



Priestly Marriages - Part 2

In last week's essay, we began the discussion of a Yisrael marrying a *Bas Kohen*. According to the Gemara (and codified by the *Shulchan Aruch*), a Yisrael may only marry a *Bas Kohen* if he is a *Talmid Chacham*. We also quoted Poskim who maintain that if the prospective *Chasan* is a "*Tzurba meiRabbanan*" and fears Heaven, he may marry a *Bas Kohen* even if he does not meet the criteria to be classified as a *Talmid Chacham*. In fact, according to the *Maharam Shik*, the match will be fruitful. We further cited the *Ben Ish Chai* who maintained that we can also consider grounds for leniency that Kohanim today do not have absolute certainty as to their priestly lineage. We will continue the discussion this week.

We have previously discussed behaviors or foods that *Chaza"l* considered to be a *Sakana* but do not appear to pose a *Sakana* today. May one disregard *Chaza"l*'s warnings? Rav Ovadia Yosef *zt"l* (*Yabia Omer* 3, *Y.D.* 7) cites many sources about this question and we will discuss several of those below.

The *Terumas haDeshen* (211) raises the following question concerning an *Isha Katlanis* – a twice-widowed woman:

We have seen several great Talmidei Chachamim and men of good deeds who are not careful to avoid marrying a woman whose previous two husbands have died. Nobody protests their actions or speaks ill of them. Is there a basis for this leniency or not?

In his response, the *Terumas haDeshen* argues that these men did appear to be acting incorrectly. The Gemara clearly states that it is forbidden to marry a "*Katlanis*" (a woman whose previous two husbands have died) due to *Sakana*. The *Rambam* implies that *Beis Din* forces a man who marries a *Katlanis* to divorce her.

However, he also cites the *Or Zarua* who stated: "[When we establish] the Halacha in accordance with Rebbi that 'she may not marry the third one' – **that does not mean to forbid her [to marry], nor to establish a definite concern, but it is a possible concern.**" The footnote cites a further comment by the *Or Zarua*: "Furthermore, there are cases every day in which we see that [women] marry the third [husband] and live long lives and bear sons and daughters."

The *Terumas haDeshen* is unsure whether it would only be a "possible concern" if a woman's third husband dies and she seeks to marry a fourth. Nevertheless, he states: "It is possible that the world relies on this argument and is not troubled about the potential concern. Likewise, we are not careful about several things that the Chachamim warned us about due to possible *Sakana* because of the principle of 'Shomer Pesa'im

Hashem – Hashem watches over the fools'. It also seems that since we are few in number and need to marry [from] whomever we can find, many ignore this [concern] and [rely upon] Shomer Pesa'im Hashem. In a similar sense, [we find this concept] stated in Perek Mefanin (Shabbos 129a) regarding bloodletting on a Friday.¹ It requires further study to determine whether the principle of Shomer Pesa'im Hashem can be invoked for a Talmid Chacham who knows [the Halacha]... Even for a regular person, it is difficult to rule leniently given that there is a Sakana in this matter."

The *Terumos haDeshen* later adds a further point: We must be concerned that these women will be unable to marry and will leave Torah and Mitzva observance as a result.

In general, the basis for those who are lenient in these matters of *Sakana*, is that "*Nishtanu haTeva'im*" (nature has changed) since the times of *Chaza"l*. Those things that posed a *Sakana* then, no longer pose a *Sakana* now. However, while this can be argued in some cases (such as drinking water that has remained uncovered overnight), it is difficult to argue in the case of the *Katlanis* or of a Yisrael marrying a *Bas Kohen* since these are natural phenomena. For example, the reason that a Yisrael should not marry a *Bas Kohen* is because of the disapproval of *Aharon haKohen* and that should not change over time.

Nevertheless, Rav Ovadia Yosef comments (*Yabia Omer*): "*In our case, where some say Nishtanu haTeva'im v'haSegulos, it returns to merely being a doubt and concern*". These words need an explanation. If the problem with marrying a *Bas Kohen* is the disapproval of *Aharon haKohen*, is it really considered just a *Segula*?

