

OVERVIEW of the Daf

1) The testimony of a single witness (cont.)

After the Gemara finishes citing the three teachings of Abaye related to the effect of a person's silence to the testimony of a single witness the Gemara explains the necessity of all three teachings.

The Gemara asks about the halacha of a case where a single witness claims that a woman was adulterous and the husband remains silent to the claim.

Abaye maintains the witness is believed whereas Rava asserts that the witness is not believed.

Abaye suggests a proof to his position but Rava explains why that is not a definitive proof.

Abaye cites another Baraisa as proof to his position but Rava again demonstrates that it is not a definitive proof.

Rava cites a Baraisa that he claims is proof to his position but Abaye rejects this as a definitive proof.

The Gemara identifies the source for the halacha, mentioned in the Baraisa, that the service in the Beis Hamikdash performed by the son of a divorcée and the son of a chalutza is valid.

The Gemara identifies the source for the halacha, mentioned in the Baraisa, that the service performed by a blemished kohen is invalid.

2) MISHNAH: The Mishnah provides guidelines for determining the status of a child.

3) When there is no transgression the child follows the status of the father

R' Shimon begins to formulate a challenge to the Mishnah's first ruling that whenever there is no transgression the child follows the status of the father. ■

REVIEW and Remember

1. Why was it necessary for Abaye to teach the same halach in three contexts?

2. Who restored Torah after Yannai the King killed all the Torah scholars?

3. What is the status of items that were immersed in a mikveh that was later discovered to be lacking the minimum amount of water?

4. What is the status of a child born to a couple that was prohibited to marry?

Distinctive INSIGHT

The conduct of King Yanai

דתניא מעשה בינאי המלך...הקם להם בציץ שבין עיניך

Rashi explains that Yanai was a kohen, as he was among the descendents of the Chashmonaim. In the Gemara in Berachos (29a) we find a dispute between Abaye and Rava whether Yanai was Yochanan Kohen Gadol who served for eighty years, only to become a tzeduki at the end. Abaye holds that Yanai was Yochanan Kohen Gadol. Rashba and Ritva explain that it was as a result of the story in our Gemara that Yochanan Kohen Gadol "was struck with a spirit of heresy" that caused him to reject the oral law and its teachers. Rava, however, contends that Yanai and Yochanan Kohen Gadol were not the same person.

In the story of Yanai, who was incited by an evil man named Elazer ben Po'irah, Yanai was instructed to place the ציץ between his eyes and appear before the sages. The situation quickly deteriorated when one of the sages challenged Yanai. Rashi (ד"ה הקם) asks how Yanai could adorn himself with the ציץ at a moment when he was not performing the service in the Beis Hamikdash. Rashi explains that it was permitted for a kohen to wear the בגדי כהונה at times other than when they were officiating, as we say earlier in our Gemara (54a), that the Torah was not given to the ministering angels. In other words, since it was technically impossible for the kohanim to remove their special uniforms at the precise moment the service ended, it was understood that permission had to be granted to wear these garments even beyond the time of service. Tosafos questions the premise of Rashi that there was outright permission granted to wear the בגדי כהונה whenever a kohen wanted to do so. It seems from the Gemara, notes Tosafos, that permission was only given to wear these garments for the few minutes it would take to remove them after the service, but not that the kohanim could wear them at any time they wished. Rashba also notes that it was only permitted to wear the garments in the Beis Hamikdash itself, but Yanai adorned himself outside the Beis Hamikdash. How was this allowed?

Beis Halevi (1:2, #14) explains that Rashi understands that blanket permission was granted to the kohanim to wear the garments beyond the time of their service, and even beyond the Beis Hamikdash. The comment about that "the Torah was not given to ministering angels" was not the underlying reason for it, but it was rather an indication that wearing these garments was not limited. Tosafos understood that the dispensation to wear the garments was limited to the few minutes necessary to change after finishing the service, but not beyond that. ■

Today's Daf Digest is dedicated
 ל"נ אבי מורי ר' משה בן ר' אהרן ז"ל

by Rabbi and Mrs. Aharon Gulkowitz, Brooklyn, NY

HALACHAH Highlight

Is the prohibition against a kohen's marrying a divorcée a דבר שבערוה?

