

OVERVIEW of the Daf

1) Clarifying Beis Shammai's opinion (cont.)

Ravina concludes presenting his explanation of Beis Shammai's position.

This explanation is unsuccessfully challenged.

Rava offers a fourth and final explanation for Beis Shammai's position.

2) Clarifying Beis Hillel's position

R' Yosef asserts that according to Beis Hillel any perutah may be used for kiddushin.

Abaye unsuccessfully challenges this explanation.

3) The ratio of *perutahs* to *issars*

A dispute is recorded regarding the ratio of perutahs to issars.

Abaye suggests that this dispute could be traced to a dispute between Tannaim.

R' Dimi, one of the earlier-mentioned opinions, rejects the assertion that the dispute he has with Ravin is related to the dispute between Tannaim.

4) Kiddushin with a date

Shmuel rules that if a man gave a woman a date for kiddushin she is considered betrothed because of the concern that perhaps in another location the date is worth a perutah.

This ruling is unsuccessfully challenged.

A related incident is recorded.

Another related incident is recorded.

R' Chisda's ruling in the previous case is unsuccessfully challenged.

The Gemara relates that Abaye and Rava disagree with R' Chisda's ruling.

A follow-up to the previous incident is recorded.

Another incident relevant to Shmuel's ruling is presented.

Another related incident is recounted.

Rava begins to identify the source of his ruling. ■

REVIEW and Remember

1. Is the value of a perutah fixed or does it fluctuate?

2. Explain Shmuel's ruling.

3. What is the point of dispute between R' Chisda, on the one hand, and Abaye and Rava on the other?

4. What is שתיקותא דלאחר מתן מעות?

Distinctive INSIGHT

Lashes for the recalcitrant

נגדיה כרב

The Gemara relates the story of someone who, in public, presented a woman with a branch from a **הדס** bush for the purpose of kiddushin. Rav Acha bar Huna asked R' Yosef what to do in this case. R' Yosef answered that the man should be given lashes, according to the rule of Rav, who declared that presenting a woman with kiddushin in a public forum was a gross insensitivity and a form of immodesty (**פריצות**). As far as the validity of the kiddushin itself, R' Yosef responded that a branch of a myrtle bush generally is not worth a **פרוטה**, but it was still necessary to require a **גט** just in case this branch was worth a **פרוטה** somewhere else. This was in accordance with the words of Shmuel who said that the value of an item even in a different location is significant.

The lashes which were to be administered were not Torah mandated, but they were **מכת מרדות**, a rabbinic punishment designed for one who acts contrary to Jewish norms. Torah mandated lashes are given as a set of up to 39 strikes, and a person is evaluated to what extent he can tolerate being struck. If he cannot absorb even three strikes, he is exempted. The Tosefta (Makkos 3:10) explains that the rabbinic reprimand is applied to a person even if he is physically weak, until he either changes his ways or until he physically succumbs due to the ordeal (**עד שתצא נפשו**). Ritva (Kesuvos 45b) writes in the name of Rambam (Commentary to Mishnah, Nazir 3:2) that the number of strikes to be administered to a person is judged according to each person. Ritva also writes, in the name of **רמ"ה**, that the system in applying them is more lenient than that of the Torah, so the number is never more than forty, and often less. Furthermore, if they are given because the person has shown a tendency to violate a particular sin, he is hit until he accepts upon himself not to repeat his deplorable behavior. In other words, the purpose of striking him is not to punish him for past violations, but to strongly direct him not to repeat his crime.

