


HALOCHOSCOPE



This week's question:

A man has been single for a while. He would like to travel abroad, where there are more opportunities for a *shiduch*. May he use *maaser* money for this?

The issues:

- A) *Pru urevu*, the *mitzvah* to marry and raise a family
- B) Selling a *sefer torah* for the sake of marriage
- C) *Maaser kesafim*, tithing one's earnings; distribution of *maaser*

A) The *mitzvah* to marry and raise a family

The first *mitzvah* in the Torah is to be fruitful and multiply. That is, to marry and raise a family. In addition to *pru urevu*, there is an deal called *shevess*, to ensure that the world is populated. The term indicates that fulfilling *shevess* fulfills Hashem's will and His plan for Creation. *Megilas Koheless* says *la'erev al tanach yadecha*, literally 'your hands should not let go [of the *mitzvah* to sow seed]'. Having fulfilled the bare minimum, one should continue to perform the *mitzvah*. The Talmud debates whether women are obligated in *pru urevu*. This lessens the requirement for women, in cases where they have reasons to delay or hesitate to marry. According to some, a woman has an obligation to marry. Either she is a partner in her husband's *mitzvah*, or she is included in *shevess*, or she must prevent suspicion that sometimes falls on single women. Others maintain that a woman may choose to remain single or to marry an infertile man. However, as good advice, she should marry to deflect suspicion. The Talmud also maintains that a woman has the right to demand that her husband has children with her, based on human needs. She can claim that she needs the support of children in her advanced years and when she is laid to rest. Furthermore, motherhood is a natural need and stage of healthy development.

The minimum *mitzvah* is to have two children. The Talmud debates which verses to use as a model. The Torah indicates that one should reproduce the way Hashem created the world – man and woman. Moshe Rabeinu separated from his wife to be closer to Hashem after having two sons. We follow the view that one must have a male and a female descendant to have fulfilled the *mitzvah*, and they must be fertile.

A man must exert effort to secure a wife, including financial, physical and prayer. Furthermore, the obligation to marry off one's son is one of the main obligations that apply to a father. The main focus of this obligation is to provide for it financially, in each society according to what is normal and expected, according to one's means. One must provide clothing and property to his children in order to make them attractive to potential suitors. Orphans with no inheritance must be provided for with *tzedakah* money. The same applies to those too poor to provide for it themselves. If a father has the means but refuses to provide them, *Bais Din* could use all authority at its disposal to compel him.

They could really compel a man to marry as well. However, the poskim say that nowadays we do not force a people to fulfill *pru urevu*. While the main *mitzvah* applies to man more than to women, when *tzedakah* is used to provide for the poor and orphans, the girls take priority. This is based on the vulnerability of the girls as opposed to the boys.

The Talmud lists various lengths to which one must go in order to find an appropriate marriage partner. Even if an appropriate partner is available and willing, one may make these efforts to marry a different partner of his desire. To raise the funds, as we shall discuss, one may sell a *sefer torah*, which is normally forbidden. A kohain is forbidden to leave *Eretz Yisroel*. The Rabbis instituted *tumah*, ritual defilement that prevents one from partaking of the sacred foods that *kohanim* eat. This ideally also applies to others. Even those who forbid it, permit it for the sake of finding a *shiduch*. The poskim debate whether this means that he may remain there after marriage. A *kohain* may not defile himself by walking in the vicinity of a grave. If the grave was in a field that has since been plowed, the *kohain* may not pass through it. For the sake of marriage, if there is no other route, the *kohain* may pass through this field. According to most poskim, these examples illustrate the high regard that the Torah has for the efforts needed to fulfill this *mitzvah*. [See Megillah 27a Yevamos 61b-63b 65b Kesubos 110b-111a Kidushin 29a 30b Sanhedrin 59b Avoda Zara 13a, Poskim. Tur Sh Ar YD 170:1 EH 1-2, commentaries.]

