



THE SHABUOT MATTERS

שבת קודש פרשת במדבר | מסכת יבמות דף נ"ב

לע"נ משה אהרן יהושע בן אליעזר זוסמן ע"ה

לע"נ ברוך בענדיט וברכה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

INSIGHTS FROM OUR CHABUROS

Lashes for Abusing a Messenger of the Rabbis

ומאן דפקר שלוחא דרבנן

The Gemara clarifies that a yavam should give מאמר before taking the yevama and fulfilling the mitzvah with ביאה. In fact, if the yavam would take the yevama without מאמר he would be liable for "lashes of discipline—מכת מרדות," due to the ruling of Rav who considered this to be פריצות.

The Gemara lists eight cases in which Rav ruled that Rabbinic lashes are administered. One of the cases is for a person who is insolent towards a messenger of the Rabbis. Here, Rashi explains that this means that a person acts with חוצפה against a messenger of the court. However, in Kiddushin (12b), Rashi explains that the person defies and מצער the court messenger by striking him.

Rashba in Kiddushin questions this comment of Rashi, because striking another Jew is a violation of a Torah law, and a person can be placed in נידוי for doing so. Therefore Rashba explains that the lashes in our Gemara are referring to a case where the messenger was abused verbally. ר"ן explains that it can even be speaking about where the messenger was insulted in front of others. He suggests that the accurate text should therefore read דמבזה rather than דפקיר.

Tosafos in our Gemara notes that this case is not only dealing with abusing a messenger of the court, but, in fact, it is speaking about disgracing and abusing any messenger of a Rabbi. He cites a story from Kiddushin (70a), where Rabbi Yehuda sent a messenger to someone, and when the fellow acted abusive toward the messenger, Rabbi Yehuda punished him by placing him in נידוי. This is because acting impudently against the messenger is tantamount to disgracing the rabbi himself, who had sent him.

POINT TO PONDER

The Gemara says that חז"ל instituted מאמר for Yibum as the proper way to fulfill the Mitzvah. תוס' ד"ה דמקדש בביאה, says that even though ביאה is necessary to fulfill the Mitzvah of Yibum, it is still not proper to perform ביאה as the first action. Why is this so? We can understand regular קידושין whereby witnesses observe giving a ring as a more modest interaction, but if by Yibum it is inevitable that the witnesses need to testify concerning the ביאה, why should the timing affect its appearance?

Response to last week's Point to Ponder:

Why does the Gemara initially suggest that the question of גט אחר גט and גט אחר מאמר is dependent on the question of whether or not there זיקה. Why can't the two be independent?

There are two ways to view the זיקה that exists when there is Yibum. One is that it is the late brother's marriage that is being continued by the Yavam, and the second way, assumes that it is a new marriage between the Yavam and the Yavama. The Gemara assumed that according to רנן גמליאל יבם takes over his late brother's marriage and therefore there is only one גט or מאמר for all the brothers. The רבנן however argue and hold that the Yibum is effecting a new marriage and each brother has זיקה to marry the Yevama and therefore each one needs an ability to do מאמר or give a גט. (See רמב"ן).

STORIES OFF THE DAF

The Lack of Mussar

ומאן דשהי שמתא דרבנן עליה תלתין יומין ולא אתי לבי דינא ותבע לשמתיה

One of the things for which Rav gave lashes was a failure on the part of the niddui to return Beis Din after thirty days to request that they lift the ban. How could a Jew sink so low that even thirty days of niddui leaves him indifferent? The purpose of the ban is to help the person realize that he needs to change, and in that sense it is a kind of mussar. If it fails, Rav says that we wake the sinner by giving him lashes.

In the years leading up to the Russian Revolution, a spirit of discontent swept through many of the Russian and Lithuanian yeshivos. During one particular period, there was such strong opposition to the study of mussar in Slabodka yeshiva itself that a number of former talmidim decided to publish their views. One of the dropouts even announced that he would stop at nothing until he succeeded. This young man was known to have been quite a brilliant student. After much effort, however, the group didn't seem to be any closer to achieving its aims. Discomfited, they decided to try a different tactic. The most radical student said, "It's obvious that our problem is Rav Noson Tzvi Finkel, zt"l, himself! It is the Alter of Slabodka who keeps on frustrating our every plan. All we need to do is get him out of the way and there will be no more trouble to remove the study of mussar from the yeshiva." The others agreed. It never crossed their minds that it would be a challenge to get the Alter out of the way; as they planned to simply visit him and see how he reacted to being threatened at gunpoint!

"And if he won't resign, well, he just can be held responsible for the consequences," the ringleader said. A group of these renegades forced their way into the Alter's house soon after and made their demands. The Alter, however, was unperturbed. He merely gazed sadly at the leader, and said calmly, "You only left us and our mussar a short while ago, and look what has happened to you already."

