



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Kiddushin Daf Ayin Gimmel

- A Braisa says, **R' Yose** says a ger may marry a mamzeres (a ger is not considered to be a part of the "kahal"), and **R' Yehuda** says a ger may not marry a mamzeres (a ger is included in the "kahal"). A ger, a freed slave, and a chalal, are all mutar to marry a kohenes.
 - **R' Yose's** view is based on the following. In the pesukim regarding people of passul yichus the Torah says the word "kahal" 5 times – once to teach that they are assur to Kohanim, once for Leviim, once for Yisraelim, once to teach that a mamzer may marry a shtuki, and once to teach that a shtuki may marry a Yisrael. This leaves out geireim and teaches that they are not included in the term "kahal". **R' Yehuda** says that Kohanim and Leviim are from one shevet, and therefore can be learned out of the same "kahal". This leaves an extra "kahal", which teaches that geireim are included in the term "kahal". We can also say that a separate kahal is needed for Kohanim and Leviim, but one kahal can teach that a mamzer may marry a shtuki and that a shtuki may marry a Yisrael, because this is learned out from the fact that only a definite mamzer (not a shtuki) is assur to marry into the kahal, and also that a mamzer is only assur to marry into the definite kahal (not a shtuki, which is a safek mamzer). We can also say that each of these does need a separate "kahal", and **R' Yehuda** learns his halacha from the pasuk that says "Hakahal chukah achas lachem v'lager hagar" – which teaches that a ger is included in the term "kahal". **R' Yose** disagrees with that, because he says the words "chukah achas" create a separation between the words "hakahal" and "ger".
 - The second statement of the Braisa is a proof to **Rav**. We find that **R' Yehuda in the name of Rav** said, that a kohenes of pure yichus is not restricted from marrying the psulim that a Kohen of pure yichus would be assur to marry.
 - **R' Zeira** once darshened in Mechuza that a ger is mutar to marry a mamzeres. The entire crowd pelted him with their esrogim (there were many geireim in Mechuza, and they objected to his not treating them as members of the kahal). **Rava** asked, is there anyone who can teach this halacha to the people of Mechuza in a way that they will accept him? **Rava** then went and darshened in Mechuza that a ger may marry a Kohenes. The people reacted by giving him gifts. He then darshened that a ger may marry a mamzeres. The people told him, you have lost the credit for the first statement you made. He told them, I did a good thing for you. If you want, you can marry anyone from a Kohenes down to a mamzeres!
 - The Gemara paskens, that a ger is mutar to marry a Kohenes and to marry a mamzeres.

EILU HEIN SHTUKI KOL SHEMAKIR

- **Rava** said, D'Oraisa a shtuki is mutar to marry into the kahal. Why? Most men in the world were mutar to this mother (she was a single woman, and therefore mutar to most men), and only a minority of men are assur to her. Therefore, if the man came to her to be mezaneh, we have the rule that "kol d'parish meirubah parish" and we can assume that this man was mutar to her and the child is not a mamzer. Even if she went to him, in which case we say "kol kevuah k'mechtza ahl mechtza dami", the child would only be a safek mamzer, and we learn from the pasuk that only a definite mamzer is assur to marry into the kahal, and also that a mamzer is only assur to marry into the definite kahal. It is the **Rabanan** who said that a shtuki is assur, as a gezeirah that since he doesn't know who his father is, if he marries a girl from the kahal, it may be his sister from his father.
 - **Q:** If so, a shtuki should not be allowed to marry another shtuki either!? **A:** We will not assume that a father produced two children out of wedlock.
 - **Q:** If so, a shtuki should not be allowed to marry the daughter of a shtuki (who went and married and had a legitimate daughter), because this girl's father may

be his father!? It must be that this is an uncommon case, and therefore we are not goizer. If so, we wouldn't be goizer for any case of shtuki, so why did the **Rabanan** say a shtuki can't marry into the kahal!? **A:** The **Rabanan** set a high standard when it came to matters of yichus, and therefore prohibited a shtuki from marrying into the kahal.

