



כתובות מ"ב

This month's Daf Digest is dedicated
לע"נ Mr. Israel Gotlib of Antwerp and Petach Tikva, Yisrael Tzvi ben Zev ע"ה (23 Av).
Family Weiss, London

OVERVIEW of the Daf

1) **MISHNAH (Cont.):** The Mishnah concludes with a ruling that relates to a woman's right to her wages and found objects.

2) Clarifying the Mishnah

The Gemara explains that the novelty of the Mishnah is the presentation of the dispute between R' Shimon and Rabanan concerning who collects the payments if the case was heard before the father died.

3) Admitting to an obligation to pay a fine

The Mishnah in Shevuos presents a dispute between R' Shimon and Rabanan whether a person who took an oath that he did not violate or seduce a girl and then admitted that he lied must pay an additional fifth and bring an offering for having lied when he took his oath.

Abaye asked Rabbah the halacha in a case where the accuser claimed that the defendant was already convicted in another court and the defendant took an oath denying the claim and subsequently he admitted that he lied. Does the defendant have to pay an additional fifth and bring an offering for having lied when he took his oath, or not?

Rabbah answered that it is considered as if he took an oath about money, so he consequently must pay and offer a Korban Sh'vuah.

An unsuccessful attempt is made to refute Rabbah, but the attempt does yield a partial admission from Rabbah. Rabbah agrees that the defendant will not be obligated to offer a Korban Sh'vuah, but he still maintains that the money be-

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REVIEW and Remember

1. What is the punishment for a person who lies when taking an oath (שבועה)?

2. What is the punishment if a slave owner admits that he lied under oath about knocking out his slave's teeth?

3. Why did Rabbah choose not to give Abaye a forced answer?

4. What caused the debate between Rabbah and R' Yosef to be resolved?

Distinctive INSIGHT

The two verses which exclude denial of a fine from an אשם
אמר רבא כי איצטריך וכחש כגון שעמדה בדין ובגרה ומתה

Until a fine has been ruled upon by the court, the obligation for payment does not represent a standard debt between the two parties. There are special rules regarding fines which do not apply in standard cases of monetary obligations. However, once judgment for a fine has been determined in a court, the nature of the obligation changes into a monetary debt. In other words, for all intents and purposes, after the ruling of the court, money owed from Reuven to Shimon constitutes a debt whether it originated as a fine or as a normal obligation. Once the judgment is passed, even if Shimon dies before collecting the money, the funds are still to be paid to the estate of Shimon, and his sons will divide it. The Gemara determined that there is a qualitative difference in this regard between different fines. The money owed due to אונס or מפתה remains under the category of a fine, even after the obligation to pay is determined by the court, until it is actually collected. This is learned from the verse "ונתן - האיש וגו'" and the man shall hand over...the money." For example, if Reuven owes 100 zuz to Shimon because of אונס, and Shimon dies before he actually collects it, the money is not paid to Shimon's heirs, and we do not count it towards the assets of his estate.

Rabba had taught a further halacha in this regard. If Reuven owes money to his friend, and Reuven denies his debt and swears to that effect, he must bring an asham offering for having sworn falsely. If the vow was taken in denial of owing a fine, the offering is not brought, as the verse states (Vayikra 5:21): "If a person...will be deceitful (וכחש) towards his friend..." The list in this verse only mentions denial of actual monetary obligations, but no cases of fines.

We see that there are two factors in concluding that money due because of a fine is distinct from that due as a debt, and it is not considered to be "ממונא—a monetary obligation." One verse is "וכחש," from where we learn that any fine is not eligible for an asham offering, and the other verse is "ונתן," from where we learn that until it is collected it is not to be inherited by the family of the collector.

The Gemara notes that the first verse alone might seem adequate to teach this lesson, but Rava points out that there is a case where after the woman went to court, she then be-

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HALACHAH Highlight

Punishing the violator and seducer

המפתה נותן בושת ופגם וקנס מוסיף עליו אונס שנותן את הצער
The seducer pays for humiliation, depreciation and the fine. The violator also pays for the pain (he caused.)

