

## OVERVIEW of the Daf

### 1) Relationships that create mamzerim (cont.)

The source offered by R' Yonah or R' Huna the son of R' Yehoshua, for the principle that kiddushin does not take effect when there is a punishment of kares is unsuccessfully challenged.

R' Acha bar Yaakov offers another source for this principle.

This source is unsuccessfully challenged.

The Gemara explains how R' Akiva, who maintains that kiddushin does not take effect even when there is a regular prohibition (חייבי לאוין) interprets the words used by R' Yonah.

The Gemara further explains how the exposition will work according to R' Yeshaveiv's understanding of R' Akiva's position.

R' Acha bar Yaakov's explanation of Rabanan is unsuccessfully challenged.

One last point related to R' Akiva's position is clarified.

### 2) Betrothing a Canaanite slavewoman

The Gemara inquires after the source that kiddushin does not take effect with a Canaanite slavewoman.

R' Huna suggests a source for this ruling.

Another source is cited that teaches that the child of a Jewish man and a Canaanite slavewoman will be like her.

### 3) Betrothing a gentile

A source is cited that teaches that kiddushin does not take effect with a gentile woman.

R' Yochanan in the name of R' Shimon ben Yochai offers a source that the child born to a Jewish man and a gentile mother will be like her.

Ravina further elaborates on R' Yochanan's position.

The Gemara suggests that one can infer that the child born to a non-Jewish father and a Jewish mother is a mamzer but this inference is rejected.

R' Yochanan's exposition is challenged.

Two resolutions are presented, one according to R' Shimon and the other according to Rabanan.

Another source that the child born to a gentile mother is like her is presented.

It is noted that this exposition could also serve as the source regarding the status of a child born to a Canaanite slave woman.

The Gemara agrees with that assertion and begins to present an alternative exposition for the phrase that was originally thought to teach about the status of a child born to a Canaanite slavewoman. ■

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 Mr. and Mrs. Shmuel Yaakov Meystel  
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 מרת סימא בת ר' פסח, ע"ה  
 Mrs. Selma Behren

## Distinctive INSIGHT

*The status of a child born from a gentile father and Jewish mother*

נימא קסבר רבינא עובד כוכבים ועבד הבא על בת ישראל הולד ממזר, נהי דכשר הוי ממזר לא הוי פסול מיקרי

The verses (Devarim 7:3,4) teach that a child born to one's daughter from a gentile father is called one's son. In other words, the child's status follows the mother and not the father, and the child is Jewish. Nevertheless, from the fact that we see that the child is not associated with the father, Ravina learns that the child is a **ממזר**. Ravina's proof is that we can conclude that whenever a child is born from a union which is sinful, and that kiddushin between the parents is impossible, the status of the child is a **ממזר**. Had it been that the child's status would follow the father, the child would be a gentile and could convert and marry a Jew. Now, however, that he is a **ממזר**, he cannot marry a Jew. The Gemara answers that the inference of the verse may be that although the child is not fully kosher, perhaps the child is simply **פסול**.

Rashi explains that when the Gemara understood that the child was a mamzer, it was because we do not associate the child to the gentile father, for had this been the case the child would have been eligible to convert and marry a Jew. Rather, the Gemara thought that the child has the status of its Jewish mother, but because it was born from a sinful relationship, it is a disqualified mamzer. The Gemara concludes that the child has the status of its father, and he is disqualified, but not a mamzer.

שער המלך (Isurei Bi'ah 15:3) asks that it seems that Rashi contradicts himself. Later (70b), the Gemara states that anyone who presents himself as a descendent of the Chashmonai dynasty must be a slave. Rashi there explains that Hordos killed all remaining members of the Chashmonaim, as he wrested control of the kingdom. Rashi adds, "Hordos himself was a slave, and he probably did not marry a Jewess." The comment of Rashi that Hordos did not marry a Jewish wife is based upon the halacha that when a gentile or slave has a child with a Jewish woman, the child is kosher. We see that Rashi holds that the child of such union follows that status of its mother and is a full Jew, whereas in our Gemara Rashi explains that the child of such a union is a kosher gentile, having the status of its father, and that he or she may convert and marry a Jewish man or woman because he is not a mamzer.

