



Priestly Marriages – Part 1

R' Shimon says: A Talmid Chacham is not permitted to benefit from any Seuda which is not for a mitzvah. [To what does this refer?] R' Yochanan said: Such as [the marriage of] the daughter of a Kohen to a Yisrael or the daughter of a Talmid Chacham to an Am haAretz, as R' Yochanan said: [The marriage of] the daughter of a Kohen to a Yisrael will not result favorably. In what way? R' Chisda said: Either [she will become] a widow or divorcee, or she will not have children. It was taught in a B'raisa: Either he will bury her or she will bury him, or she will bring him to poverty. Is that so? Surely R' Yochanan said: One who wants to become wealthy should attach himself to the seed of Aharon – [certainly] the Torah and Kehuna will make them wealthy. This is not a question as [the latter statement] refers to a Talmid Chacham, whereas this [the latter statement] refers to an Am haAretz. R' Yehoshua married a Kohenes and he became ill. He said: It is not agreeable to Aharon that I attach myself to his progeny [and] that he has a son-in-law like me. R' Idi bar Avin married a Kohenes and begot two sons who received Semicha – Rav Sheshes bar R' Idi and Rav Yehoshua bar R' Idi. R' Pappa said: If I had not married a Kohenes, I would not have become wealthy. R' Kahana said: If I had not married a Kohenes I would not have gone into exile. They said to him: But you were exiled to a place of Torah! [He replied:] I was not exiled as people are exiled (others exile themselves to a place of Torah of their own volition, I had no choice). (Pesachim 49a)

This passage of Gemara clearly indicates that the marriage of an *Am haAretz* to a *Bas Kohen* is not agreeable and may pose a *Sakana* – the husband may die, divorce his wife, or be poverty-stricken.

[The *Ben Yehoyada*¹ (*ad. loc.*) adds that an allusion to this can be found by combining and rearranging the letters of Yisrael and Kohen together to spell “*Nishar Kliya - Destruction will remain*”.]

What is the reason for this *Sakana*? *Rashi* explains that a *Bas Kohen*, “needs to marry Kohanim and not spoil her family by marrying a Yisrael”. Why is there a difference between marrying a *Talmid Chacham* and an *Am haAretz*? *Rashi* also explains: “If he is a *Talmid Chacham* it is a pride for him [Aharon], but if he is an *Am haAretz* and not a Kohen, it is a “*Genai*” (disgrace) for Aharon – and they will be punished.”

Rashi implies that there are two elements: First, a *Bas Kohen* should marry a Kohen. (See also the *Ran* on the *Rif* who makes this point.) Second, that if she marries a

¹ R' Yosef Chaim of Baghdad (1835-1909), famously known as the *Ben Ish Chai*.

Yisrael, her ancestor Aharon may take umbrage if the Yisrael is unworthy of marrying his descendant.

The Rambam implies otherwise (*Hilchos Isurei Bi'ah* 21:31):

A Yisrael Am haAretz should not marry a Kohenes because it is a desecration of the Zera Aharon. If he does marry her, the Chachamim have stated that their marriage will not result favorably; rather, he will die without children, he or she will die quickly, or there will be arguments between them. However, a Talmid Chacham who marries a Kohenes – this is pleasing and praiseworthy – Torah and Kehuna together.

In other words, there is no problem with a *Bas Kohen* marrying a Yisrael – unless he is an *Am haAretz*.

The difference between Rashi and the Rambam manifests itself in a case when a *Bas Kohen* has two potential matches: a Kohen who is a *Talmid Chacham* and a Yisrael who is a *Talmid Chacham*. It seems that Rashi and the Ran would advise her to choose the Kohen, whereas the Rambam would say that she may choose either.

The “disgrace” mentioned by Rashi (or “*Chillul*” mentioned by the Rambam) likely refers to the fact that by marrying a Yisrael, a *Bas Kohen* loses her priestly status (though, according to the Rambam, this is apparently not a problem if she marries a *Talmid Chacham*). If so, there would seemingly be no issue with a Kohen marrying a *Bas Yisrael* as neither he nor his children lose their status as *Kohanim*. However, Rashi in *Yevamos* (84b) clearly states otherwise:

A Kohen should not marry a Bas Yisrael all the while that he can find a Bas Kohen to marry.