The ringleader was stung by the lashes of the Alter's words. Completely chastened, he turned tail and the whole group followed suit.

MUSSAR FROM THE DAF

Committing to
Commit

דרב מנגיד מאן דמקדש בביאה ומאן דמקדש בשוקא ומאן דמקדש בלא שדוכי

The Gemara brings the ruling of Rav who would punish (through lashes) people who performed the act of kiddushin – the first act of marriage – through intimacy even though this is one of the three valid methods to perform an act of kiddushin. See Mishnah Kiddushin 2a (the other two are kesef – money and shtar – a legal contract). Similarly, Rav punished people who perform the act of kiddushin in the marketplace or without a properly arranged shidduch (Shidduch here refers to an agreement between the man and woman or between their families prior to performance of the act of kiddushin).

What do all these three actions have in common? The reason behind all of Rav's punishments – as well as Rav Huna's ruling with regard to yibum (that one should perform מאמר before intimacy) – is that notwithstanding the letter of the law permitting intimacy to solidify a marriage agreement, such behavior shows a lack of respect for privacy and modesty, which are the very foundations of marriage. Furthermore, agreeing to a marriage when standing in the marketplace or without proper preparations (through kesef, shtar or shidduchim) indicates that the marriage is viewed as happenstance. The Maharsha explains that one should not begin a kinyan (marriage) in this fashion. We know that everything follows the beginning and if the beginning of the relationship is started in such a fleeting/temporary fashion, there doesn't leave much hope for the success of this marriage.

Studies have shown that when people begin to live together without committing to marriage, the chance that the marriage will end in divorce increases even when they eventually do get married. This is likely because the foundation of the relationship was started in a temporary fashion. Therefore, even when they eventually commit to each other, there is no real קביעות (permanence) in the relationship.

In any relationship that one begins with (especially marriage) the more serious one begins the relationship, with full preparation, planning and discussion, the greater the chances will be for that relationship to be successful.

PARSHA CONNECTION

In this week's daf we learn about the proper way to engage prior to marrying. Marriage is also the subject of this week's Haftorah which concludes with the verse וארשתוך לי באמונה and the verse starts with אמונה which means belief but concludes with ידיעה meaning knowledge. The חזקוני explains that this is actually a promise, that those who believe in הקב"ה, will merit to KNOW הקב"ה. We believe in things that we don't know, since if we know something we don't need to believe it, הקב"ה is promising us that he will reveal himself to those who believe in him! This is a very timely message for us as we get ready to celebrate our relationship with הקב"ה and the Torah on Shavuos, which is often compared to marriage. Unlike regular marriages, Shavuos offers us an opportunity to re-engage with Torah!!

HALACHA HIGHLIGHT

Lashes of Discipline

והתניא לוקה מבת
מדות מדרבנן

Didn't the Baraisa teach that he receives lashes? Those are only lashes of discipline for violating a Rabbinic injunction

The Mishnah¹ in Nazir presents a dispute concerning a woman who took a vow to be a nezirah and without her knowledge her husband nullified the vow. While she was still unaware that her husband nullified her vow she violated the restrictions of her nezirus. Tanna Kamma rules that she is not liable to lashes and R' Yehudah states, "If she does not receive forty lashes she at least receives lashes of discipline. Rav Ovadiah Birtenoro² writes that the details of lashes of discipline are determined by each Beis Din based on their perception of the severity of the offense. These lashes, however, are not the same as the lashes given for a person who refuses to fulfill a positive mitzvah, because those lashes continue until he is compliant.

Rav Yom Tov Lipman Heller³, the Tosafos Yom Tov, cites an opinion which explains that these lashes are called lashes of discipline in that they are administered for one who rebels against the Torah and the Rabbis. According to this opinion, there is no difference between the lashes administered to one who refuses to fulfill a positive mitzvah and the lashes administered to one who violates a Rabbinic prohibition.

Rav Akiva Eiger⁴ cites Rashi's⁵ comment to our Gemara where he differentiates between Biblical lashes and Rabbinical lashes. Rashi's position is that forty lashes are given only when a person is subject to Biblical lashes, but a person who is only subject to Rabbinic lashes does not receive forty lashes. The reason for the lashes is that the violator did not behave with proper self-respect (נהג קלות ראש בעצמו).

Rabbeinu Yitzchok bar Sheishes⁶, the Rivash, however, holds that forty lashes are administered even for Rabbinic violations but they are not administered with the same degree of force. The Gemara Kiddushin⁷ seemingly supports the view of Rivash. The Gemara there states that one who calls his friend a mamzer is punished with forty lashes. We see that even though the lashes administered are for violating a Rabbinic prohibition, nonetheless the offender receives forty lashes.

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5. רש"י ד"ה והתניא לוקה
6. שו"ת ריב"ש סי' צ'
7. גמ' קידושין כח

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