

ARE WE READY FOR משיה?

פרשת בהר בחוקתי Issue 26

שאל נא את הכהנים תורה

- Q. Wow! The two מקדש בתי came down from שמים, the outer one for the whole world to see, and the inner one hidden surrounded by ענני הכבוד (זוה"ק פ' פנחס רכא). I was practicing to eat everything הקודש על טהרת הקודש, so I can bring a רבן תורה. My brother-in-law who is a כהן sat by the table, and his jacket touched some of the חולין food on the table, can I eat the food? (ע' חגיגה כב)
- Q. I washed my hands to eat תרומה. When I walked into the kitchen, I put my hand on the מזוזה, do I have to wash them again? (ע' מס' תפילין להגרה"ק עמ' נד)
- Q. An אב הטומאה touched a drill bit when it was in the drill, did the drill become טמא? (ע' כלים פכ"א מ"ב וג' וחזו"א כו ז-ט)
- Q. I was making cinnamon buns, and a טמא touched a piece. I didn't realize, so I attached the rest of the pieces. After I found out that the first piece was טמא, I separated it, are the rest of the pieces טמא? (ע' טהרות פ"א מ"ח)
- Q. I have a cucumber that one end was made תרומה, and a טבול יום touched the end that is חולין, did the תרומה become טמא? (ע' תוספתא טבול יום פ"ב ה"א)

הלכתא למשיחא

Let's learn the הלכה about ספיקות (which can be found in פ"ד-פ"כ in פ"כ). The הלכה is if you have a ספק if you (טהור) touched טומאה, if it happened in רשות היחיד you are considered טמא (and if the ספק happened to תרומה, you burn it right away, however if the ספק is between two people or two pieces of תרומה, and one became טמא and one is for sure טהור, then you don't burn the תרומה, and it's treated like a ספק), but if it happened in רשות הרבים you are מספק. The definitions of רשות היחיד and רשות הרבים are not the same as in הלכות שבת. By טהרות, any place that is not meant for people to pass through, is considered a רשות היחיד, even if it has no מחיצות. And not only what's considered a רשות הרבים for שבת is considered a רשות הרבים for טומאה, but even if it has walls and a roof, for example a public building that has doors on both sides (כ"כ החזו"א טהרות ה,ג) which people go through, has a דין of רשות הרבים. If the building is locked at night, then at night it has a דין of רשות היחיד, and during the day a רשות הרבים. A backyard that people cut through, the path that they walk on is a רשות הרבים, and the sides have a דין of רשות היחיד. If you have an object (e.g., stone, donkey, car) in רשות הרבים that's 10 טפחים high, and something טמא on top of it, if you passed by and you have a ספק whether you touched the טומאה, you are טהור (because you were situated in the רשות הרבים), but if you stuck your hand onto the object and you have a ספק if you touched the טומאה, that has a דין of רשות היחיד (because your hand was situated in the רשות היחיד). A private house, even if there are 25 kids there, and 100 guests a day, is considered רשות היחיד, (תפא"י פ"ד בעו"י אות ד', וחזו"א טהרות ה,ג).

There are 2 הלכות of רשות הרבים, one that was mentioned above, a type of place, regardless if anyone else was present when the ספק happened. The second הלכה is even in רשות היחיד, if three people were present, it has a דין of רשות היחיד as long as three people were in the רשות הרבים (פ"ט נזירות ה"ט). ספק טומאה ברשות הרבים, even though the ספק is only between two people (one person saw that in the other corner of the room טומאה touched one of the two people), they are טהור. However, the רמב"ד holds that they are only טהור if all three are standing close to each other and are part of the ספק (כ"כ הל"ח"מ). If one of three people are טמא, and the ספק is which one of the two other people did he touch, that's considered a ספק of only two people (רמב"ן נדה ה:). There is a שיטה that this הלכה only applies to men, but women don't make it a רשות הרבים, but the רמב"ן disagrees, and the תפארת ישראל (שם אות ח) holds even three kids or גויים also create a דין of רשות הרבים. • All these הלכות are when the ספק is 50-50, however if there is a רוב towards one side then there is no difference between רשות הרבים or רשות היחיד. For example, if you have 9 pieces of kosher meat and 1 נבילה (that are not mixed up), and one piece got moved to another spot (and you can't tell which piece it is), and you touched that one piece, even in רשות היחיד you are טהור. However, if all the pieces are in the same spot, (and you are not sure which one you touched) then that's called קבוע, and it has a דין of ספק, which in רשות היחיד is טמא. If you had 9 pieces of נבילה and 1 kosher in רשות הרבים, and one piece got moved, and you touched that piece, you are טמא because you go after the רוב. However, if they are all in the same spot, then because it's

it has a דין of a ספק, which in רשות הרבים is טהור. If you have 10 dining room chairs and a יולדת sat on one of them, (and you know which one¹), and little Moishy brought one of the chairs to the kitchen (and you are not sure which one he brought in) there's a מחלוקת if you can assume that the chair is from the רוב, since it's a מתירין לו, because you can be טובל the chair (ע' פ"ת יו"ד ס' ק"ב אות א'). • If it's most probable that you did touch the chairs in רשות הרבים, or that you didn't touch the טומאה in רשות היחיד, but not for sure, (גדה ה: לגבי רה"ר ופסחים ט: לגבי רה"י), and תוס' (גדה ה: לגבי רה"ר ופסחים ט: לגבי רה"י), hold you go by what's most probable², and the רמב"ן (חולין ב:) disagrees, and until you know for sure that you touched the טומאה in רשות הרבים, it is טהור. In all cases that it's ברה"ר, it is praiseworthy to be טובל. There are many more הלכות ספיקות that will be discussed בעזרת ד' next issue.

