

OVERVIEW of the Daf

1) Selling the slave for rights to collect if the slave is killed (cont.)

The Gemara continues its elaboration on the question of whether a slave sold for the rights to collect the penalty if the slave is killed is considered sold.

R' Abba unsuccessfully tries to resolve this inquiry.

2) The half-freed slave

The Gemara inquires about the status of a free woman who was betrothed by a half-freed slave.

An unsuccessful attempt is made to resolve this inquiry.

3) A half-freed slave-woman

Rava and Rabbah bar R' Huna assert that a half-freed slave-woman cannot be betrothed.

R' Chisda challenges this ruling and Rabbah bar Huna accepts the challenge and reverses his ruling on the matter.

R' Sheishes rules that the betrothal is invalid and explains how to respond to a challenge to this ruling.

R' Chisda issues an interesting yibum ruling related to a half-freed slave-woman who accepted kiddushin from two brothers who then die.

Two students of R' Nachman (R' Yosef bar Chama and R' Zeira) dispute the status of a half-freed slave-woman who was betrothed to one man and then after she was freed accepted betrothal from another man.

R' Zeira suggests a proof to his position.

Abaye rejects this proof.

An incident is cited in which a slave owner was forced to free his half-freed slave.

It is suggested that the rationale was that the rabbis involved follow the opinion who maintains that women are obligated in the mitzvah of פרו ורבו.

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Distinctive INSIGHT

The halacha of the Mishnah, and the חידושי of Rabbi Yehoshua ben Levi

המוכר עבדו לעובדי כוכבים וכו' יצא בן חורין

The Mishnah teaches that if someone sells his servant to a gentile, the servant must be set free. In the Gemara (44a), Rabbi Yehosua ben Levi explains that the master is penalized up to ten times the value of his servant. Ostensibly, this means that the slave is to be repurchased and given his freedom. Ritva explains that the intent of the Mishnah is not that the master is forced to buy back the slave and to release him, as this is the added insight of Rabbi Yehoshua ben Levi. What, then, does the Mishnah mean when it says that the slave is "set free"?

Some explain that the Mishnah is not talking about where the slave was actually sold to the non-Jew, but that the owner had decided that he was going to sell him. Even before he is actually sold, the owner may no longer subjugate the servant (יצא לחירות). Others argue and say that a mere decision on the part of the master to release the servant does not result in the end of his master's servitude. Rather, the lesson of the Mishnah is that after the master sells the servant to a non-Jew, the master is fined and required to buy him back for up to the original purchase price. The Mishnah does not require the owner to pay more than he originally received as payment. The added insight of Rabbi Yehoshua ben Levi is that the penalty for having sold a servant to a non-Jew was increased to require repurchasing the servant for even more, even ten times the price, than was originally paid for the sale.

Rashi explains that the message of the Mishnah is that the slave goes free if and when he ever escapes the servitude of the non-Jewish owner who bought him. If he runs away from this non-Jewish master who bought him, or if the Jewish master who sold him redeems him, the slave does not return to work for the Jewish owner who sold him. The sages penalized the Jewish master for having sold him to a non-Jew and thereby causing the servant to no longer fulfill mitzvos. ■

REVIEW and Remember

1. What is the status of a woman betrothed by a half-freed slave?

2. How does a person arrive at a full understanding of Torah?

3. What is the dispute between R' Yosef bar Chama and R' Zeira?

4. Why is a slave used as collateral for a loan from a non-Jew considered sold?

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HALACHAH Highlight

Abrogating an obligation to fulfill a mitzvah

המוכר עבדו לעובדי כוכבים וכו'

One who sells his slave to a non-Jew etc.

Teshuvos Tzemach Tzedek of Lubavitch¹ cites our Gemara as proof that one who abrogates the obligation to do a mitzvah violates a Rabbinic prohibition. The Mishnah rules that one who sells a slave to a non-Jew is obligated to set that slave free. The reason is that while enslaved to a Jew the slave was obligated to perform mitzvos but when he is sold to a non-Jew he will no longer be capable of fulfilling mitzvos. As a punishment for taking away the slave's ability to perform mitzvos, he is obligated to free him. The Gemara (44a) notes that the slave owner violated a Rabbinic prohibition by selling the slave into a circumstance in which he would be incapable of fulfilling mitzvos.

