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).

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פירש בקונטרס[[1]](#footnote-1) משום חשש ממזרות[[2]](#footnote-2) ונתינות[[3]](#footnote-3) -

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 כדאמרינן 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 פרק החולץ -

גבי עובד כוכבים ועבד הבא על בת ישראל[[4]](#footnote-4) דאמרינן ליה[[5]](#footnote-5) זיל גלי או נסיב בת מינך[[6]](#footnote-6) -

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 עכו"ם ועבד הבא על בת ישראל) -

משמע דאם ילך למקום שאין מכירים אותו ישיאוהו בת ישראל[[7]](#footnote-7) -

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 בו[[8]](#footnote-8) בנתין וממזר[[9]](#footnote-9) -

Even though they do not recognize him; and they will not doubt his status and be concerned that perhaps he is a נתין or a ממזר.[[10]](#footnote-10)

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

וכן גבי ההוא[[11]](#footnote-11) דאתא לקמיה דרבי יהודה[[12]](#footnote-12) –

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

ואמר ליה נאמן אתה לפסול עצמך ואי אתה נאמן לפסול בניך[[13]](#footnote-13) –

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 כשרים[[14]](#footnote-14) 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 גמרא means when it states אבל אינו נאמן להשיאו אשה.

תוספות offers his explanation of אינו נאמן להשיאו אשה:

ונראה לרבינו תם דלהשיאו אשה דקאמר היינו להשיאו בדוקה מד' אמהות[[15]](#footnote-15) –

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

כדתנן בעשרה יוחסין (קדושין דף עו,א ושם) הנושא אשה[[16]](#footnote-16) צריך שיבדוק אחריה ד' אמהות –

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

ואין נאמן אם ישא אשה בדוקה להכשיר בתו לכהן בלא בדיקה[[18]](#footnote-18) אלא יצטרך לבדוק אחריו -

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 –

תוספות offers an alternate restriction on this alleged כהן:

והוא הדין דמצי למימר ואינו נאמן להכשירו לעבודה[[19]](#footnote-19) -

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 –

תוספות continues with the explanation of the גמרא:

ואותה בדיקה[[20]](#footnote-20) היא משום חללות[[21]](#footnote-21) דאין[[22]](#footnote-22) 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 כדפירישית[[23]](#footnote-23) -

However the בדיקה is not because of a question of ממזרות ונתינות for as I explained we are not concerned for this type of a פסול.

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

וכן משמע התם דקאמר דהיא אינה בודקת בדידיה דלא הוזהרו כשרות לינשא לפסולים -

And indeed it appears so from the גמרא there[[24]](#footnote-24) which states that the woman is not required to check the lineage of the husband since כהנות כשרות are not prohibited from marrying כהנים פסולים, [[25]](#footnote-25) this is correct if the concern is regarding the פסול of חללים -

ואי משום ממזרות ונתינות הא ודאי הוזהרו דהשוה הכתוב אשה לאיש לכל עונשין שבתורה -

However if the purpose of the בדיקות 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]](#footnote-26)

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

ואם תאמר אי משום חללות בודקין לא יבדקו אלא יחוס אביה לבד[[27]](#footnote-27) -

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 אביה[[28]](#footnote-28) -

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

דלכולי עלמא[[29]](#footnote-29) בני ישראל מקוה טהרה לחללות[[30]](#footnote-30) -

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 ישראל כשר].

תוספות answers:

ויש לומר מאחר שהצריכו לבדוק את יחוס האב משום חללות[[31]](#footnote-31) -

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

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.

תוספות qualifies the aforementioned:

וכולה הך שמעתין דמצרכי בדיקה להשיא בתו לכהן[[32]](#footnote-32) אתיא כרבי מאיר -

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

דרבנן פליגי עליה התם[[33]](#footnote-33) 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 חזקת כשרות -

ואין צריך אפילו עד אחד כדי להכשיר בתו לכהונה[[34]](#footnote-34) -

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 עומד[[35]](#footnote-35) -

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 בחזקת כשרות (at least as a ישראלית) –

תוספות 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 כהן [כשר], in that case בדיקה is required even according to the חכמים -

כדקאמר התם[[36]](#footnote-36) 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 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 חלל\ה.