Rashi cites the aforementioned Gemara in *Pesachim* as a source for this assertion. The Ritva (*ibid.*) similarly states that it is “*Min haMuvchar*” (ideal) for a Kohen to marry a *Bas Kohen* and not a *Bas Yisrael*. The Rambam, by contrast, makes no mention of this.

Perhaps Rashi and the Rambam’s respective choice of terms help explain the difference. Rashi writes that a *Bas Kohen* who marries a Yisrael has an element of “*Pegam Mishpacha*” (familial flaw or defect) while the Rambam describes it as “akin to *Chillul*” (desecration). The difference is that according to Rashi, when a *Bas Kohen* chooses to marry a Yisrael it appears to be a statement that there is nobody worthy of

marriage from among the progeny of Aharon, thus disgracing the family.² This is equally applicable when a Kohen marries a Bas Yisrael.

However, according to the Rambam, the issue is only "*Chillul*", meaning the desecration of the *Bas Kohen's* priestly status.³ This does not apply in the reverse scenario when a Kohen marries a Bas Yisrael.

The *Shulchan Aruch* (E.H. 2:8) thus codifies the Gemara's ruling:

An Am haAretz should not marry a Kohenes. If he does marry [her], their marriage will lead to unfavorable outcomes: he or she will die quickly or disagreements will arise between them. But a Talmid Chacham may marry a Kohenes; it is pleasing and praiseworthy as Torah and Kehuna [are] in one place.

This ruling (based on the Rambam above) delineates an *Issur* for an *Am haAretz* to marry a *Kohenes*. This goes further than the Gemara that states only that the marriage does not constitute a *Seudas Mitzva* and that it will lead to unfavorable outcomes.

In spite of this, almost nobody treats this issue as a matter of concern. In fact, this already began in the era of the *Rishonim*. For example, the *Rivash* (15, cited by the *Beis Yosef* E.H. 154) states the following in this regard (as well as concerning other marriages not approved by *Chaza"l*):

*If Beis Din would enforce the letter of the law regarding marriage and force [them to dissolve] they would need to force them all! ... Therefore, the Chachmei haDoros turned a blind eye towards [these sorts of] marriages, not acting to prevent them, and certainly not to separate them, as long as both are willing partners and their marriage does not constitute an *Ervah* or *Issur Kedusha*.*

In other words, it would be ideal to prevent such marriages but this cannot be implemented in practice. Therefore, *Batei Din* focus on preventing marriages that actually violate full-fledged *Issurim*.

Obviously, the fact that the *Poskim* cannot implement a ban on these marriages does not make them permissible. Therefore, the reason we do not treat them as a matter of concern needs explanation. Why does this not violate an *Isur Chachamim* and why are we not concerned about the *Sakana* described by the Gemara?

First, we must consider whom the Gemara considers to be an "*Am haAretz*" (who may not marry a *Bas Kohen*).

² There are several other instances in which "*Pegam Mishpacha*" refers to disgracing the family. See *Kesubos* 84a and *Kiddushin* 18a.

³ Somewhat akin to the *Chillul* created by a Kohen marrying a divorcee.

The *Chavos Yair* (70) states in passing, “We do not have the *Am haAretz* mentioned by the *Chachamim* here”.⁴ The *Mishna Berura* accepts this ruling (415:2) but cautions that this is only true if the person in question does not demean the *Mitzvos*, for if he does, “he is no better than the *Am haAretz* mentioned in *Shas*”. In *Sha’ar haTziyun* (6) he adds that if two people of this nature marry, it is not a *Seudas Mitzva*, “for it is a *Mitzva* to distance oneself from people like that so that one does not learn from their deeds. Certainly, one is not to approach to celebrate in their *Simcha*”.

The *Aruch haShulchan* makes a similar ruling (*E.H.* 2:5):

Who is considered an Am haAretz in this regard? One who demeans the Mitzvos, not one who observes Mitzvos, even though he is not a Talmid Chacham. Therefore, there is an opinion that we do not have an Am haAretz now.

We must point out that the *Gemara* does not appear to support the definition of the *Mishna Berura* and *Aruch haShulchan*, for it implies that there are two possibilities – an *Am haAretz* for whom marriage to a *Bas Kohen* is wrong, and a *Talmid Chacham* for whom it is right. According to the *Mishna Berura* and *Aruch haShulchan*, the *Gemara* should have stated that it is wrong for an *Am haAretz*, and right for one who is not an *Am haAretz*, **even though he is not a *Talmid Chacham***.