The question of whether it is permitted to abrogate the obligation to fulfill a mitzvah that is dependent upon time is explained in the following manner². What is the nature of the obligation to fulfill a mitzvah that is dependent upon time (e.g. the mitzvah of sukkah or lulav and esrog)? Does the obligation to fulfill a mitzvah dependent upon time apply only when that time arrives or is the obligation for adults to fulfill all mitzvos an ongoing obligation but practically some mitzvos cannot be fulfilled until a particular time? If we assume that the obligation applies only when the time to fulfill the mitzvah arrives, e.g. Sukkos time, and beforehand there is no obligation to fulfill the mitzvah it would seem that before the arrival of Sukkos one could create a circumstance that will cause him to be unable to fulfill the mitzvah when the time arrives. According to the second approach the obligation to fulfill the mitzvah is on-

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R' Nachman bar Yitzchok suggests an alternative explanation of the ruling.

4) **MISHNAH:** The Mishnah rules that if one sells his slave to an non-Jew or someone outside of Eretz Yisroel the slave goes free.

5) Clarifying the Mishnah

A Baraisa is cited that clarifies the ruling related to selling a slave to an non-Jew.

Another Baraisa rules that if someone borrows money from an non-Jew and uses his slave as collateral, the slave goes free.

R' Huna bar Yehudah suggests an explanation for a phrase in the Baraisa.

R' Sheishes rejects this explanation and offers an alternative.

A contradiction between two earlier-cited Baraisos is noted. One resolution is suggested but rejected.

Another resolution is offered. ■

going so that even before Sukkos arrives one is prohibited from doing something which will cause the person to be exempt from the mitzvah since it violates the ongoing obligation.

An example³ of this is the mitzvah for kohanim to bless the congregation. If the obligation begins only when the sh'liach tzibbur calls the kohanim to bless the congregation the kohen should be permitted to walk out of shul so that he is not called to fulfill that mitzvah. On the other hand, if the obligation is ongoing it is prohibited for the kohen to walk out of shul and abrogate his responsibility to bless the congregation. As a practical matter kohanim should not walk out of the shul to avoid blessing the congregation. ■

1. שו"ת צמח צדק ליובאוויטש יו"ד סי' צ"ב.
2. ספר לקח טוב כלל ו' עמ' ל"א ד"ה ואמנם.
3. ע' ספר חיי משה על כללי מצוות פרק כ"ג. ■

STORIES Off the Daf

Standing on the Torah's Words

אין אדם עומד על דברי תורה אא"כ נכשל בהן

The Beis Avraham of Slonim spent an extended period in Eretz Yisrael. Rav Yisrael Shimon Kasteknitz, zt"l, recounted, "I will never forget the Shabbos that I merited to be at the Beis Avraham's tisch. It was Parshas Bechukosai, and it was a very elevated and inspiring Shabbos. As is well known, the Ramaz says that the words of the Tochachah actually protect one who hears them from these curses. Many tzaddikim would interpret

the actual verses of the Tochachah in a way that portends good despite this not being the simple meaning of the verses. When the Rebbe gave over his tisch, he explained the verse, 'and each man will stumble among his brothers' in a very innovative manner: This alludes to the Gemara in Gittin 43, 'A person doesn't stand firmly in the words of Torah until he has first stumbled in them.' This then is the meaning for good of the above verse. People will relate to the mistakes of others with the same seriousness as they do their own mistakes, and they will never fall in the same manner again themselves."¹

When the Divrei Yisrael of

Modzhitz, zt"l, gave over Torah on this Gemara at his tisch, he learned a very different lesson. "It is not a coincidence that the gemara uses the language of 'standing' here. Standing can also imply that a person has stopped advancing spiritually. The Gemara teaches us that the natural spiritual state of a talmid chacham is to always be upwardly mobile. When a talmid chacham ceases to advance spiritually, this is only because he has stumbled in some precept. 'A person doesn't stand (still and not advance) in Torah unless he has (already) stumbled in it!'"² ■

1. אתבונן, ח"א, עמ' רלו
2. ישראל, כללי אוריינות, דף ו', טור ב'