

OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah concludes discussing the case of a son inheriting from his father who had prohibited his property to his son.

2) Returning the father's stolen money

R' Yosef rules that if the son cannot find heirs the money should be given to tzedaka.

R' Pappa adds that he must inform the tzedaka that the money is money that he stole from his father.

It is suggested that rather than pay the money he stole from his father to others he should forgive himself the debt and as evidence to this assertion a Mishnah is cited.

R' Yochanan suggests that our Mishnah follows R' Akiva whereas the other Mishnah follows R' Yosi HaGalili.

The relevant dispute between R' Yosi HaGalili and R' Akiva is cited.

R' Sheishes challenges this explanation and explains how both Mishnayos could follow R' Yosi HaGalili.

Rava explains how both Mishnayos could follow R' Akiva's position.

This explanation is unsuccessfully challenged.

3) A robbed female convert

Ravina inquires what a robber does with the property he stole from a female convert who dies, does it go to kohanim or does the robber keep it for himself?

R' Aharon cites a Baraisa that teaches that the kohanim collect the property stolen from a female convert who died.

A Baraisa is cited that teaches that the stolen property of a convert is given to the kohanim of the Mishmar that is currently on duty.

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REVIEW and Remember

1. What is the point of dispute between R' Yosi GaGelili and R' Akiva?

2. Explain זקפן עליו במלוה.

3. How does the Gemara prove that a robber must make restitution to kohanim if he robbed a female convert?

4. What is the source that a Kohen can offer his korban whenever he wants?

Distinctive INSIGHT

Is there an asham according to R' Yose HaGalili?

הרי שגזל הגר ונשבע לו ושמע שמת הגר והיה מעלה כספו ואשמו לירושלים

Rabbi Yochanan tries to show that Tannaim argue regarding whether a person who owes money due to having taken an oath to deny money can have this obligation waived. He cites a Baraisa in which it seems that R' Yose is of the opinion that a person can have this payment forgiven, whether by others or to himself (where he owed money to his father, and his father died and he inherited the money). R' Akiva is of the opinion that the obligation to pay the money cannot be dismissed, and he must always pay the principal and the one-fifth penalty.

The case illustrated in the Baraisa is where a person stole money from a convert, and he took a false oath. The thief heard that the convert died, so he began a trip to Yerushalayim to bring the money to kohanim (based upon Bemidbar 5:8), and to bring an asham offering. Surprisingly, along the way, he met the convert, who was very much alive, and the two arranged that the money owed would be a loan in the meantime. Then, the convert died. R' Yose rules that the former thief may keep the money, as it is no longer a sum owed due to his having stolen it, but it is simply money owed to a convert who died without heirs. R' Akiva rules that the money must be paid by the thief in order to achieve atonement, and it must be given to the kohanim. Rosh (cited in Shitta Mikubetzes) notes that the disagreement between R' Yose and R' Akiva could have just as well been illustrated without the thief's traveling to Yerushalayim, and simply be where the convert and the thief arranged that the payment be considered a loan. Nevertheless, we see that even where the thief designated the money as payment for the theft, and he set out on his way to pay it to the kohanim, it can still be waived according to R' Yose if the convert later dies.

Pnei Yehoshua adds that now that the convert died, just as the money which was earmarked to be given to the kohanim can be redirected and remain with the thief, so, too, the designation of the animal to be the asham offering is null, and the animal may be returned to the flock without being redeemed. There is no asham without a sum of money being returned. And although the money was due, and it was cancelled only because of the death of the convert, there is still no money being returned in this case.

Minchas Chinuch (Mitzvah 129: #15) writes that the asham should be brought, and the thief's acquiring of the money is in and of itself a form of the money's being paid. ■

HALACHAH Highlight

Are women obligated in the mitzvah of mishloach manos?
 איש אמר רחמנא ולא אשה או דלמה אורחיה דקרא הוא

"Man" is stated by the Torah to exclude a woman or perhaps that is the common way for the Torah to speak?

