



## OVERVIEW of the Daf

### 1) The intermarriage between Cutheans and Kohanim (cont.)

The Gemara explains how the Cutheans understood the mitzvah of yibbum which led them to believe that married women, as opposed to betrothed women, are not subject to the mitzvah of yibbum.

A third opinion regarding the rationale behind the prohibition against marrying Cutheans is presented.

This third opinion is associated with R' Eliezer.

R' Nachman in the name of Rabbah bar Avuha offers another explanation, based on an actual incident, why it is prohibited to marry Cutheans.

Rava offers another explanation, based on an actual incident, why it is prohibited to marry Cutheans.

**2) MISHNAH:** The Mishnah discusses the necessity to investigate that lineage of the woman one chooses to marry. Different circumstances where an investigation is unnecessary are presented.

### 3) Clarifying the Mishnah

The Gemara explains why it is only necessary to examine the mothers rather than the fathers.

The reason the man must investigate his prospective wife but a woman is not required to investigate her prospective husband is explained.

Two Beraisos are cited that seemingly contradict our Mishnah. One Baraisa teaches that one must investigate twelve total mothers and the other states that there are sixteen mothers, but both contradict our Mishnah which states that one is only required to investigate eight mothers.

The Gemara reconciles the two Beraisos with the Mishnah.

R' Yehudah in the name of Rav states that the Mishnah follows R' Meir but Chachamim maintains that families are assumed to be genealogically fit.

(Continued on page 2)

## Distinctive INSIGHT

### *Rabban Shimon ben Gamliel and the Tanna Kamma*

רבן שמעון בן גמליאל אומר כל מצוה שהחזיקו בה כותים הרבה מדקדקין בה יותר מישראל

**T**anna Kamma taught that the matzah prepared by a Cuthean may be used on Pesach. Rabbi Eliezer disagrees. The Gemara in Chullin (4a) notes that when Rabban Shimon ben Gamliel says that the Cutheans are meticulous in this mitzvah, it seems as if he is merely coming to support the opinion of Tanna Kamma. Nevertheless, according to Rashi's understanding, the Gemara explains that the difference between these opinions is regarding a mitzvah which is written in the Torah, but its reason is not clearly stated. Tanna Kamma holds that once a mitzvah is written in the verse, the Cutheans abide by it, and we may rely upon their observance. This is why Tanna Kamma allows matzah of a Cuthean to be used for Pesach. R' Shimon ben Gamliel holds that even if a mitzvah is written in the Torah, we may only rely upon the Cutheans if we know for a fact that they observe it properly. Therefore, R' Shimon ben Gamliel is actually coming to limit the areas where the Cutheans may be trusted.

The Gemara notes that this explanation is not indicated by the words of R' Shimon ben Gamliel, as if he is narrowing the area of trust, he should have said, "אם החזיקו."

Rather, the Gemara concludes that the difference between these opinions is where a mitzvah is not recorded explicitly in the verse, but it is learned by the rabbis through some drasha. Tanna Kamma would not honor their observance. The fact that the mitzvah is not written in the verse means that the Cutheans cannot be trusted to maintain its fulfillment. It is only a mitzvah such as matzah which can be relied upon, as it is written in the verse. R' Shimon ben Gamliel only requires a pattern of observance to trust them in regard to any particular mitzvah, and not that it necessarily be written in the Torah explicitly.

Tosafos understands that there are two areas in which Tanna Kamma and R' Shimon ben Gamliel differ. One is where a mitzvah is written in the Torah, but we have no record of the Cuthean's observance. Tanna Kamma trusts them (this is indicated by their choosing a case of matzah to show that they are trusted), while R' Shimon ben Gamliel does not. Here, R' Shimon ben Gamliel is more limiting. The other case is where a mitzvah is not recorded explicitly in the Torah, but we know that the Cutheans are careful about it. Here, Tanna Kamma does not trust them, but R' Shimon ben Gamliel would rely upon them. This is the case indicated by the expression used by R' Shimon ben Gamliel when he says, 'כל מצוה שהחזיקו וכו'.

## REVIEW and Remember

- How far back is one required to examine a potential wife's lineage?
- Are there special marital restrictions for the daughters of kohanim?
- What is the source that members of the Sanhedrin were required to have unblemished lineage?
- Why did Dovid HaMelech require his soldiers to be genealogically fit?