ואין דבר שבערוה פחות משנים

Matters concerning ervah cannot be resolved with less than two witnesses

Rav Ovadiah Yosef¹ notes that there is a fundamental disagreement regarding the nature of the prohibition against a kohen's marrying a woman who was divorced. Is that prohibition categorized as a דבר שבערוה—a matter related to illicit relations or not? Rambam² rules that if a single witness testifies that a woman is divorced and a kohen has relations with that woman he will receive lashes for that transgression. Rav Chaim Ozer Grodzinski³ explains that Rambam maintains that the prohibition against a kohen's marrying a divorcée is not a דבר שבערוה and therefore it is not necessary for two witnesses to establish that a woman is a divorcée. This is in contrast with the position adopted by Tosafos Rid to our Gemara who asserts that a single witness cannot testify to establish a woman as divorced since he considers the prohibition against a kohen's marrying a divorcée a דבר שבערוה and therefore two witnesses are needed.

The position of Rambam allows for leniency in certain difficult circumstances involving kohanim. There was once a kohen who, together with his wife, became ba'alei teshuvah. The problem was that his wife had been married and divorced before they met. Seemingly, as a kohen he should not be permitted to remain together with his wife due to the prohibition against a kohen's marrying a divorcée. The man claimed that his mother had lived together with a non-Jew before she met his father and was thus a זונה, who is prohibited from marrying a kohen. If this was true it would turn out that the man in question is not a kohen but a חלל and as a חלל he would be permitted to remain married to his wife who is a divorcée. The difficulty in declaring this man a חלל was that two witnesses could not be found to establish that his mother had lived with a non-Jew before marrying his father. Rav Ovadiah Yosef ruled that since Rambam rules that the prohibition against a kohen's marrying a divorcée is not a דבר שבערוה two witnesses are not necessary to establish the mother as a זונה. Accordingly, based on the evidence that was presented he was willing to declare the man to be a חלל to allow the ba'al teshuvah couple to remain married. ■

1. שו"ת יבוע אומר ח"ז אה"ע סי' י"י.

2. רמב"ם פט"ז מהל' סנהדרין ה"י.

3. שו"ת אחיעזר אה"ע סי' ה' אות ט"ו. ■

STORIES Off the Daf

"In remembrance of our forefathers..."

"אף אנו נאכל הלוחים זכר לאבותינו..."

Someone once asked Rav Menashe Klein of Ungvar, shlit"a, "I don't understand. Every time the Rav speaks—even at a simchah—he mentions the horrors of his suffering at the hands of the Nazis, ימ"ש. Why does the Rav always mention this? At the very least, it seems to be more in keeping with the joyous character of the simchah to speak of joyous experiences."

"You are making an error." Rav Klein gently replied. "On Kiddushin 66 we find that when Yannai Hamelech returned from conquering

sixty cities he made a great celebration and invited all of the sages. He said to them: 'Our fathers ate salted vegetables when they built the Beis Hamikdash. We too shall eat pickled vegetables as a memorial to our fathers.' They served preserved vegetables on golden tables... We see from here that one is obligated to mention the hard times, especially during times of joy.

"But don't think that I made this up on my own," the Rav elucidated, "We see that one is obligated to always mention the hard times from Rabbeinu Bachaya's commentary on parshas Vayishlach. He brings the verse where Yaakov says, 'I crossed the Yarden with my staff...' and writes: 'From her we see that one is obligated to mention the days of difficulty in times of ease so that he considers how

much better things are and praises Hashem that things are better. Shlomo Hamelech also said in Koheles, 'On a good day, be of good temperament; on a bad day, see.' This is actually a single statement of instruction: on a good day, in addition to being of good temperament, one should 'see' the bad days."

Rav Klein concluded, "Rabbeinu Bachaya's language is 'one is obligated.' This is an essential part of proper praise to Hashem. This is similar to the obligation to eat the bitter herbs on Pesach. We eat marmor, since without recalling our difficulty the praise to Hashem for taking us out of Egypt would be incomplete..."¹ ■

1. חידושי משנה, מסכת קידושין, דף ס"ו