Rema¹ writes that women are obligated in the mitzvah of mishloach manos the same as men. Pri Chadash² challenges this ruling based on the wording of the verse. The verse in the megillah that establishes the obligation to send mishloach manos states, ומשלוח מנות איש לרעהו - and sending gifts, a man to his friend. Since the verse uses the word איש - man how does Rema know that women should also be included in this obligation?

Teshuvos Shvus Yaakov³ suggests that the source for Rema's ruling is that women were also included in the miracle (שאף הן היו באותו הנס) and thus it is logical to assume that they are obligated in the mitzvah of mishloach manos the same as they are obligated in the mitzvah of megillah reading. Furthermore, when the megillah informs us that the Jews accepted upon themselves the Yom Tov of Purim the verse states, קבלו עליהם היהודים - The Jews (gender neutral) accepted upon themselves." Since that pasuk also refers to the mitzvah of mishloach manos, we see that the mitzvah is incumbent on men and women equally. Shvus Yaakov also points out that the use of the word איש was not intended to exclude women from the mitzvah because, as

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Another Baraisa is cited that discusses the halachos where the robber who stole from the convert is himself a kohen.

The Baraisa's ruling is challenged and the Gemara identifies the source that indicates that the kohen robber may not keep the money that is already in his possession.

4) A kohen's right to offer his own korban

A Baraisa is cited that demonstrates that a kohen may offer his own korban when he chooses. ■

our Gemara explains, there are other times the Torah uses the word איש without the intent to exclude women. Perhaps the reason the megillah chose the word איש was that men have the resources to fulfill the mitzvah whereas women do not necessarily have the resources to fulfill the mitzvah.

Rav Yaakov Emden⁴ also supports the ruling of Rema and points to numerous times where the Torah utilizes the word איש and Chazal exclude minors rather than women. Furthermore, since the megillah equates the obligation to remember the story with the mitzvos of the day (נוכרים ונעשים) we must conclude that just as women are obligated in the mitzvah of megillah reading they must be obligated in the mitzvah of mishloach manos as well. ■

1. רמ"א או"ח סי' תרצ"ה סע' ד'
2. פרי חדש שם
3. שו"ת שבות יעקב ח"א סי' מ"א
4. שו"ת שאילת יעב"ץ ח"א סי' ק"כ ■

STORIES Off the Daf

An invalid marriage

אלא בגזל הגר הכתוב מדבר

Today's daf discusses converts.

A certain woman once came to Rav Avraham Yaffe-Schlessinger, shlit"a, the Av Beis Din of Geneva. She had received a divorce and had heard from friends that sometimes people in Israel have trouble remarrying unless their divorce is one hundred percent in order. Since she was moving to Israel, she wanted to make sure that she would not be troubled.

When Rav Schlessinger looked

over the divorce he noticed that one witness was a notorious Shabbos violator. He explained to the disappointed woman that the divorce was indeed invalid. She would have to contact her husband and procure a kosher writ of divorce if she wised to remarry.

As they were speaking, the Rav noticed that the husband in question was named "ben Avraham."

"Is your husband then a convert?" he asked.

"Yes," she answered.

After the Rav asked a few questions it became readily apparent that the man's conversion had been completely invalid at the outset. For one thing, the husband hadn't ever been Torah ob-

servant. In addition, the beis din had been questionable, to say the least.

Rav Schlessinger told the surprised woman, "Since this is the case, you need not get a divorce since there was never a halachic marriage to begin with!"

Rav Schlessinger wrote a document to this effect, and she moved to Israel. But the beis din in Tel Aviv refused to honor his testament unless it was affirmed by Rav Shlomo Zalman Auerbach, zt"l.

When Rav Schlessinger went to see Rav Shlomo Zalman regarding this matter, the gadol was happy to issue his agreement in writing.¹ ■

1. חכו ממתקים ח"א ע' קמ"ג אות ט"ו