

אבל אינו נאמן להשיאו אשה –

However he is not believed to marry him to a woman

OVERVIEW

The ברייתא states that if there are two people (each of them) claiming that he and his friend are כהנים; the rule is that they are believed to allow each other to eat תרומה; however, they are not believed to the extent that their friend can marry a woman. The testimony of a single witness is insufficient. There is a dispute between רש"י and תוספות as to what is the concern that should prevent him from marrying (if his יחוס is based on the testimony of only one עד).

פירש בקונטרס¹ משום חשש ממזרות² ונתינות³ -

רש"י explained the reason he cannot marry is because of the concern that he may be either a ממזר or a נתין (who are both forbidden from marrying with Jewish people).

תוספות asks:

וקשה דלהכי ליכא למיחש כדאמרין בהחולץ (יבמות מה, א ושם) -

And this explanation is difficult, for we are not concerned for this; that the person is either a ממזר or a נתין, as רב יהודה and רבא state in החולץ -

גבי עובד כוכבים ועבד הבא על בת ישראל דאמרין ליה⁵ זיל גלי או נסיב בת מינד⁶ -

Regarding a gentile or a slave who had relations with a Jewish woman, that we say to this child (born from this relationship) either go away or marry a woman similar to you (who is also born from a בת ישראל הבא על - עכו"ם ועבד הבא על בת ישראל -

משמע דאם ילך למקום שאין מכירים אותו ישיאווהו בת ישראל⁷ -

¹ מיוחסת, מעלה היא ביוחסין. רש"י כה, ב ד"ה להשיאו. It is not clear what רש"י means here where he writes [even] to a ישראלית (and is in accordance with his פירוש כה, ב) because the חשש ממזרות applies to a ישראלית as well, or does he mean only a כהנת (which would seemingly contradict what he writes later on כה, ב). See פנ"י, הפלאה וכו'.

² A ממזר is one who is born from a relationship where there is an איסור כרת such as a brother and sister or having relations with a married woman (also if one or both of the parents are ממזרים).

³ A נתין is a descendent from the גבעונים (who are from the ז' אומות) who converted under false pretenses. See beginning of פרק אלי נערות כט, א and in רש"י ותוס' there for a detailed explanation.

⁴ There is a dispute there as to the status of the offspring of a בת ישראל הבא על עכו"ם, whether s/he is a ממזר or not. רב יהודה (and רבא) maintains he is not a ממזר, and advised him to go to elsewhere where they do not know of his status and he will claim that he is a כשר ישראל and will be able to marry a כשרה בת ישראל.

⁵ The people who know his status will not offer their daughters to him (even though he is legally כשר) on account of his tainted lineage since his father is an עכו"ם.

⁶ That woman will agree to marry him because she is in the same predicament (no one wants to marry them).

⁷ See ד"ה ואנא גמרא where he derives from this גמרא that if someone (whom we do not know) comes and claims to be Jewish, we believe him (even) without supporting evidence.

It is apparent from that גמרא that if he will go to a place where they do not recognize him they will allow him to marry a בת ישראל -

אף על פי שאין מכירים ולא יסתפקו בו⁸ בנתינ וממזר⁹ -

Even though they do not recognize him; and they will not doubt his status and be concerned that perhaps he is a נתינ or a ממזר.¹⁰

ממזרות ונתינות offers an additional proof that we are not concerned for תוספות

וכן גבי ההוא¹¹ דאתא לקמיה דרבי יהודה¹² -

And similarly concerning the one who came before ר"י -

ואמר ליה נאמן אתה לפסול עצמך ואי אתה נאמן לפסול בניך¹³ -

And ר"י told him you are believed to disqualify yourself (that you are not Jewish, since you did not go through a proper conversion), however you are not believed to disqualify your children; they retain their חזקת כשרות -

