

שו"ת משיב דבר חלק ב סימן נ

נראה דהא דאי' ביו"ד (סי' ר"מ סכ"ה) וכן אם האב מוחה בכן לישא איזה אשה שיחפץ בה, א"צ הבן לשמוע אל האב, זה אינו אלא באופן שאין באשה שחפץ בה בזיון וצער לאב אבל ביש בזיון אסור לישאנה:

והנה נאמר ע"ז הדין שאר טעמים במהרי"ק (שורש קס"ו א') דכבוד אב אינו אלא במה שנוגע לו להאכילו וכדומה, אבל במה שאינו נוגע לו אין חיוב, וזה הטעם הביא בביאור הגר"א ז"ל בשם ח"י רמב"ן ורשב"א יבמות פ"א שאין עיקר מצות כ"א אלא במה שיש לו הנאה כו', ולפי זה הטעם אם היה נוגע נשיאת אשה זו להנאתו היה מחויב לישאנה ולא אחרת, וכש"כ שאסור לישא אשה שהיא בזיון אב דגרע טובא דקאי בארור **מקלה** אביו ואמו, ואפילו מחילת אב דקיי"ל דאב יכול למחול ע"כ, מכ"מ על בזיונו א"א למחול כמש"כ השאלתות דר"א (סי' ס') והכי פשיט בשו"ת הריב"ש והובא בבד"ה יו"ד (סי' של"ד), עוד נאמר טעם ע"ז הדין במהרי"ק שם משום דמצוה לישא אשה שנושאת חן בעיניו, וא"כ יש בדבר נדנוד עבירה למחות על הבן שלא ישאנה, ובזה אין מצות כ"א, ובאמת כ"כ התוס' בכורות (דף כ"ט א') דהא דאי' דמותר לילך לבה"פ לישא אשה אפילו באפשר לישא גם בל"ז, אלא מכ"מ רוצה באשה זו, ונחשב למצוה והיינו כמו ללמוד תורה אמרינן אף ע"ג שאפשר ללמוד במק"א משום שלא מכל אדם זוכה ללמוד, וה"ה לא מכל אשה אדם זוכה להבנות:

איברא כ"ז דוחה מצות כ"א מהא דאי' ביבמות (ו') איש אמו ואביו תיראו ואת שבתותי תשמרו אני ה', כלכם חייבים בכבודי, וכ"ז אינו אלא מ"ע דמורא וכבוד אבל בזיון דקאי בארור לא מצינו:

Meishiv Davar 2:3

It seems that that which we find in YD 240:25:

"So, too, if a father objects to a son marrying any woman whom he wishes, the son does not need to heed the father",

applies only when the woman whom he wishes would not be the cause of degradation and suffering for the father, but where this is degradation it is forbidden to marry her?

Now, regarding this law other reasons are given in Maharik 166:1, (among them) that Kibbud Av applies only to matters that touch the father such as feeding him and the like, but with regard to matters that don't touch him there is no obligation, and this reason is brought there by GRA in the name of Ramban and Rashba to Yebamot 1, that the root of the mitzvah is only with regard to what gives him benefit etc., and according to this reason if this marriage would relate to his benefit, he would be obligated to marry this one and no other, all the more so that he would be prohibited from marrying a woman that would degrade the father, as this would be worse as it would fall under the prohibition of "makleh aviv v'imo", and even the father's foregoing, as we hold that a father can forego (his kavod), nonetheless he may not forego his degradation, as determined in Responsa Rivach cited in ?Badei HaShilkhan? YD 334.

Another reason for this ruling said in Maharik is that there is a mitzvah to marry a woman who finds favor in your eyes, and therefore there is a smidgen of transgression in objecting to the son that he should not marry her, and therefore there is no mitzvah of Kibbud Av, and in truth Tosafot Bekhorot 29a already when they say that that which it is permitted to go through a beit haprass to marry a woman applies even if it were possible to get married without such, but he wants this woman, and it is considered a mitzvah, just like Torah study, where we say even though he can learn from someone else he doesn't merit learning from everyone, so too not from everyone does he merit having children. Incidentally, the whole idea of this pushing aside the mitzvah of Kibbud Av is from Yebamot 6 "a man his mother and his father, you (plural) must revere, I am Hashem" – all of you are obligated with regard to My honor – and this only applies to the "dos" of Yir'ah and Kavod, but degradation, which falls under 'cursed', we have not found.