- **Rava** said, D'Oraisa an asufi is mutar to marry into the kahal. Why? This child left in the street is likely not from a married woman, because even if the child is not her husband's, she would claim that it was, and would not throw the baby out. The concern is that this child was born to his mother from another man when she was only an arusah or when her husband was traveling overseas (in both cases she could not claim it was from her husband), but these cases are the minority. The majority would be made of cases where the mother was single, or where the child was legitimate and the parents could not afford to feed this child (and therefore left him in the streets), so at best this is a case of safek mamzer, and we learn from the pasuk that only a definite mamzer is assur to marry into the kahal, and also that a mamzer is only assur to marry into the definite kahal. It is the **Rabanan** who said that a shtuki and asufi is assur, as a gezeirah that since he doesn't know who his father is, if he marries a girl from the kahal, it may be his sister from his father.
 - If so, an asufi should not be allowed to marry another asufi either!? **A:** We will not assume that the same parents threw away two children.
 - **Q:** If so, an asufi should not be allowed to marry the daughter of an asufi (who went and married and had a legitimate daughter), because this girl's father may be his father!? It must be that this is an uncommon case, and therefore we are not goizer. If so, we wouldn't be goizer for any case of asufi, so why did the **Rabanan** say an asufi can't marry into the kahal!? **A:** The **Rabanan** set a high standard when it came to matters of yichus, and therefore prohibited an asufi from marrying into the kahal.
- **Rava bar R' Huna** said, if the baby was found with a bris milah, or if the baby's limbs were straightened and cared for, or if the baby had oil applied to it, or eye makeup, or with certain herbs used for health reasons tied around its neck, or a written kemeyah, or a kemeyah of spices, the baby is not given the status of an asufi (since the baby was cared for to this degree, it proves that the baby is not illegitimate). If the baby was found hanging from a palm tree, if it was in a place where animals could reach it, the baby is an asufi. If not, it is not. If it was found in a zeradsa tree near the city (where there are many sheidem), then it is an asufi. If it is not near the city, it is not an asufi. If the baby was found in a shul near the city where there are always people around, the baby is not an asufi. If it is far from the city, it is an asufi.
 - **Ameimar** said, if a baby is found in a ditch used for storing date pits for animal feed, the baby is an asufi. If the baby was found in the river where ships pass, it is not an asufi. If it was found at the river banks where they overflow from the rainwater, it is an asufi. If it is found on the sides of the reshus harabim, it is not an asufi. If it is found in the reshus harabim, it is an asufi.
 - **Rava** said, in years of hunger, the baby is not considered to be an asufi.
 - **Q:** Regarding which case is **Rava's** statement said? It can't be in the case where the baby was left in the reshus harabim (to be trampled and killed), because even in a year of hunger, the mother would not go and kill her child!? It can't be where she left the baby on the sides of the reshus harabim, because even in a year that is not a year of hunger the child would not be an asufi!? **A:** **Rava** was referring to a statement that was said in the name of **Rav**, that as long as the baby is still in the street, the parents of the baby are believed to claim the baby as their own. Once the baby was taken from the street, we would no longer believe people claiming to be the parents. **Rava** explains, the reason is, since the status of asufi was already placed onto this baby, we can no longer believe the people claiming to be the parents. **Rava** then said, that in a year of hunger, the parents would be believed even after the child was taken from the streets.
 - **R' Chisda** said, there are 3 people who are only believed if they make an immediate claim: people who claim an asufi, a midwife, and a woman who says that other women are not a niddah.
 - The case of asufi was explained above (they are only believed while the baby is still in the street).

- The case of the midwife is in a Braisa, that a midwife is believed to say which of twins that are born is the bechor only if she makes the claim before leaving the room, and according to **R' Eliezer**, only if she makes the claim before turning away from the babies even if she is still in the room.
 - The case of the woman and the niddah status is if there are 3 women who slept in the same bed, and blood is found on the bed, they are all tamei as a niddah. However, if one woman does an immediate bedika and finds that she is a niddah, the other women are saved from becoming tamei as a niddah.
- A Braisa says, if a midwife assisted multiple births, she is believed to say “this child is a Kohen, this is a Levi, this is a mamzer, and this is a nasin” (if the four fathers were each one of these categories). She is only believed if there was no challenge raised against the status that she assigned to this child. If there was a challenge, she would not be believed.
 - **Q:** What is meant by a challenge? It cannot mean that one person says differently than her, because **R' Yochanan** has said that a challenge cannot be of less than 2 people!? **A:** The Braisa is discussing where there are 2 people who say different than her. **A2:** We can say that there is only one person who says differently. However, when **R' Yochanan** said that one person’s challenge is worthless, that is when it goes against a chazakah. Here, it is not going against a chazakah, and therefore the person is believed to challenge the status.
- The Braisa then said, a seller is believed to say “I sold the item to this person and not to that person”. He is only believed if he is still in possession of the item that was sold. If he is not, he is not believed.
 - **Q:** Why don’t we just see who gave him the money? **A:** The case is that he accepted money from two people, one of which he accepted willingly and one of which was forced upon him, and he does not remember which one was which.
- The Braisa then says, a judge is believed to say “I paskened in favor of this person and paskened against that person”. He is only believed while the litigants are still standing in front of him. If they are no longer there, he is not believed.
 - **Q:** Why don’t we just look to see who has the document that shows that he won? **A:** The document was destroyed.
 - **Q:** Why doesn’t he just rejudge the case? **A:** The Braisa is discussing a case that was decided based on the judge’s discretion (which is sometimes done), and therefore there is no guarantee that the case will be decided in the same way.
- **R' Nachman** said, 3 people are believed to say that a particular child is a bechor: the midwife, the father, and the mother. The midwife is only believed immediately. The mother is believed during the first 7 days of his life. The father is believed forever.