

## ***Probabilistic Analysis of the Propagation of Latent Mamzerus***

**By: SIMEON M. BERMAN**

As is well known, the *mamzer* is defined as the offspring of a man and a woman born as a result of a conjugal relation that is forbidden under the penalty of *koresh* (*Yevamos* 48a). The definition extends to an individual having at least one parent who is a *mamzer*, so that *mamzerus* is a hereditary characteristic. A *mamzer*'s selection of a marriage partner is, by *halacha*, limited not only to other *mamzerim* but also to members of five other genealogical groups of Jews outside the mainstream (*Kiddushin* 69a). A person who knows that he is a *mamzer* but is not publicly known as such might be tempted to keep it as a secret in order to marry within the mainstream. Any offspring of such a marriage would also be *mamzerin* who might marry mainstream spouses and potentially produce more *mamzerim*. In this way unidentified *mamzerim* might spread the stigma to large sections of the Jewish community.

In *Yevamos* 78b the Gemara considers the problem of the hidden *mamzer*. R. Eliezer states that "I would absolve anybody of *mamzerus* even at the third generation." Rashi infers from this that R. Eliezer holds that it is impossible for the family line of an individual *mamzer* to survive for more than two generations. The Gemara expounds on R. Eliezer's statement in the cases of publicly known and publicly unknown *mamzerus*, as follows:

A publicly known *mamzer* will not find a mainstream spouse. (Even if he marries within his restricted group, any of his children will also not find a mainstream spouse.)

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Simeon M. Berman is Emeritus Professor of Mathematics at the Courant Institute of Mathematical Sciences of NYU, where he was on the faculty for 45 years, before retiring in 2010. He is the author of over one hundred ten papers published in mathematical research journals, three textbooks, and a research monograph. His specialties are probability theory and mathematical statistics. He served as the principal investigator of mathematical research grants awarded by the National Science Foundation, the U. S. Army Research Office, and the National Institutes of Health. He was awarded a Guggenheim Fellowship for the academic year 1992-1993.

A *mamzer* whose status is publicly unknown will die at the hand of Heaven in order to prevent his marriage to a mainstream spouse.

A *mamzer* whose status is “known but not known” will not have a family line beyond the third generation. (At that point the doubtful *mamzerus* is likely to be forgotten, and forbidden marriages might take place.)

Our focus is on the case of a *mamzer* whose status is unknown to the public and, as a consequence, will die at the hand of Heaven. The Gemara does not take up the fact that this class of *mamzerim* is actually composed of two distinct subsets. The first consists of those who are aware of their status but keep it as a secret in order to find a marriage partner in the Jewish mainstream. The complementary subset consists of *mamzerim* who are not aware of their status and consequently might unintentionally marry a mainstream spouse. We refer to such a person as a “latent *mamzer*.” Such a situation can arise when a man and a woman marry but they and the public are unaware that their union is forbidden. Although the couple is not condemned for the unintentional transgression (*onus*), the offspring are still *mamzerim*, and, in the absence of public disclosure, are latent *mamzerim*. As “innocent bystanders” their fate should be no worse than that of their parents. Since this issue is not discussed in *Yevamos* 78b, it is reasonable to infer that the resulting conclusion about the unknown *mamzer* does not apply to the latent *mamzer*.

An illustration of the latent *mamzer* case is given in *Yevamos* 83b. A woman whose husband went overseas and was not heard from, remarried on the basis of the testimony of two witnesses who reported that the missing husband was dead. However, the report was mistaken and the husband was actually alive and returned. The offspring of the second marriage were deemed *mamzerim*. Even if the first husband was alive and did not return and was publicly believed to be dead, the offspring would still be considered theoretically to be *mamzerim*—latent *mamzerim*.

The general rule that applies to the case of the latent *mamzer* is summarized by Rav Moshe Feinstein in *Iggeros Moshe, Even HaEzer, Chelek 4, Responsum 9*:

An *erva* offspring is a *mamzer* even if there is no intentional transgression in the marriage of the parents. ... Identification as a *mamzer* is not a punishment for a sin (of the parents) but is a consequence of simply being the offspring of a forbidden marriage.

Suppose that G-d actually spares the latent *mamzerim*, with the result that they marry and produce children who are also latent *mamzerim*. In this way the stigma might spread to large sections of the community. The purpose of this paper is to show how G-d can remotely control and eliminate