משמע שהוא ובניו היו בחזקת כשרים¹⁴ אף על פי שלא היו מכירים בהם -

It is apparent that this person and his children were presumed to be כשרים, even though they were not recognized as to their lineage. The question remains what the אבל אינו נאמן להשיאו אשה means when it states גמרא

אינו נאמן להשיאו אשה offers his explanation of תוספות

ונראה לרבינו תם דלהשיאו אשה דקאמר היינו להשיאו בדוקה מד' אמהות¹⁵ -

להשיאו And it is the view of the ר"ת that when the גמרא states he is not believed להשיאו, it means regarding marrying him to someone whose 'four mother have been checked' -

כדתנן בעשרה יוחסין (קדושין דף עו, א ושם) הנושא אשה¹⁶ צריך שיבדוק אחריה ד' אמהות -

⁸ If as רש"י states that we do not allow someone to marry unless there are two עדים to support his claim that he is כשר; what is accomplished by him going to a place where they do not know him, if they will require proof as to his status before they allow him to marry, they will find out that his father was an עכו"ם.

⁹ This contradicts what רש"י states that even if someone testifies that his friend is a כהן, he will not be allowed to marry a בת ישראל out of concern that he may be a נתינ or a ממזר.

¹⁰ The reason we are not concerned for ממזרות is because as the גמרא states previously on ב, יד that מכירין ישראל ממזרים that if he is a ממזר people would already know about it; it is well publicized. שבהם

¹¹ יבמות מז, א.

¹² The person confessed to ר"י that initially he was a gentile and he converted on his own by himself, without going to a בי"ד as is required.

¹³ See עיי"ש, עכו"ם הבא על בת ישראל הולד ממזר that ר' יהודה, ד"ה נאמן תוס' that ר' יהודה is of the opinion that

¹⁴ The reason he is not נאמן to disqualify his children is because up until now they were presumed to be כשרים. They achieved this חזקת כשרות without any עדים to support it (since indeed they may not be כשרים according to the father). This proves that we do not suspect anyone who claims to be a ישראל that he is unfit to marry.

¹⁵ See following footnote #17.

¹⁶ The text in our משנה reads כהנת אשה (see footnote # 31).

As we learnt in a משנה in יוהסין; פרק עשרה **‘one who marries a [כהנת] woman is required to check four mothers’ in her lineage**¹⁷ -

ואין נאמן אם ישא אשה בדוקה להכשירו ואינו נאמן להכשירו לעבודה¹⁸ -
And if this כהן (whose friend testifies that he is a כהן) would marry an אשה בדוקה, the one who testified that he is a כהן, is not believed to the extent that his daughter should be כשר to marry a כהן without בדיקה, but rather it will be necessary to check the mothers of this alleged כהן -

והוא הדין דמצי למימר ואינו נאמן להכשירו לעבודה¹⁹ -

And indeed the גמרא could have said that the ע"א is not believed to permit him to do the עבודה, without two עדים testifying that he is a כהן -

וגמרא continues with the explanation of the גמרא:

ואותה בדיקה²⁰ היא משום חללות²¹ דאין²² מכירין ישראל חללים שביניהם -
And the purpose of this בדיקה is on account of חללות, since the Jews are not so aware of the חללים that are amongst them -

ולא משום ספק ממזרות ונתינות דלהא לא חיישינן כדפירושית²³ -
However the בדיקה is not because of a question of ממזרות ונתינות for as I explained we are not concerned for this type of פסול.

ממזרות ונתינות proves that the בדיקה is because of חללות but not because of

ממזרות ונתינות: וכן משמע התם דקאמר דהיא אינה בודקת בדידה דלא הוזהרו כשרות לינשא לפסולים -

¹⁷ who marries a כהנת and want to be sure that his child is also considered a כהן must check out the פסולות (on account of being a כהן) of his intended wife. He is required to ascertain that none of her forbearers are פסולים (חללה). The ones to be checked out are; her mother, her mother's mother, the mother of her maternal grandfather (her mother's father's mother) and that mother's mother. Similarly on her father's side he must check out her father's mother and her mother, the mother of her paternal grandfather and her mother; four on each side for a total of eight.