Analysis

Maharik 166 offers three reasons that a son need not bow to parental objections to his choice of wife. The first is the rather involved and stretched argument that since Halakhah rules that parents must bear the out-of-pocket expenses involved in fulfilling kibbud, it follows that children cannot be asked to experience physical pain in order to fulfill kibbud, and it further follows that some forms of psychological pain are equivalent to physical pain, and that being compelled to marry your second choice fits inside that category of psychological pain. The second is equally involved and stretched, that since the Talmud requires grooms to see brides before the wedding, it follows that Halakhah wants husbands to love and be attracted to wives, and it follows that asking someone to marry their second rather than their first choice is a violation of Halakhah, and Kibbud Av does not override other Halakhot. The third, a much more straightforward and to my mind compelling argument, is that Kibbud Av does not require acceding to parental requests in matters that affect the child more than the parent. RAMO Yoreh Deah 340:25 rules in accordance with Maharik.

Netziv (Meishiv Davar 2:3) suggests that Maharik's ruling doesn't apply to cases in which the father opposes the match on the ground that it would degrade him. His basic argument is that all limitations on filial obligation apply to what he terms the "mitzvoth aseh" of kavod and yir'ah, but not to the prohibition/arur against "makleh", "making light of" or degrading. According to Netziv, children would bear the costs of avoiding "makleh", parents are not required (or even able) to permit their own degradation even in matters that relate more to the child, and most radically, children would be required to violate at least some other halakhot so as to avoid degrading their parents, and parents might be permitted to require this of them.

In a separate set of shiurim (May Parents Tell Children Whom Not to Marry?), I have noted that Netziv may be the first person who uses makleh to forbid conduct that would not in any case be forbidden as a violation of yir'ah, and how Rav Ovadiah Yosef neutralizes this Netziv, implicitly, by limiting the claim of degradation to cases comparable to Avraham's charge to Eliezer regarding Yitzchak and the daughters of Canaan. This week I want to briefly discuss how the Tzitz Eliezer accomplished the same end.

Tzitz Eliezer argues that:

- a) Maharik's third rationale directly opposes Netziv's, and therefore we don't pasken like Netziv. Specifically, he cites Chazon Ish (I have not found the original yet) as saying that Maharik's logic is not a technical limitation on kavod, but rather a rational limit on what parents can demand of children – the analogy is to a parent demanding that a child hand over his possessions simply because the parent wants them.
- b) The claim of degradation is limited to a set of formally defined cases – how a particular parent feels about a particular potential spouse is halakhically irrelevant
- c) Netziv is not making the substantive claim that degradation is an intense form of kavod-loss, and therefore that avoiding degradation trumps other halakhot in ways that mere kavod cannot, but rather a formal claim that the midrash halakhah

“kulkhem chayavm bikhvodi”, which teaches that parents cannot command children to violate halakhah, does not apply to “arur makleh”. This enables one to claim that there are claims of degradation that, even if true, do not allow parents to demand violations of other halakhot since they do not technically fall under “arur makleh”.

Both Tzitz Eliezer and Rav Ovadiah seem to me to have started from the premise that Netziv’s conclusion is impossible halakhah lemaaseh, and that he was simply engaging in learning lishmah. The interesting question that leaves is whether Netziv shared that premise, and if not, why. My suspicion is that all halakhic authorities recognized that parents cannot be allowed to make unsupported allegations of degradation to prevent weddings, but disagreed as to the extent of children’s’ obligation to consider their own families’ wishes and image when choosing a spouse, and as to whether it was plausible to allow rabbis to make case-by-case decisions as to whether a particular claim of “degradation” was plausible or compelling. The last question seems to me particularly difficult in a pluralistic world, where what is considered “degrading” varies dramatically between even Orthodox communities.

Shabbat Shalom

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