Rashba explains that because we find that our Gemara refers to this rabbinic lashes as "**מלקות**," the same term used for the Torah's lashes, this teaches that the guidelines for both systems are similar, i.e., rabbinic lashes are given as a set of forty, just as we find regarding lashes of the Torah. In fact, we find later (28a) that if someone calls another Jew a **ממזר**, the one who issued the insult "shall be hit *with forty*." However, adds Rashba, this is only where a person has already sinned, and rabbinic lashes are being given as a punishment. If he is being hit to force him to do a particular mitzvah, we do not limit the strikes to forty. ■

HALACHAH Highlight

Pain as grounds to use contraception

לאו היינו דיהודית דביתהו דר' חייא דהויא לה צער לידה

Isn't this like Yehudis the wife of R' Chiya who experienced a painful childbirth

The Gemara relates that due to the pain of childbirth the wife of R' Chiya sought to prohibit herself to her husband. The Gemara Yevamos (65b) also reports that after experiencing a difficult labor she disguised herself and asked her husband whether women are obligated in the mitzvah of פרו ורבו. When he answered that women are not obligated in the mitzvah of פרו ורבו she went ahead and drank a potion that made her sterile. This leads Poskim to discuss whether a woman who experiences painful pregnancies or childbirth is permitted to take steps so that she should not become pregnant.

Teshuvos Chelkas Yaakov¹ begins his discussion of this issue by emphasizing that questions of this nature are difficult to answer since many times the information is exaggerated. Since many doctors do not understand the gravity of the halachic issues involved with contraception they are quick to recommend that pregnancy would be dangerous or

too painful for a woman to endure. Another difficulty is that there are times that the couple would prefer to not have the responsibilities and "impositions" of children and would thus have a tendency to exaggerate the circumstances to secure permission to use a contraceptive. Therefore, Chelkas Yaakov strongly advises the rabbi answering the inquiry about contraception to be vigilant to gather objective and accurate information before answering the question.

The Steipler Gaon² wrote regarding the issue of contraception that people must be aware that the quantity of pain and suffering that they are destined to endure over the course of a year is set between Rosh Hashanah and Yom Kippur and it is impossible for a person to change that. Therefore, if a person were to take steps to avoid some responsibility that carries with it pain and suffering it will only cause pain and suffering to appear in another area of life. Furthermore, it is not proper for a person to take steps against the normal course of life. Lastly, he cites a Midrash that notes that every person experiences suffering and it is fortunate for the person whose suffering comes from observance of the Torah rather than from some other source.

1. שו"ת חלקת יעקב אה"ע סי' ס"א.
2. אגרת בעל קהלת יעקב אגרת ג' י"א. ■

STORIES Off the Daf

An Ambiguous Payment

"כנסי סלע זו בפקדון..."

A certain bachelor felt driven to marry a widow that he figured might be unwilling. So he and a couple of friends went to her home which also served as a pub where she sold alcoholic beverages and ordered a few drinks. After they finished drinking, the bachelor called the widow over and he gave her a large sum—which was around eight coins more than the cost of their drinks and said, "הרי את מקודשת לי..."

The woman took the money and departed from the drinking room without comment. Several moments later she returned and tried to give the eight coins change to the bachelor who refused to take it. She handed the money to the

witnesses who took the money and left.

Shortly thereafter the bachelor summoned the widow to a din Torah claiming that she was his lawfully wedded wife.

When the beis din asked her if she heard this man's statement before taking the money she replied with obvious anger, "Yes, I heard. But I took the money as payment for the drinks. Everyone knows not to take the statements of the inebriated seriously... Besides, he first asked what they owed and I told him, so naturally I didn't take him seriously..."

One of the witnesses said that the man had not asked for the bill first, while the other witness did not remember.

The beis din did not know how to rule so they consulted with the Oneg Yom Tov, zt"l, who ruled that there is no doubt that she is not even ספק מקודשת.

"In Kiddushin 12 we find that if a

man says to a woman, 'Hold this money as a deposit for me,' and after he gave it to her he said, 'marry me with it,' if she wants to be married she is, but if she doesn't want to be married, she is not. Although there are opinions that if she was quiet she needs a divorce since we suspect she accepted his proposition, in our case here she need not. The difference is that she claims the proposer asked what was owed first and she told him. Even though she took the money in silence despite his proposal, his earlier statement leaves us with no doubt that she took the money as payment for the debt.

He concluded, "Although one witness denies that the bachelor asked about the debt, we give the testimony of one witness no credence when the person he testified against disputes him, as in our case."¹ ■

1. שו"ת עונג יום טוב, סימן קל"ט