

OVERVIEW of the Daf

1) Acquiring an object with one's four amos (cont.)

An additional explanation of the dispute between Reish Lakish and R' Yochanan is presented.

According to a third explanation there is no dispute and each one is merely addressing a different case.

2) **MISHNAH:** The Mishnah discusses when it is possible for a person's chatzer to acquire items for him.

3) Acquiring with a field

R' Yehudah in the name of Shmuel rules that one's field can acquire items for him only if the owner is standing near the field.

This ruling is challenged and the Gemara explains that there is a difference between a protected field and an unprotected field and the necessity to stand near the field applies only when one is acquiring items in an unprotected field.

A Baraisa is cited and explained that supports this distinction.

This interpretation of the Baraisa is unsuccessfully challenged.

Additional authorities are cited who maintain that one must be standing near the unprotected field for it to acquire items.

R' Abba challenges Ulla's position that one must be standing near the unprotected field for it to acquire items.

Ulla dismissed the challenge.

When R' Abba arrived in Sura one of the rabbis offered a reason why R' Abba's challenge could be dismissed. R' Zeira accepts this explanation whereas R' Abba did not.

Rava comes out in support of R' Abba but the Gemara rejects Rava's explanation.

R' Pappa offers another reason why the challenge to Ulla's

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Distinctive INSIGHT

Is it necessary to declare, "My field shall acquire for me!"

ראה אותן רצין אחר מציאה אחר צבי שבור אחר גוזלות שלא פרחו ואמר זכתה לי שדי זכתה לו

The Rishonim discuss whether or not the stipulation in the Mishnah that the person declare, "I want my field to acquire for me," is essential for the acquisition. If the owner of the field did not say it, would he become the owner of the animal nonetheless, or would he not acquire it unless he makes this statement?

Tosafos and Rashba hold that the field functions to acquire the animal within it even without the owner's making this declaration. The reason is that we know that when a field is enclosed and secure (משתמרת), it can serve to acquire items within it for its owner even without the owner's having to make any statement. So, too, when the field itself is not secure, the owner's standing along its edge is enough to allow the field to be a vehicle to acquire objects contained within, even without any declaration needing to be made. The fact the Mishnah reports that the owner declares, "Let my field acquire the animal for me," is mentioned only to teach the case of the deer running through the field normally, where the acquisition of the deer by means of the field does not work, even if the owner screams out his interest in owning the deer. Tosafos brings a proof for his contention from the Gemara earlier (10a) regarding the enactment of the four amos which surround a person. The rabbis determined that the immediate domain surrounding a person functions to allow him to acquire items contained therein. This enactment of the rabbis works even without the person's having to declare that he intends to activate the process. We can conclude, says Tosafos, that if a method of acquisition which is only rabbinic works without the person's having to declare his intent to trigger it, certainly the acquisition of חצר, which is a Torah mechanism, should work without the owner's having to declare his intent that it be functional.

However, Nimukei Yosef and Ran hold that the acquisition of the injured deer is only effective if the person is standing next to his field and makes the declaration, "My field shall acquire for me!" This is the owner's way of indicating that he intends to chase after the animal and catch it. Kesef Mishna notes that even according to Ran, the declaration is only necessary regarding an injured deer or birds that do not fly, as this is where it is critical that the owner state that he plans to catch them before they leave. However, regarding an inanimate lost object which the owner sees in his field, no such declaration is needed.

Rambam (גזילה ואבידה י"ז:ח') explains that the declaration must always be made. ■

REVIEW and Remember

1. When can my field acquire an animal that is running through it?

2. What is the source that the prohibition against שכחה applies even in a city?

3. How did Ulla respond to R' Abba's challenge?

4. Why is it necessary for a woman to be near her chatzer when her husband puts her גט into her yard?

HALACHAH Highlight

The difference between a man’s courtyard and a woman’s courtyard

והכא בקטן קא מיפלגי מר סבר ילפינן קטן מקטנה וכו'

Here they argue about a boy, One opinion maintains that we derive the halacha of a boy from the halacha of a girl etc.