ANSWERS TO LAST WEEKS QUESTIONS:

- Q. all the Yidden are back again for שבועות in ירושלים, and I was מקריב the שלמי הגיגה and שלמי שמחה. It's time to cook קרבנות. I have three pots made out of חרס, and one of them are טמא, but I don't know which one. Can I use one of them – or maybe even all three – to cook the קרבנות? And what if the pots are metal? (ע' בכורות כג)
- A. The Gemara says, that just like by an איסור the הלכה is that if it gets mixed up in רוב היתר it is בטל ברוב, the same הלכה is with טומאת מגע. Therefore, if the pots are made out of חרס, the טומאה is בטל ברוב. According to the רא"ש (חולין פ"ז ס' לז) even one person can use all three pots at the same time, and eat the food together. However, it says in שו"ע (יר"ד ס' ק"ט ס"א) that one person cannot eat all at the same time, and some say that one person cannot eat all three even one at a time, it's only מותר for three different people. If the pots are metal, since it's a מתירין לו – something that can become מותר without ביטול – because you can just טובל the pots, they are not בטל.
- Q. I have linen that a יולדת sat on and touched it, then I decided to use it for the window shades, so I attached loops and tied the sheets on top of the window, now the room matches perfectly. Then Moishy passed by the window with a tray of food, and the shades touched the food, did the food become טמא? (ע' מנחות כד)
- A. The הלכה is that if you have something that's טמא מדרס, and you change its function (by putting on hooks to hang it up) that it doesn't serve as a מדרס anymore, the טומאה goes off. Now, if the יולדת sat directly on the linen, then two טמא happened at once: the linen became a מדרס (which is an הטימאה), and also, she or her clothing that are טמא מדרס touched the linen at the same time, and became ראשון. When it becomes shades, the טומאת מדרס falls off, and it remains ראשון. However, if she sat on the Ami and Mishpacha and not directly on the linen, it first became טמא מדרס, and after she touched the linen, the question is did it also become טמא מגע, from touching it after it already was טמא מדרס, or once it became טמא, it can't become טמא again because it's already טמא, and if you say that, then in our case the shades will be טהור, since the טומאת מדרס fell off. This is a ספק in the גמרא, and we will get a פסק from the בית דין הגדול בקרוב בימינו אמן, בית דין הגדול.
- Q. A זב sat on an elliptical, and then I went on. Is the seat טמא מדרס, (and then me and all my clothing became טמא)? And if the seat is טמא, can I be טובל just the seat, or the whole elliptical is טמא מדרס? (ע' ר"ש פכ"ב מ"ט בשם ההוספת' כלים פ"ב מ"ג)
- A. If the seat is meant to sit on the whole time and is comfortable, it is טמא מדרס. But if the elliptical is used mainly standing, and the seat is just to relax for a bit, then the seat is not a מדרס, (הוא ישיבה של), (צער, והוא עראי טמא מדרס, only the parts that are meant to sit, stand, and lean).
- Q. I was one of the people chosen to clean up after מלחמת גוג ומגוג (יהזקאל לט,יד), and besides the 2/3 of the גויים that died (שם יד,טו), there were all their animals that died in the מנפה (זכריה יג,ח). During cleanup, I moved a thighbone that had a כזית of meat inside the bone, but nothing outside the bone, did I (and my clothing) become טמא במשא? (ע' חולין קכד:)
- A. No. You can only become טמא במשא if it's also possible to have מגע.
- Q. A גוי touched, תרומה, what am I supposed to do with it? (ע' גדה לה, וגירסת הגר"א)
- A. Certain טומאות מדרבנן, Chazal were גזיר that it's as if it's טמא and you burn it right away. And certain טומאות they said you can't eat, but you can't burn it if it's תרומה, since it's טהור מן התורה. The טומאה of a גוי touching, according to our גירסא in the גמרא, is that you don't burn, and you have to leave the תרומה in a place where no one will come to eat it, until it spoils, and that's the פסק of the רמב"ם (פ"ב מטמאי מו"מ ה"י). The תורת כהנים says you do burn it right away, and that is the גירסא of the גר"א, and the opinion of ר"ש (ר"ש זבים פ"ב מ"א).

הערה: בגליון שעבר כתבנו דאם יש כזית שערות של תקרובת ע"ז מטמא במשא. תלמיד חכם אחד העיר דזה תלוי במחלוקת, לדעת תוס' חולין קכד: ד"ה אר"פ במרודד, אינו מטמא כיון דיש כזית רק ע"י חיבורי אדם, אמנם לדעת הרמב"ם פ"א שאר אה"ט הי"ב אפי' חיבור בידי אדם הוי חיבור אם ניטלים כאחד, (ולכאורה כיון דאסמכיהו אטומאות מת או נבילה ע' שם פ"ו ה"ב וה"ו, צריך שיהא הכזית מצורף כמו במת ונבילה).

¹ ואם נתערבו יש לדון אם שייך כה"ג דבר שבמנין, ואז יהיה תלוי במחלו' כשפירש בפנינו או שלא בפנינו אי גזרינן שמא יקח מן הקבוע.
² ובתפארת ישראל הנ"ל כתב דאפי' תינוק שנמצא בצד העיסה ספיקו טמא ברה"ר, אמנם במשנה פ"ג מ"ח כתב דמיירי ברשות היחיד.