The *Tzemach Tzedek (Lubavitch)*² discusses this subject in great detail (*Shu"t E.H.* 11). He asserts that in this context a "*Talmid Chacham*" includes "*one who knows one Masechta*". He then discusses the *Teshuva* of the *Terumas haDeshen*. In his view, the *Terumas haDeshen's* statement that "*it requires further study to determine whether the principle of Shomer Pesa'im Hashem can be invoked for a Talmid Chacham who knows [the Halacha of not marrying a Katlanis]*" does not apply to the question of a Yisrael marrying a *Bas Kohen*. A *Katlanis* is a genuine concern, while marrying a *Bas Kohen*, particularly by somebody knowledgeable in Torah (even if he is not an actual *Talmid Chacham*) is not such a great concern, thus *Shomer Pesa'im Hashem* can be more readily invoked.

¹ [Editor's note: The *Gemara* there is discussing inappropriate times for bloodletting, and states that one should not perform bloodletting on Tuesdays because the *Mazal* of *Ma'adim* is dominant during certain hours of the day. The *Gemara* then asks that the same is true on *Erev Shabbos* and answers "*Keivan d'Dashu Bei Rabim*" (since the masses have become accustomed to doing this – see *Rashi* there for further elaboration) "*Shomer Pesa'im Hashem*".]

² R' Menachem Mendel Schneerson *zt"l* (1789-1866), third Rebbe of Lubavitch.

The *Tzemach Tzedek* adduces several proofs to the conclusion that *Shomer Pesa'im Hashem* can be invoked even by a knowledgeable person³:

1. The Gemara in *Yevamos* (12b) records R' Meir's opinion that three women (a minor, pregnant, or nursing woman) may use a "*Moch*" (a barrier contraceptive) due to the danger of pregnancy (according to the understanding of several *Rishonim*). However, according to the *Chachamim*, this is forbidden even for these women and they should engage in intercourse with their husbands without contraception. As for the danger – "*Shomer Pesa'im Hashem*". Presumably, the Gemara's ruling applies also applies to learned women who know that *Chaza"l* were concerned about the risk of unprotected intercourse in their situation, yet, according to the *Chachamim*, the principle of *Shomer Pesa'im Hashem* still applies.
2. The Gemara also states (*ibid.* 72a) that performing Bris Mila (or bloodletting) on a cloudy day or on a day when the southerly wind is blowing is a *Sakana*. However, "*now that the majority of people disregard this, Shomer Pesa'im Hashem*". This ruling also applies to *Talmidei Chachamim*.⁴

For the above reasons, the *Tzemach Tzedek* concludes:

Therefore, since Kohanim [today] do not have the Chazaka of being completely Meyuchasim, as I have written above in Se'if 7, we should not be concerned that perhaps the Talmid Chacham [in question] is not enough of a Talmid Chacham. See the Teshuvos of Rabbenu Meir, cited by the Mordechai (Pesachim, Perek Makom sheNahagu 605) [who states that the marriage of] a Bas Kohen to a Yisrael is considered a Seudas Mitzva when they say Shiros v'Tishbachos. Question: Is it really the case that by [saying Shiros v'Tishbachos] their marriage will be successful? See the Terumos haDeshen 263 [who states]: Due to [the concern of strife] one is permitted to marry a woman who cannot bear children. If so, regarding a Bas Kohen to a Yisrael Talmid Chacham – if by refraining from marrying her there will be a concern of strife – we may certainly likewise permit it.

In other words, even if a person may generally not rely on *Shomer Pesa'im Hashem* if he knows about the Halacha and *Sakana*, it is different in a case where it is only a "*Chashash and Safek*". Since it is not certain that there is a *Sakana*, he may rely on

³ [Editor's note: In other words, even if one knows that *Chaza"l* forbade something due to potential *Sakana*, he is permitted to rely on *Shomer Pesa'im Hashem* and perform that action.]

⁴ The *Beis Yosef* (Y.D. 262) cites the *Ritva* and *Nimukei Yosef* who say that one may refrain from performing a Bris on a cloudy day if he does not want to rely on *Shomer Pesa'im Hashem*. The *Tzemach Tzedek* discusses this at length.

Shomer Pesa'im Hashem. The *Chida* (*Shu"t Yosef Ometz* 37) comes to a similar conclusion.