# HALACHAH Highlight

## Are blind people allowed to preside over a Din Torah?

הכל כשרים לדון דיני ממונות

Everyone is fit to serve as a judge in monetary cases

Although the Gemara cites a Baraisa that declares that all people are fit to serve as judges in monetary cases, Shulchan Aruch notes exceptions to that rule. Shulchan Aruch<sup>1</sup> rules that judges that are blind in one eye are valid but someone who is blind in both eyes may not serve as a judge even in monetary cases. Sm"a<sup>2</sup> offers a novel explanation for this ruling. He suggests that the disqualification is due to the fact that daytime for the blind man is equivalent to nighttime for a person with vision and Beis Din does not convene at night. Levush<sup>3</sup>, on the other hand, writes that the blind person's disqualification from sitting on a Beis Din is the result of the fact that the Torah equates presiding over a Din Torah with examining נגעים. Since a kohen without vision is unable to examine נגעים, so too, the blind person is disqualified from presiding over a Beis Din.

Nesivos Hamishpat<sup>4</sup> observes that the explanation of Sma will allow for certain leniencies. Although it is true that Beis Din should not sit in judgment at night, בדיעבד, if a case was tried at night the ruling would be binding. Similarly, although לכתחילה a blind person should not serve as a Dayan, his ruling would בדיעבד be binding. Another leniency is that a blind person should be allowed to participate in the conclusion of a Din Torah (גמר דיין) similar to the halacha that allows Beis Din to conclude a case at night. Nesivos rejects the leniencies that would result from the explanation of S"ma and maintains that a blind man cannot serve as a dayan under any conditions. Ketzos Hachoshen<sup>5</sup> maintains that since nowadays our judges do not have "semicha" and we are merely the agents of the Dayanim of earlier generations it is permitted to allow dayanim who are blind to sit on a Beis Din.

(Overview. Continued from page 1)

A contradictory teaching is cited in the name of Rav and the Gemara answers that there is a dispute regarding Rav's position.

A second version of the previous discussion is presented.

The reason it is unnecessary to investigate beyond people who served in the Beis Hamikdash or served in the Sanhedrin is explained.

Different sources for the ruling that one must be genealogically fit to serve in the Sanhedrin are suggested and rejected until a source is finally identified.

The Mishnah's implication that judges must be genealogically fit is clarified.

The reason tzedaka collectors are considered genealogically fit is explained. A related incident is recorded. The reason witnesses near Tzipori are considered genealogically fit is explained.

R' Yehudah in the name of Shmuel suggests that the Mishnah's statement that it is unnecessary to check beyond a soldier refers to soldiers in Dovid Hamelech's army since he only took soldiers who were genealogically fit.

The reason he only took for soldiers those who were genealogically fit is explained.

The assertion that Dovid Hamelech only accepted soldiers who were genealogically fit is unsuccessfully challenged. ■

Pischei Teshuvah<sup>6</sup> emphasizes that someone with poor eyesight is qualified to serve as a Dayan according to all opinions and the discussion relates to someone who is blind to the point that he cannot see. ■

1. שו"ע חו"מ סי' ז' סעי' ב'.
2. סמ"ע שם סק"ז.
3. מובא דעתו בסמ"ע שם.
4. נתיב"מ שם סק"ב.
5. קצה"ח שם סק"ב.
6. פת"ש שם סק"ג. ■

# STORIES Off the Daf

## The unblemished Gabbai Tzedakah

"כיון דמנצו בהדי אינשי..."

On today's daf we find a discussion about those who collect for tzedakah.

Mr. Dov Zlidowitz, z"l, was a very wealthy patron who supported many yeshivos, including Novhardok. He would donate three to four thousand rubles—a veritable fortune in those years—for its support annually.

But this generosity had not always been the man's habit. Before the affluent businessman became a regular benefactor of Novhardok, he sent a telegram request-

ing the Alter's presence and informing him that he would pay out an exorbitant sum to cover the numerous debts of the yeshiva after their meeting. When the Alter was on his way, his entourage urged him to hire a coach. The Alter refused. "It's a pity to waste the yeshiva's money," he explained.

When they arrived, Mr Zlidowitz began to inquire about what he had heard was the unusual style of mussar in the yeshiva. Instead of trying to explain what was behind his school of mussar, the Alter immediately dismissed Mr. Zlidowitz's concern. "Regarding the pedagogical methodology of our yeshiva, I am the sole administrator and it is not for outsiders to interfere. If you want to help the yeshiva financially, fine. If not, Hashem will help us a different

way..."

When they left, the Alter caused a stir among his entourage by requesting that they hire a cab. "But why, on the way here when there was a chance we would receive aid, did you refuse to hire a coach? What changed now that hiring a cab is no longer a waste of the yeshiva's resources?"

The Alter answered, "We traveled here to receive human aid, so naturally we needed to budget. Now that we have been rejected we are traveling on Hashem's account—there is no reason to save pennies."

When Mr. Zlidowitz heard this astonishing testimony to the Alter's unshakable bitachon he was so impressed that he decided to donate to the yeshiva after all!<sup>1</sup> ■

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