B) Selling a sefer torah

Owning a *sefer torah* is a Scriptural *mitzvah*. “Write for yourselves this song ..” (*Vayelech* 31:19). This is interpreted as “write the *sefer* that has this song written as part of it.” The reasons include having a personal *sefer torah* available to study from. It is clear that the *mitzvah* is more than simply to possess a *sefer torah*, but to actually write it. Some commentaries add, the object of the *mitzvah* is to provide as many copies of the Torah so that more people are able to learn. It is not just to have a personal copy, as a 'decoration'. One Talmudic sage wrote four hundred *sifrei torah*.

This is the final *mitzvah* of the 613 in the Torah. Logically, Hashem waited until the Torah was basically complete before giving this *mitzvah*. It is not meant to be left until last. However, it is in many ways the most difficult *mitzvah* to fulfill personally. It requires an investment of time and money for materials, and intensive training to write, apart from the skill and concentration. Therefore, many people leave it until last, relying on this interpretation of the placing of the *mitzvah*, and on the words “and now ..” prefacing this *mitzvah*. They seem to imply, “now that you have been given the rest of the Torah and fulfilled it ..” Some point out that the opposite is true. Fulfill this *mitzvah* now, without delay. By writing one's own copy of the *sefer torah*, he will be able to study and fulfill it better. He will need to rely less on outside help. In fact, based on how the money from the sale of a *sefer torah* is used, this *mitzvah* is one of the holiest possible.

Having fulfilled the *mitzvah* to write it, the poskim debate whether one must always keep the *sefer torah* in his possession. Some compare it to a *mezuzah*. Once affixed to the door-post, it must remain. Others maintain that if it was lost, one need not write a new *sefer torah*. If it is sold, the money acquires the sanctity of the *sefer torah*. It may only be used for *mitzvos* considered on a higher level, or more urgent than this *mitzvah*. They are: marrying, studying Torah and redeeming captives. The poskim debate whether one may

sell one *sefer torah* to buy another, even if it is more beautiful. The concern is that one might neglect to purchase the new one immediately. They also debate whether these restrictions apply to a personal *sefer torah*, or only to a communally owned *sefer torah*.

The poskim debate why selling a *sefer torah* is permitted for this purpose, partly based on why it is forbidden for other purposes. The simple reason it is forbidden is because one will no longer be able to study from it. However, in context, the reason seems to be due to its holiness. When selling a holy item one may not lower its sanctity, which is transferred to the money as well. A *sefer torah* is the holiest item possible. Evidently, due to the sanctity of marriage its primacy even over Torah study, one may sell the *sefer torah* for it. The Talmud cites the concept of *shevess*. Since the continuity of the world depends on marriage that one may sell a *sefer torah* and use the sacred money for it. The poskim debate whether the same rule should apply to raise money for the marriage of a girl, since *shevess* seems to be the reason. Many poskim apply the same rules to selling one's printed *sefarim*. Nowadays, these are used for studying more than is a *sefer torah*. [See Vayelech 31:19. Megillah 27a Kidushin 41a Baba Basra 14a Sanhedrin 21b Avoda Zara 13a (Tosafos) Menachos 30a, Poskim. Rambam Sefer Torah 6:1, S Hamitz. 18. Chinuch 613. Tur Sh Ar OC 150:1 153:10 YD 270 EH 1:2, commentaries.]

C) Maaser kesafim and its uses

Our questioner does not wish to sell a *sefer torah*, nor does he own one yet. He wishes to prove from the permissibility of selling it, that he may also use *maaser* money.

The background of *maaser kesafim*, literally a tenth or tithe of one's money, is extensive. In summary: *maaser* is the tithe that one separates from his money, to be distributed to the poor, or used for a *dvar mitzvah*, towards a *mitzvah*. It is modeled on crop tithes. Some consider it Scriptural, and others, Rabbinical or *minhag*, self-imposed practice. [See Kesubos 50a, Sh. Mk. Taanis 9a, Tos. Pe'ah 1:1, Shnos Eliyahu. Sefer Hamitzvos A:195 L.S.:232. Tur, B.Y. Sh. Ar. Y.D. 249, 331, commentaries, Ar. Hash. Noda Biyehuda I:YD:73. Tshuvos Chasam Sofer YD 229. Igeress Hagra. Ahavas Chesed 2:19, etc.]