The *Tzemach Tzedek* also quotes the *S'dei Chemed*⁵ (*Asifas Dinim, Ishus* 1:36) who cites the *Sefer China v'Chisda*⁶ (2, 228:3) who says that the Poskim appear to rule that the *Issur* for a Yisrael to marry a *Bas Kohen* still applies today. The *China v'Chisda* relates that he heard from a *Chacham* that there is one Sefer that permits it but did not want to rely on it without having seen it himself. The *S'dei Chemed* points out that the *China v'Chisda* appeared to have missed the *Teshuva* of the *Chavos Yair* (quoted in our previous essay) who rules leniently based on the fact that we no longer have *bona fide Amei haAretz* as they did in the times of the *Gemara*.

In *Yabia Omer*, Rav Ovadia makes an additional point:

The Issur for an Am haAretz to marry a Kohenes is applicable today with regard to the wicked Chafshi'im (rebellious people) who are present today. Aside from the Issur to marry off one's daughter to a non-observant man who desecrates Shabbos [and] who is suspect of [violating] the entire Torah, and will cohabit her when she is a Nida and will directly hand her many Issurim... In this regard, Chaza"l stated, "R' Meir says: Whoever marries off his daughter to an Am haAretz it is as if he ties her up and leaves her in front of a lion" (Pesachim 49b). This is what the Gaon Noda b'Yehuda wrote (Mahadura Tinyana E.H. end of 79): "I am astounded by [the practice] of the majority of people, who believe that giving their daughters to Amei haAretz is clearly permissible, and nobody is concerned enough to refrain from it. This is against the words of Chaza"l who state that it is like tying her up and leaving her in front of a lion. Whereas with regard to marrying her to a Tzurba meiRabbanan but whose name is the same as that of his prospective father-in-law⁷, they ask a Sha'ala about it!..." See also the Shu"t Chaim v'Shalom⁸ 2 (96). In this kind of case, if she is a Bas Kohen, it is also a Sakana – he will bury her or she will bury him (they imply that both his Neshama and body will be lost.) With this we may also resolve the comments of the Chavos Yair. He certainly did not refer to the accursed Chofshi'im who cause others to sin – he did not mean to say that they would not have the status of Am haAretz as stated in Shas. For in what way are they worthy?... Chaza"l stated about them correctly (Pesachim 49b) that the

⁵ R' Chaim Chizkiyahu Medini *zt"l* (1832-1904), Rav in Constantinople (~1854-1867), leader of Crimean Jewry (1867-1899), and *Chacham Bashi* and *Av Beis Din* of Chevron (1899-1904). His most famous work is the 18-volume Halachic encyclopedia *S'dei Chemed*.

⁶ R' Yehoshua Shlomo Arditi *zt"l* (1789-1876), *Ra'avad*, *Darshan*, and *Posek* in Izmir

⁷ [Editor's note: This refers to the well-known *Tzava'a* of R' Yehuda haChasid (1140-1217) that includes the instruction not to marry a woman with the same name as one's mother or whose father has the same name as he does.]

⁸ R' Chaim Yitzchak Musafia *zt"l* (1760-1837), *Posek* and *Rav* of Split, Croatia and Sarajevo, Bosnia-Herzegovina

hatred of Amei haAretz for a Talmid Chacham is greater than the hatred the Ovdei Kochavim harbor for Yisrael, and their wives are worse than they are. May Hashem hasten the complete redemption and save us from their hands, Amen.

In other words, aside from the general issue of marrying one's daughter to a non-observant person, there is an additional issue if she is a *Bas Kohen* as well as a *Sakana*. However, if the prospective *Chasan* is a *Ben Torah* and *Yarei Shamayim*, immersed in learning and spiritual growth, one should not be concerned about this *Issur*. This is either because he may indeed fulfill the criteria of a *Talmid Chacham* (as per the Gemara in *Pesachim*) or because of *Shomer Pesa'im Hashem* (since the *Sakana* is uncertain, as explained above).

However, if he is not involved in Torah study, though he tries to observe Torah and Mitzvos, it would seem appropriate to not pursue the match, particularly if the women's family is known to be *Kohanim Meyuchasim*, since "*Chamira Sakanta mei'Isura - A matter of Sakana is more stringent than a matter of Issur*".