¹⁸ Once a כהן marries an אשה בדוקה then his offspring are כהנים מיוחסים and require no further בדיקה; however the daughter of this כהן who is supported only by an ע"א would require בדיקה on her father's side (but not on her mother's side for they were בודק already).

¹⁹ The advantage of saying ואינו נאמן להכשירו לעבודה as opposed to ואינו נאמן להשיאו אשה is twofold; firstly we are discussing the כהן (not his offspring) and secondly the expression ואינו נאמן להשיאו אשה is misleading, for he can marry anyone he chooses, it is just that his children are not בדוקין. See footnote # 35 for an additional advantage..

²⁰ גמרא is referring to the בדיקות of the אמהות in מ"ס קידושין (footnote # 17), as well as the בדיקות in our גמרא that the daughter of this alleged כהן will have to go through to be considered a מיוחסת (see footnote # 18).

²¹ A חלל or חללה is one who is born from כהונה כהונה; if for instance a כהן marries a גרושה the child (male or female [and the גרושה wife]) is a חללה. It is forbidden for a male כהן to marry a חללה as it is written (ויקרא [אמור] כא, ז) אשה חללה לא יקח.

²² לעיל י"ב.

²³ See footnote # 10.

And indeed it appears so from the גמרא there²⁴ which states that the woman is not required to check the lineage of the husband since כהנות כשרות are not prohibited from marrying פסולים,²⁵ this is correct if the concern is regarding the חללים of פסול -

ואי משום ממזרות ונתינות הא ודאי הוזהרו דהשוה הכתוב אשה לאיש לכל עונשין שבתורה -
However if the purpose of the בדיקה is the concern of ממזירות ונתינות; there certainly the woman are prohibited, for the תורה equates a woman to a man regarding all punishment of the תורה.²⁶

חללות challenges his view that the בדיקה is only because of חללות:

ואם תאמר אי משום חללות בודקין לא יבדקו אלא יחוס אביה לבד²⁷ -

And if you will say; if we check only because of חללות, they should only check the father's genealogy, but not the mothers' -

דאפילו היתה אמה חללה כשרה היא על ידי אביה²⁸ -

For even if her mother was a חללה the daughter will be לכהונה כשרה through her father who is a כשר -

דלכולי עלמא²⁹ בני ישראל מקוה טהרה לחללות³⁰ -

For according to everyone בני ישראל are a מקוה טהרה for חללות. So why is there a need to check her mother's genealogy [if that mother's husband is a כשר].

answers: תוספות

ויש לומר מאחר שהצריכו לבדוק את יחוס האב משום חללות³¹ -

And one can say; that since they required checking out the יחוס of the father because of the concern of חללות, therefore -

²⁴ קדושין ע"א.

²⁵ A כהן חלל may marry a כהנת כשרה. The prohibition regarding איסורי חיתון (and טומאה) of כהונה apply only to the male as the תורה writes (ויקרא [אמור] כא, א), but not to בנות אהרן.

²⁶ A woman is different from a man only regarding גרמא; however women are obligated to keep all מצות עשה שהזמן גרמא including לא יבוא ממזר בקהל ה'. Regarding a כשרה she may marry a חלל just as a חלל may marry a כשרה.

²⁷ We should check only the mothers on her father side (her father's mother and grandmother, etc. (see footnote # 17), but not the mothers on her mother's side.

²⁸ See 'Thinking it over'.

²⁹ Regarding the reverse case if a חלל marries a ישראלית there is a dispute between the חכמים who maintain the child is a חלל and דוסתאי ר' who maintains the child is כשר since טהרה לחללות; however regarding a בני ישראל מקוה טהרה לחללות everyone agrees the child is כשר for חללות.