The commentators answer that Rashi's comments to our Gemara were only according to the **הוה אמינא**, but according to the **מסקנה** he agrees that the child follows the status of the mother. ■

## HALACHAH Highlight

### The prohibition against marrying gentiles

ההוא בשבעה גוים כתיב שאר אומות מנלן

That verse refers to the seven nations, what is the source regarding the other nations?

Rambam<sup>1</sup> writes that the verse **לא תתחתן במ** teaches that there is a prohibition against marrying a gentile who has not converted. Tur<sup>2</sup> disagrees and writes that the pasuk prohibits marrying someone from the seven nations indigenous to the land of Cana'an who has converted. The verse **ומבתך** teaches that it is prohibited to marry someone from the seven nations who did not convert. Beis Shmuel<sup>3</sup> explains that according to Rambam the prohibition against marrying a gentile applies when one has relations in the context of a civil marriage (דרך אישות), thus the Torah uses the phrase **לא תתחתן במ**—Do not marry with them. In contrast, since Tur derives the prohibition against marrying a gentile from the verse **לא תקח**—You should not take, we can infer that the prohibition applies whenever one has relations with a gentile even when it is not in the context of marriage. Ramban and Ritva maintain a third position. They maintain that the general prohibition against marrying gentiles applies whether they are gentiles or even after they convert. The only distinction is that the prohibition against marrying a gentile applies to any gentile whereas the prohibition against a marrying a convert applies only to someone from the seven nations indigenous to the land of Cana'an.

## REVIEW and Remember

1. Does kiddushin take effect with a woman who is a niddah?
2. What is the dispute between R' Simai and R' Yeaveiv concerning R' Akiva's position regarding mamzerim?
3. What is the source that a child born to a non-Jewish mother is not Jewish?
4. What is the source, according to Rabanan, that kiddushin does not take effect with a gentile?

Shulchan Aruch<sup>5</sup> follows the position of Rambam and rules that the prohibition of **לא תתחתן** prohibits having a civil marriage with a gentile. Rema<sup>6</sup> writes that there are authorities who dispute this ruling and Beis Shmuel<sup>7</sup> explains that Rema refers to the dissenting opinion of Tur. Accordingly, Rema rules that having relations with a non-Jew violates the prohibition even if it is not in the context of a civil marriage. ■

1. רמב"ם פ"י"ב מהל' איסורי ביאה ה"א.
2. טור אה"ע סי' ט"ז.
3. בית שמואל שם סק"א.
4. רמב"ן ד"ה כי וריטב"א ד"ה אמר.
5. שו"ע אה"ע סי' ט"ז סעי' א'.
6. רמ"א שם.
7. בית שמואל שם סק"א. ■

## STORIES Off the Daf

### A mistimed wedding

"אפילו בשעת נדתה תהא בה הוייה..."

On today's daf we find that one may marry a woman who is a niddah.

A certain young man was engaged to be married. Shortly before the wedding it became clear that the date they had set was not as suitable as they had at first believed. His wife would not be able to go to the mikveh until after the wedding. The chosson was at a loss as to what he should do: could he place the ring on his bride's finger? Presumably, niddah is a

very serious prohibition so this was forbidden, but it would be extremely humiliating for him to broadcast their problem in front of the wedding guests. Did he really have to embarrass himself and his kallah by giving her the ring by proxy?

He consulted with his rabbi regarding this question. "The Rema says that one should preferably tell her chosson that she is a niddah before their marriage. The Binyan Tzion, zt"l, learns from this that one may certainly place the ring on her finger; if not why doesn't the Rema write that a bride is obligated to tell her chosson (not merely that it is preferred) to avoid his inadvertently vio-

lating the prohibition of niddah? The Binyan Tzion explains that this is not prohibited since until the chosson places the ring on her finger she is not his wife and the halachah doesn't yet apply.<sup>1</sup>

He continued, "The Maharil, zt"l, writes that one should allow the ring to drop onto her finger.<sup>2</sup> Although the Be'er Heitev disagrees, other sources hold like the Maharil<sup>3</sup>. So why not just drop the ring on her finger to avoid this serious prohibition according to all opinions?" ■

1. שו"ת בנין ציון, סימן קל"ט
2. בדרשות, מובא בכנסת הגדולה, בהגהות הטור, אות יד
3. באבן העזר, בסוף סימן ס"א ■