Eretz Yisroel is Higher than all other Places

In our *sugya* the *Gemora* cites a Mishna in *Kiddushin*: Ten different genealogical classes went up from Bavel (*to Eretz Yisrael*). The wording of the Mishna seems to indicate that Eretz Yisrael is physically higher. In fact, the *Yam Shel Shlomo*

(on our *sugya*, *Kiddushin* Chap. 4, 1) goes so far as to say that if someone standing in Eretz Yisrael says, “I vow to go up to Chutz La’aretz,” the vow is considered to be made in vain and is invalid. Leaving Yerushalayim or Eretz Yisrael is always referred to as “going down.”

Many commentators maintain that the *Gemora* should not be interpreted literally. The Chasam Sofer (*Responsa, Part II, Y.D. §234*) stresses this point, writing, “...in fact, those who are somewhat familiar with the world map can see otherwise...actually the world is round, and high and low do not apply to spherical objects; from any given point one sees the skies high overhead and low on the horizon, forming a dome. Someone who approaches from a point on the horizon appears as if he emerged from a deep pit, and high and low do not apply.”

Furthermore the Maharal of Prague (in his book on Talmudic Aggados and in *Tiferes Yosef*, Chagiga 3b, s.v. Eizehu) writes that the *Gemora* is referring to the spiritual loftiness of Eretz Yisrael, and not to its physical height.

It is interesting to note that the Chasam Sofer (*ibid*) writes that Eretz Yisrael is said to be “higher than all other lands” because Creation began from the *even shesiyah* [foundation stone] located on *Har HaBayis* (see Rashi, Sanhedrin 26b, s.v. *veshesiyah*). Thus all eyes are raised to Eretz Yisrael and *Har HaBayis* because mankind lifts its gaze to the spot where the ground beneath its feet was first created.