Maaser is distributed to the poor. It would seem ridiculous to retain the money for oneself. Rather, if one cannot afford to give away his *maaser* money, he would seem to be exempt from the obligation. The threshold for not receiving *tzedaka* funds should be the same as for being obligated to donate such money. The Talmud's 'above poverty line' is possession of two hundred *zuz*. This is presumed to be sufficient to provide for a year's basic needs. It would increase according to family size or dependents. When silver was the standard currency, this figure remained almost constant. Living standards did not vary greatly either. In any other culture, whatever is needed to provide what are considered basic needs is considered the minimum. Many poskim maintain that one can expect to live above the bare basic poverty line. Nowadays, the figure can vary from person to person and from month to month, based on varying basic necessities.

The Talmud provides for poor people exchanging their *maaser ani*, the crop tithe donated to the poor. One who has a field with his own crops may not withhold this tithe for himself. However, by 'exchanging' it, he is able to save himself from the 'loss'. For *maaser zeraim*, crop tithes, one cannot make calculations based on means. *Maaser kesafim* is like *tzedaka*. One who does not have the minimum means is exempt. However,

the poskim suggest the same for *maaser kesafim*. Even if one might not meet the requirements to obligate him in the tithe, he could do so anyhow and exchange it with another poor person. Another suggestion applies to those who make more than the minimum. If *maaser* puts them below the minimum, they should still separate it. Then they deduct from the *maaser* what is needed to bring them up to the minimum. For example if the minimum is \$500 and the earnings are \$550, the *maaser* is \$55, leaving them with \$495, \$5 less than the minimum. They may keep the \$5 for themselves. Normally, if a poor man has less than the minimum, one may give him a large gift at one time, though it will place him far above the minimum. In this case, it is not a gift, but one is taking it himself.

There is a measure of personal discretion in how the *maaser* funds are distributed. The basic concept is that once it is designated, the money belongs to the poor. However, based in part on the origins of the *mitzvah*, the poskim debate using it for other *mitzvos* as well. However, since it is not totally his personal fund, the one separating it may not use it for *mitzvos* that are outstanding personal obligations. This is based on the laws of festival offerings and *ma'aser sheini*. [For a discussion, please see Halochoscope X:45.] It would be like using someone else's money to pay of a debt. Based on this, one may not spend *ma'aser kesafim* on outstanding obligations. A common case would be payment for one's children's Torah teachers. This is a *mitzvah*, but an obligation that one usually pays for. Paying for it with *ma'aser* would be like paying off a debt with other people's money.

Accordingly, the poskim discuss using *maaser* for marriage expenses. Some poskim allow using it to marry one's children, even though it is an obligation. Some maintain that it is permitted only if one stipulated so when he designated it, and some say that this must take place before the children reach marriageable age. However, there seem to be no poskim who permit one to use his own *maaser* for his own marriage. This is considered a prior obligation. [See Chagiga 7b-8a, Gitin 30a-b, Tosefta Peah 4:16, Poskim. Tur Sh. Ar. YD 245:4, 249:1, 253:1-2, 331:146, commentaries. Bais Dino Shel Shlomo YD:1 (re: she'ayla 17). Tzedakah Umishpat 1:6 6:2 6. Maaser Kesafim (Bronstein) 12:1 etc.]

In conclusion, one may not use his own *maaser* to pay for his fare to find a *shiduch*. If he qualifies to receive *maaser*, he may exchange it, by buying a ticket for another single, who will in turn buy him a ticket. He might be considered too poor to be obliged anyhow. Accordingly, he could put the money aside with the stipulation that if he finds himself able to use it for *maaser* for the poor later, he will do so. Until then, it is his own personal money. He should then use it for his *mitzvah* to marry.

On the parsha ... *At that time, Yehuda had lost his money, and he turned to an Adulamite man called Chirah. There he saw ... and married her ... [38:1, Targum Yonasan]* The commentaries discuss the juxtaposition of the passages in the Torah here. However, the particular details are also juxtaposed. Perhaps the Torah says that when the time comes to marry, one should not delay due to financial hardship. Rather, he should find a benefactor to help with the expense.

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