

OVERVIEW of the Daf

1) Paying the debt of someone who is forbidden to benefit from your property

A Mishnah is cited that presents activities one can do for his friend who is prohibited by a vow to benefit from his property. One of those activities is to pay his debt.

The Gemara questions the permissibility of paying the debt of one who is prohibited to benefit from his friend's property.

R' Oshiya explains that the Mishnah follows Chanan's opinion recorded in our Mishnah.

Rava demonstrates how that Mishnah could be consistent with all opinions.

The Gemara explains why R' Oshiya did not explain the Mishnah as Rava.

2) MISHNAH: The Mishnah presents the first of Admon's rulings, which relates to dividing the property of the deceased amongst his heirs.

3) Clarifying the Mishnah

Abaye suggests an explanation for Admon's argument.

Rava rejects this explanation and offers an alternative explanation.

4) MISHNAH: The second of Admon's rulings related to the definition of a partial admission is presented.

5) The oath of one who makes a partial admission

The Gemara infers from the opinion of Rabanan that if the plaintiff claims wheat and barley and the defendant admits to barley the defendant would not take the oath of

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Distinctive INSIGHT

Paying the debt when an oath is in effect

הא מני חנן היא דאמר איבד מעותיו

The Mishnah (107b) cited the second of seven opinions of Chanan in our series of Mishnayos. He presents the case of a husband who travels abroad, leaving behind his wife who is in need of sustenance. If someone provides food for this woman, Chanan is of the opinion that this person cannot retrieve his expenses when the husband returns. Although providing funds to feed one's wife is an obligation on the part of the husband, this third party was not instructed to pay for this woman, and he did so on his own volition, so he cannot demand restitution.

The Gemara brings a Mishnah from Nedarim (33b), where we find that if Reuven declared that he is prohibited to receive benefit from Shimon, the halacha is that Shimon may nevertheless pay off a debt that Reuven owes to Levi. The Gemara questions why this is allowed, as it seems that by paying off Reuven's debt; Shimon is providing Reuven with a clear benefit, which is in violation of the vow which precluded exactly that. R' Oshia answers that the Mishnah in Nedarim can be understood according to the view of Chanan in our Mishnah, where a person who pays off a loan or any financial claim of a person cannot expect to be reimbursed if he paid it without being asked to do so. Rashi explains that here, too, in reference to the oath, since Shimon will not be paid back for having paid Levi, this is not prohibited. Shimon has forfeited his claim, and he is therefore not in violation of providing benefit to Reuven.

Tosafos (ד"ה הא מני) struggles with this explanation, as it certainly seems that although Shimon will not get paid back for having paid off the loan of Reuven, he certainly provided Reuven with a clear and measurable benefit. Tosafos first suggests that perhaps this is only an indirect benefit (גרמא). He then cites Rabbeinu Tam who explains that in the Gemara, R' Oshia did not only mean to say that the Mishnah in Nedarim goes according to Chanan, but he meant that the case of the oath is precisely the case of Chanan. Shimon can pay for the sustenance of Reuven's wife, if he is not asked to do so, as Shimon is not paying a debt which Reuven owes, but he is rather fulfilling a need to sustain his wife, who might otherwise have starved. It is only in this case that Shimon's actions are not considered a direct benefit to Reuven, and it is not a violation of the oath. ■

REVIEW and Remember

1. Why is it permitted to return a lost object to one who is forbidden to derive benefit from one's property?

2. What are the two explanations why it is permitted to pay the loan of one who is forbidden to benefit from one's property?

3. When do daughters inherit rather than sons?

4. Explain the rationale behind R' Chiya bar Abba's ruling.

HALACHAH Highlight

Supporting one's sister when the estate is limited

ובנכסים מועטים הבנות יזונו והבנים יחזרו על הפתחים

And when the property is limited the daughters receive sustenance and the sons will beg door to door

There was once a man who died and left behind a daughter and two sons. The sons thought they were obligated to pay their father's debts so they deposited the money they inherited with a guardian (אפיטרופוס). This left them without money for their sister's sustenance and she received support from her mother until she reached maturity. Some time later she made an effort to collect the sustenance she was supposed to receive from her brothers during the time she was younger. One rabbi maintained that she could not collect that money. His reasoning was that the reason the Mishnah rules that when there is a scarcity of property the daughters take the property is to protect them from having to beg door to door. Since that is the reason daughters should receive the property, it is logical to conclude that in this case that she should not collect that property because she anyway did not have to beg door to door since she was supported by her mother.

The inquiry was presented to Rav Yechezkel Landau¹, the Noda B'Yehuda, who was initially inclined to disagree with the conclusion of the rabbi for the simple reason that we do not dismiss an enactment of Chazal with weak rationalizations. Upon further consideration he suggested that this question hinges on an earlier Gemara's (ג:) uncertainty whether a daughter who is supported by her brothers and becomes engaged continues to receive financial support from

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partial admission. This refutes R' Nachman in the name of Shmuel who maintains that he is obligated.

R' Yehudah in the name of Rav suggests an alternative explanation of the Mishnah that would not refute Shmuel's position.

This explanation is successfully challenged and Rava offers an alternative explanation.

This explanation is challenged because it seems to refute an accepted ruling of R' Chiya bar Abba.

A new explanation is presented that does not refute R' Chiya bar Abba.

6) **MISHNAH:** The Mishnah begins to present the third of Admon's rulings. ■

her brothers. Rashi there explains that it is logical she should not receive support because the reason she receives support is to avoid the disgrace of begging door to door and when she is engaged it is safe to assume that her groom will provide her with the necessary support so she should not have to beg. Rif and Rambam, however, have a different understanding of the Gemara. They maintain that it is obvious that a girl who becomes engaged is not supported by her brothers and the only question was whether the groom is obligated to financially support his bride. Even though normally a groom is not obligated to support his bride, this case is different since it is the engagement that causes her to lose support from her brothers. Therefore, concludes Noda B'Yehuda, this question is subject to that dispute between Rashi versus Rif and Rambam. ■

1. שו"ת נודע ביהודה מהדו"ת אה"י סי' צ"ה. ■

STORIES Off the Daf

Paying One's Debts

"שוקל שקלו..."

It was a gala simcha of highest order. The bar mitzvah was certainly an affair that would be savored in the memories of all the guests for years to come. The father of the bar mitzvah bochur was quite wealthy and was bubbling with joy that he wished to share with his guests. Understandably, the aliyos had cost a fortune and each guest who had been willing to pledge such exorbitant sums was very dear to his heart. To show his

esteem, the baal simchah paid all of their pledges to the gabbai of the shul. When one of the men who had bought an aliyah came to pay his debt, he was told that it had already been paid by the baal simcha. One guest protested, "But, in making a pledge, I essentially made a neder. How can his payment discharge my neder to pay from my pocket?"

This question reached the Oneg Yom Tov, ז"ל. He responded, "You are absolutely correct. Although the Gemara in Kesuvos 108a states that one who swore not to allow a fellow Jew to have monetary benefit from his own funds may still donate the half shekel on his behalf, your case is different. Since you

made a neder to pay, you must pay on your own!"

While relating this incident, Rav Yitzchak Zilberstein, shlit"א said, "Rav Shach, ז"ל, disagreed with this psak. He based his opinion on the Tosafos in Bava Metsia 104a which states that a husband is not responsible to pay out his wife's vows even if she made them before they were married. Now, if we say that one can't pay a stranger's vows, it is clear that a husband need not pay the nedarim that his wife made before they married. It must be that the issue is not as clear cut as the Oneg Yom Tov implied, otherwise why would Tosafos need to tell us this fact?" ■