³⁰ A child is a חלל, if his parents had a relationship that was אסור for a כהן (a married כהן), or if his father is a חלל (even if he married a כשרה). However if his father is a כשר and married a חללה, the child is כשר לכהונה.

³¹ The משנה of בדיקה is regarding a כהנת (see footnote # 16), meaning that her father is a כהן (and his father, etc. are all כהנים). It is possible therefore that her father's mother was a חללה, then her father is a חלל (because his father who is a כהן married a חללה illegally and their offspring, the כהנת father, is a חלל) and so is she.

אגב חללות הוצרכו לבדוק כל פסול שבה גם של ממזרות ונתינות -

Since there are already checking for חללות the חכמים required to check out any possible פסול she may have, including ממזרות ונתינות.

qualifies the aforementioned:

וכולה הך שמעתין דמצרכי בדיקה להשיא בתו לכהן³² אתיא כרבי מאיר -

And this entire סוגיא which requires בדיקה in order to marry his daughter to a כהנת - who requires this בדיקה when marrying a כהן, is according to ר"מ

דרבנן פליגי עליה התם³³ ולא מצרכי בדיקה ואמרי כל משפחות בחזקת כשרות הן עומדות -

For the רבנן argue there with ר"מ and do not require בדיקה, for they maintain all families have a כשרות -

ואין צריך אפילו עד אחד כדי להכשיר בתו לכהונה³⁴ -

And we do not require even one עד to permit his daughter to marry a כהן -

ומיהו להכשיר בנו או עצמו לעבודה צריך דלאו בחזקת כהונה עומד³⁵ -

However in order to allow his son or oneself to do the עבודה in the ביהמ"ק, it is necessary to bring עדים that he is a כהן for there is not presumption that one is a כהן as there is a presumption that she is כשרות (at least as a ישראלית) -

offers an alternate opinion:

אי נמי אפילו כרבנן וביצא עליו ערער -

Or we can also say that our סוגיא is even according to the רבנן (who [generally] do not require בדיקה) but here it is a case where his כהונה was contested; people claimed he was not a [כשר] כהן, in that case בדיקה is required even according to the חכמים -

כדקאמר התם³⁶ במילתייהו דרבנן במה דברים אמורים שלא יצא עליו ערער כולי:

As the גמרא states there in the view of the רבנן; 'when is this so (that בדיקה is not required) only if his כהונה was not contested, etc.' however if his כהונה is contested בדיקה is required.

SUMMARY

The meaning of אינו נאמן להשיאו אשה is that his daughter will not be considered a כהנת מיוחסת and will require בדיקה (according to ר"מ, or even according to the רבנן if

³² interpreted the statement of ר"י that אינו נאמן להשיאו אשה to mean that his daughter will have to go through a בדיקה process to allow her to marry a כהן (and we do not accept the testimony of an ע"א).

³³ קדושין ע"ב.

³⁴ We are not concerned even for פסול חללות and certainly not for ממזרות.

³⁵ is referencing what he said previously (see footnote # 19) that ר"י could have said (instead of אינו נאמן) (להשיאו אשה) that אינו נאמן להכשירו לעבודה. This would be true even according to the רבנן.

³⁶ קדושין ע"ב.

his כהונה status is contested). Generally we are not concerned that a person may be a נתין or a ממזר (even according to ר"מ); however we are concerned that they may be a חללה.

THINKING IT OVER

תוספות asks if the concern is only of חללות why is it necessary to check the יחוס of the mother's side, since even if someone was a חללה, nevertheless the rule is that כהן are a טהורה לחללות.³⁷ However this טהרה is only if a ישראל marries a חללה, a כהן however is forbidden to marry a חללה and if he does the children are חללים, so therefore this whole concept does not apply here, since we are discussing a כהנת whose mother's husband is a כהן!³⁸ How can תוספות ask that we should not check out the mother's side?!³⁹

³⁷ See footnote # 23.

³⁸ See footnote # 16 & 31.

³⁹ See פרדס יצחק.