Shulchan Aruch¹ writes that in order to collect the fine imposed by the Torah from the violator or seducer, the case must be heard by three judges who have semicha that can be traced back to Moshe Rabbeinu. Therefore, since that semicha no longer exists, cases involving violators and seducers are no longer heard by Beis Din. Although this principle is true, earlier authorities already addressed the necessity for some sort of retribution against these offenders to serve as a deterrent to prevent this transgression from becoming widespread. Thus, Rif² writes that the offender would be excommunicated until he could appease the offended party. Tur³ also cites the opinion of Rav Tzemach Gaon who wrote that to assure that the sinner does not profit from his crime and to make certain that this type of violence does not become widespread, it has become custom to excommunicate the offender until he appeases the offended party monetarily or verbally.

Another issue discussed by the Poskim is whether or not the violator is obligated, nowadays, to marry his victim. Sefer

longs to the father to bequeath it to his children.

Another unsuccessful challenge is presented against Rabbah.

A third unsuccessful attempt is made to refute Rabbah's position. ■

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Mitzvos Katan⁴ writes that although nowadays the monetary fine is not collected, nonetheless, the offender is required to marry his victim, assuming that she and her father agree to the marriage. If, however, the offender is married and is restricted from marrying a second wife, he is excommunicated until he gives the victim enough money to provide a dowry so that she will be able to find a fitting husband.

There is an interesting debate concerning a man who seduces a girl with the promise that he would marry her, and then refuses to marry her. Beis Shmuel⁵ maintains that since she consented to the relations, even if it was due to his promise of marriage, it is not considered as if he violated her, therefore he cannot be compelled to marry her. Beis Meir⁶ disagrees with this conclusion and holds that the man is obligated to marry her. ■

1. שו"ע אה"ע סי' קע"ז סעי' ב.

2. רי"ף ב"ק ל:

3. טור אה"ע סי' קע"ז.

4. סמ"ק מצוה קפ"ב.

5. בית שמואל אה"ע סי' קע"ז סק"א.

6. דברי הבי"ט מאיר הובא בפת"ש שם סק"א. ■

STORIES Off the Daf

Toiling in Torah

"...קושאי בה עשרין ותרתיין שנין..."

Our daf recounts that Rabbah and Rav Yosef had a certain question which they couldn't answer until twenty-two years later, when Rav Yosef became Rosh Yeshiva.

The gedolim often spend immeasurable amounts of time on even one difficulty. Rav Chaim of Volozhin, zt"l, once said, "The Zohar states that one who acquires a halacha acquires one entire spiritual world; this applies to every single halacha!"

The Avnei Nezer, zt"l once recounted the greatness of his father in law, the Rebbe of Kotzk, zt"l:

"I was learning a certain sugya and found that the Rambam's decision did not seem to fit with the Gemara before

me at all. I couldn't understand how he could be in complete opposition to a clear statement of Chazal! After literally days of toil, I came up with an insight which I shared with my father-in-law. His only comment was, 'Go into the Beis Medrash and tell this over to someone and tell me his reaction.' I told the pshat over to the Chidushei HaRim, zt"l, but he didn't like it at all. He brought various proofs that seemed to prove me quite wrong.

"I described his reaction to the Kotzker Rebbe who simply said, 'Now go and tell someone else, and report his reaction.' So I told it over to Rav Chanoch Henoah Alexander, zt"l. His reaction was very positive. When I related this to my father-in-law, his only words were, 'Call them both in.'

"We all went in to the Rebbe who rebuked us, 'Is this how one should learn? One of you presents a thought, a second argues, and a third agrees? This is

not true toil in Torah at all!' After more words of rebuke, he proceeded to enumerate before us twelve approaches in how the Rambam may have understood the Gemara. I was then a young man and was able to understand six or seven. The Chidushei HaRim, who was forty years my senior, grasped ten of them. The remaining approaches were so deep that even he couldn't grasp them! We can see from my Rebbe what it means to toil in Torah!" ■

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came a בוגרת, and she then died. Here, although the money originated as a fine, according to Rabbi Shimon it is clearly now owed as a monetary debt to the woman. When she dies, it goes to her father. The verse "ונתן" would not preclude this money from eligibility from an asham, but the verse "וכחש" does exclude it from generating an asham, if the money is denied. ■