Similarly, according to *Rashi* and the *Ran*, there is always a problem with a *Bas Kohen* marrying a *Yisrael* and it is only when the *Yisrael* is a *Talmid Chacham* that it “compensates” for the problem. If so, how can a person who is not an *Am haAretz* but isn’t a *Talmid Chacham* be permitted to marry a *Bas Kohen*?

This reading of the *Gemara* does not appear in the *Poskim* except for a *Teshuva* of the *Maharam Shik* (*E.H.* 6). He discusses whether it is correct for a *Talmid Chacham* to marry a *Bas Kohen* given that the *Shulchan Aruch* (*Y.D.* 243:2) and *Shach* (*ibid.* 18:29) rule that the status of *Talmid Chacham* is not applicable today (particularly, concerning young men of marriageable age). On the other hand, according to the *Magen Avraham* (201:24), we don’t have *Kohanim Meyuchasim* (with verified or established lineage) today. If so, perhaps we should not act stringently in this matter.

The *Maharam Shik* concludes that although the status of *Talmid Chacham* does not apply today, he is certainly not to be considered an *Am haAretz*. (He may, at the very least, be considered a “*Tzurba me’Rabanan*”, as evident from the *Shevus Yaakov* 1:144.) Therefore:

⁴ The *Chavos Yair* makes this assertion in the context of an *Am haAretz* marrying the daughter of a *Talmid Chacham*. However, the *Mishna Berura* (415:2) maintains that he also refers to the Halacha of an *Am haAretz* marrying a *Bas Kohen*. This appears to be based on the *Pischei Teshuva* (*E.H.* 2:9).

Since he is not considered an Am haAretz, he has no Isur to marry a Kohenes. In fact, it would seem that there is the same benefit as there would be for a Talmid Chacham in this instance... it seems that an extraordinary Bachur, and fearer of Heaven, may certainly marry a Kohenes. Their marriage will result well and be blessed, as is stated there regarding a Talmid Chacham.

The *Maharam Shik* bases his conclusion on the Halacha (Y.D. 251) that a *Mamzer Talmid Chacham* takes precedence over a *Kohen Gadol Am haAretz*. This Halacha still applies today, as evident from the *Shach* (ibid.) The status of *Talmid Chacham* concerning *Kehuna* still applies today; it is sufficient to be an exemplary scholar, even if the status of *Talmid Chacham* no longer exists. The *Maharam Shik* clearly considered these arguments to be sufficient not only to avoid the *Issur* but also the *Sakana*.

He then adds:

There also seems to me to be another reason to permit it considering the reasoning. Rashi in Pesachim 49 states that it is a disgrace for Aharon for his progeny to attach itself to a Yisrael Am haAretz. But a Ben Torah – even while he is young – if he is exemplary and fears Heaven, we are obligated to honor him, as stated in Yoreh De'ah 244... assumedly this Mitzva still applies today... Since we are obligated to honor him, certainly it is no disgrace for Aharon; on the contrary, he would consider it an honor.

What about the question raised by the *Sho'el* as to whether Kohanim today are *Meyuchasim*? The *Maharam Shik* notes that the *Pischei Teshuva* (322:3) cites many Poskim who disagree with the *Maharashdam*, who asserted that Kohanim are no longer *Meyuchasim*. Aside from monetary matters, we do consider Kohanim to be *Meyuchasim*.

However, this is not the view of the *Ben Yehoyada*:

Know that these harsh matters that are held by the B'raisa and R' Chisda were only said of the times of the Tana'im and Amora'im who had Kohanim Meyuchasim and Amei Aratzos of their time who were evil and sinful... But today, we have no Kohanim with Yichus – all are Kohanim based only on a Chazaka... we also do not find Amei Aratzos today who were like those of their times. Therefore, when a Bas Kohen marries a Yisrael or the daughter of a Talmid Chacham marries an Am haAretz, these harsh matters will not transpire. Nevertheless, it is good to be careful about this matter.

In the next essay, we will quote several more Poskim on this subject, and outline *Halacha l'Ma'aseh* and the *Minhag* today.