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 בנ"י are a מקוה טהורה לחללות.[[37]](#footnote-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]](#footnote-38) How can תוספות ask that we should not check out the mother’s side?![[39]](#footnote-39)

1. רש"י כה,ב ד"ה להשיאו. It is not clear what רש"י means here where he writes מיוחסת, מעלה היא ביוחסין; is he referring [even] to a ישראלית (and is in accordance with his פירוש on 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'. [↑](#footnote-ref-1)
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). [↑](#footnote-ref-2)
3. A נתין is a descendent from the גבעונים (who are from the ז' אומות) who converted under false pretenses. See beginning of פרק אלו נערות כט,א and in רש"י ותוס' there for a detailed explanation. [↑](#footnote-ref-3)
4. There is a dispute there as to the status of the offspring of a עכו"ם ועבד הבא על בת ישראל, 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 ישראל כשר and will be able to marry a בת ישראל כשרה. [↑](#footnote-ref-4)
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. [↑](#footnote-ref-5)
6. That woman will agree to marry him because she is in the same predicament (no one wants to marry them). [↑](#footnote-ref-6)
7. See תוספות פסחים ג,ב ד"ה ואנא 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. [↑](#footnote-ref-7)
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. [↑](#footnote-ref-8)
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 נתין or a ממזר. [↑](#footnote-ref-9)
10. The reason we are not concerned for ממזרות is because as the גמרא states previously on יד,ב that מכירין ישראל ממזרים שבהם; if he is a ממזר people would already know about it; it is well publicized. [↑](#footnote-ref-10)
11. יבמות מז,א. [↑](#footnote-ref-11)
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. [↑](#footnote-ref-12)
13. See תוס' there ד"ה נאמן, that ר' יהודה is of the opinion that עכו"ם הבא על בת ישראל הולד ממזר, עיי"ש. [↑](#footnote-ref-13)
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. [↑](#footnote-ref-14)
15. See following footnote #17. [↑](#footnote-ref-15)
16. The text in our משנה reads אשה כהנת (see footnote # 31). [↑](#footnote-ref-16)
17. A כהן מיוחס who marries a כהנת and want to be sure that his child is also considered a כהן מיוחס must check out the יחוס of his intended wife. He is required to ascertain that none of her forbearers are פסולות (on account of being a 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. [↑](#footnote-ref-17)
18. Once a כהן מיוחס 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 בדוק already). [↑](#footnote-ref-18)
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.. [↑](#footnote-ref-19)
20. תוספות is referring to the בדיקות of the אמהות in מס' 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). [↑](#footnote-ref-20)
21. A חלל or חללה is one who is born from איסורי כהונה; if for instance a כהן marries a גרושה the child (male or female [and the גרושה wife]) is a חלל\ה. It is forbidden for a male כהן to marry a חללה as it is written (ויקרא [אמור] כא, ז) אשה זונה וחללה לא יקחו. [↑](#footnote-ref-21)
22. לעיל יד,ב. [↑](#footnote-ref-22)
23. See footnote # 10. [↑](#footnote-ref-23)
24. קדושין עו,א. [↑](#footnote-ref-24)
25. A כהנת כשרה may marry a כהן חלל. The prohibition regarding (טומאה and) איסורי חיתון of כהונה apply only to the male כהנים as the תורה writes (ויקרא [אמור] כא,א) אמור אל הכהנים בני אהרן, but not to בנות אהרן. [↑](#footnote-ref-25)
26. A woman is different from a man only regarding מצות עשה שהזמן גרמא; however women are obligated to keep all מצות לא תעשה including לא יבוא ממזר בקהל ה'. Regarding a כשרה she may marry a חלל just as a חלל may marry a כשרה. [↑](#footnote-ref-26)
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. [↑](#footnote-ref-27)
28. See ‘Thinking it over’. [↑](#footnote-ref-28)
29. Regarding the reverse case if a כהן חלל marries a ישראלית there is a dispute between the חכמים who maintain the child is a חלל and ר' דוסתאי who maintains the child is כשר since בנות ישראל מקוה טהורה לחללות; however regarding a ישראל who marries a חללה everyone agrees the child is כשר for בני ישראל מקוה טהרה לחללות. [↑](#footnote-ref-29)
30. קדושין עז,א. A child is a חלל, if his parents had a relationship that was אסור for a כהן (a כהן married a גרושה), or if his father is a כהן חלל (even if he married a כשרה). However if his father is a ישראל כשר and married a חללה, the child is כשר לכהונה. [↑](#footnote-ref-30)
31. The משנה of בדיקות 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. [↑](#footnote-ref-31)
32. תוספות 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). [↑](#footnote-ref-32)
33. קדושין עו,ב. [↑](#footnote-ref-33)
34. We are not concerned even for פסול חללות and certainly not for פסול ממזרות. [↑](#footnote-ref-34)
35. תוספות 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. [↑](#footnote-ref-35)
36. קדושין עו,ב. [↑](#footnote-ref-36)
37. See footnote # 23. [↑](#footnote-ref-37)
38. See footnote # 16 & 31. [↑](#footnote-ref-38)
39. See פרדס יצחק. [↑](#footnote-ref-39)