Rif¹ explains that according to this version the dispute between Reish Lakish and R' Yochanan relates to the question of whether a man's courtyard works as an extension of his hand (יד) or his agent (שליחות). R' Yochanan maintains that just as the courtyard of a woman works as an extension of her hand, so too the courtyard of a man works as an extension of his hand. Reish Lakish maintains that in this matter we do not derive the halacha of men from the halacha of women and thus although a woman's courtyard works as an extension of her hand the courtyard of a man works as his agent. Commentators² wonder why there should be a difference between men and women in the way that a courtyard acquires objects.

Teshuvos Oneg Yom Tov³ offers a philosophical explanation for the distinction between men and women regarding this matter. The reason slaves are equated with land (עבד הוקש לקרקעות) but freemen are not is that mankind was formed from the dust of the earth. A freeman is sanctified by the mitzvos that he is obligated to perform and that sanctity severs his relationship with the ground. Slaves who are exempt from positive mitzvos that are time bound remain somewhat bound to the land from

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ruling is rejected.

R' Pappa proves his distinction that the parameters are different when another person transfers the utensil.

R' Shimi unsuccessfully challenges this distinction.

The refutation is successfully challenged.

R' Ashi begins to present a defense of R' Pappa. ■

which they were formed. Accordingly, one could suggest that women who are also exempt from positive time-bound mitzvos also remain bound to the ground and thus her courtyard works as an extension of her hand. A man's courtyard cannot be considered an extension of his hand since he is not equated with land and thus his courtyard works as his agent.

Teshuvos Chelkas Yoav⁴ suggests that the distinction between men and women applies specifically to an unprotected courtyard that requires the owner to stand near the courtyard at the time of the acquisition. The reason why the courtyard cannot work as his hand is due to the fact that for the acquisition to be effective he must be present and since we know the man will not remain standing near the field it is considered like a moving courtyard (חצר מהלכת) that cannot effect acquisition even if for the moment he is still. Women, on the other hand, are assumed to remain near the field (כל כבודה בת מלך פנימה) and therefore the courtyard can acquire property as an extension of her hand. ■

1. רי"ף ה:
2. ע' נחלת יעקב ד"ה ונראה שזוהו
3. שו"ת עונג יום טוב סי' כ"ח
4. שו"ת חלקת יואב חו"מ סי' ר' ■

STORIES Off the Daf

What lies before him is not Shik'chah

שלפניו אין שכחה

When the Sar Shalom of Belz, זת"ל, was just seventeen and was already an accomplished scholar, he would spend time at the court of the Chozeh of Lublin, זת"ל. Of course, there were many chassidim there and such a young man was rarely afforded much time with the rebbe. When it was time for him to go home, he went to take leave of the rebbe, as is customary. To his great surprise he found that the Chozeh of Lublin had not yet davened. This was a departure from the rebbe's usual schedule to daven in his beis midrash on time. When the Sar Shalom approached the Chozeh's room he noticed the Yehudi Hakadosh, זת"ל—a close chassid

of the Chozeh.

"I would like to give shalom to the Chozeh before I leave town for now," the Sar Shalom said to the Yehudi Hakadosh.

"I am afraid that is not possible at this time," replied the Yehudi. "The rebbe has not yet davened since he has a question that is occupying his full attention and he does not give shalom before davening."

"What is his question?" inquired the Sar Shalom.

"As you know, it is a constant mitzvah to always remember Hashem. Yet it is virtually impossible for the vast majority of people to think of Hashem at all times. The rebbe is bothered that apparently most people violate this positive commandment, and wishes to find a way to justify this apparent blemish."

"I believe I have an answer," replied the Sar Shalom. "The Gemara in Bava Metzia 11 brings the Mishnah in Pe'ah:

'What is as yet in front of the harvester is not called shik'chah—is not a forgotten leaving that is free for the poor. Shik'chah only applies to that which was left behind the harvester. The reason for this is that the verse, "Do not return to take it," applies only to what he does not plan to go back to.'

The Sar Shalom continued, "That is your answer. Since the Jewish people Yisrael plans to immediately return to remembering Hashem, it is not called shik'chah, so even if they forget they do not violate this positive commandment. It is only one who leaves thoughts of Hashem 'behind him' without interest in returning to it that violates this mitzvah!"

When the Chozeh heard this answer he was overjoyed. From that day on he gave more honor to the Sar Shalom than many of his much older chassidim.¹ ■

1. קונטרס וראה ישר אות א'