



OVERVIEW of the Daf

1) Sending an agent for kiddushin

R' Yochanan is cited as ruling that if a man sends an agent to betroth a woman and the agent dies on his way back without divulging whom he betrothed, the principal is prohibited to all women in the world.

Reish Lakish challenges this ruling.

R' Yochanan defends his ruling.

Rava qualifies R' Yochanan's ruling and explains the rationale behind the qualification.

Rava's principle is successfully challenged from the previous Mishnah.

Rava's principle is slightly revised.

This revised principle is challenged.

The Gemara answers that one of the assumptions necessary for the previous challenge is untrue.

2) MISHNAH: The Mishnah presents a dispute between Chachamim and R' Meir concerning a case of people accepting upon themselves to "shave half a nazir."

3) Clarifying the Mishnah

Rava points out two cases about which everyone agrees and he then identifies the case where they differ.

4) MISHNAH: The Mishnah discusses the consequences of a person who makes a vow of nezirus conditional on having a son or on having a child. ■

REVIEW and Remember

1. According to R' Yochanan, when does an agent's successful mission become a failure?

2. Explain כי משוי במילתא דקיימא קמיה.

3. What is the dispute between R' Yoshayah and R' Yonasan?

4. According to Rava, what is the dispute between R' Meir and Chachamim?

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The family of
Mrs. Esther Wolper
מרת אסתר בת ר' ישעי' משולם זיסל ע"ה

Distinctive INSIGHT

The agent who fulfilled his mission, but then died
האומר לשלוחו צא וקדש לי אשה סתם, אסור בכל הנשים
שבעולם

The Gemara cites a statement attributed to Rabbi Yochanan about a man who appointed a messenger to betroth a woman to be his wife. The messenger went on his way, but the agent died before returning to inform the "husband" whom he had betrothed, or if he at all was successful in engaging anyone to be his wife. The halacha is that the man who sent the messenger is prohibited to marry every woman in the world. The Rishonim (מפרש, Rosh, Meiri) explain that the reason is that we assume that the messenger carried out his mission, and there is a woman somewhere who is this man's wife. However, when a woman becomes betrothed to a man, seven of her immediate relatives all become prohibited to marry the husband. We have to consider any woman the man wants to marry as possibly being one of those women who are prohibited to him. Although we might think that a solution would be to simply ask any woman the man wishes to marry whether any of her close relatives had been betrothed by an agent, Tosafos (Gittin 64a, ד"ה אסור בכל הנשים) points out that in this regard, we cannot rely upon their assertions. In any case, this explanation understands that the prohibition to marry is based upon a genuine Torah-level doubt that the man might be marrying a prohibited relative.

Tosafos here, however, explains that technically, we can rely upon a רוב, the majority, and the Torah law would be that he may marry. In fact, this is also why everyone else in the world may marry whomever they wish, and we do not worry that their choice of wife is the woman who was betrothed by the agent of this man. The reason this "husband" is not allowed to marry any woman is due to a penalty applied against a man who sends an agent without specifying who is the intended wife. The Rabbis penalized him that he may not rely upon the majority, because he was negligent in not anticipating that his actions might result in calamity.

Ramban explains that the prohibition is due to a Torah concern of doubt, as the Rishonim above assert. However, this status only applies to a man who appoints an agent to betroth a wife, without being specific which woman he wishes to marry. Here, the assumption that the agent has carried out his mission is something with which the

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HALACHAH Highlight

Appointing an agent to separate terumos and ma'asros that haven't been delivered

כי משוי שליח במילתא דקיימא קמיה במילתא דלא קיימא קמיה לא משוי שליח

When a person appoints an agent it is for matters that are before him but for matters that are not before him he cannot appoint an agent

The Gemara explains that a person cannot appoint an agent to do something that the principal could not do at that time. Tosafos¹ writes, based on this principle, that one may not appoint an agent for something that has not yet come into existence - **דבר שלא בא לעולם**. This raises a question regarding a common practice for produce store owners in Eretz Yisroel who appoint a mashgiach to separate terumos and ma'asros for them before the produce ever reaches the store. If one is not able to appoint an agent to do something that the principal could not do at that time, how can the mashgiach separate the terumos and ma'asros for produce that the owner does not yet own?

Maharit² suggests a fundamental principle related to these matters. The impediment to appoint an agent for something that has not yet come into existence applies only when the principal was not explicit to include even those things that have not yet come into existence. If, however,

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“husband” must reckon, and this conflicts with the assumption that most unmarried women are available. No one else other than this man, however, is expected to deal with the legality of the agent and his fulfilling his mission. ■

the principal explicitly included things that have not yet come into existence, the agency works. Therefore, if the store owner explicitly appoints the mashgiach to separate terumos and ma'asros for the produce that has not yet come into his possession the agency works.

Another possible reason is based on an assertion of Merkeves Hamishnah³. Merkeves Hamishnah writes that one can appoint an agent even for those things that have not yet come into existence if the appointment was done in writing. Accordingly, if the store owner puts in writing that the mashgiach is authorized to separate terumos and ma'asros the agency is effective.

An additional reason to be lenient is found in Chochmas Adam⁴ where he writes that one is able to appoint an agent for matters that have not yet come into existence when the matter at hand relates to a Rabbinic prohibition. Therefore, since terumos and ma'asros in our days is only rabbinically mandated, one could be lenient and allow the appointment of an agent even for matters that have not yet come into existence. ■

1. תוס' ד"ה מאי טעמא
2. שו"ת מהרי"ט חור"מ סי' כ"ג
3. מרכבת המשנה לרמב"ם הל' תרומות פ"ד ה"א
4. חכמת אדם שערי צדק סי' ח' בינת אדם סק"א ■

STORIES Off the Daf

A man's agent

במלתא דלא קיימא קמיה לא משוי שליח

For centuries, our people have been yearning for Eretz Yisrael. Although in earlier generations it was very difficult to make the arduous journey even a single time, people tried to at least get some earth from Eretz Yisrael to be buried with, or anything else associated with the holy land. Some people were struck with a simple but seemingly effective idea. Why not give money to emissaries from Eretz Yisrael for the purpose of purchasing animals in the holy land? That way, they could take part by proxy

in many mitzvos which are obligatory only in Eretz Yisrael according to some poskim. What could be easier than to pay for sheep, have them shorn for the purchaser and give a portion to a kohen to fulfill the mitzvah of **הגז ראשית**? For relatively little money one was not only helping the yishuv (with the remaining wool), but also fulfilling a mitzvah in Eretz Yisrael, since, **שלוחו של אדם כמותו**—a man's agent is as himself.

However, when someone mentioned this custom to the attention of the Kreisi, zt"l, he was unsure whether this was truly efficacious. “Since it is impossible for him to do this because of the many difficulties traveling to distant Eretz Yisrael, perhaps he cannot designate a shaliach to do it. This rule is first

learned by Tosafos in Nazir 12 regarding **הפרשת חלה**. He says that if they couldn't do it, their messenger also cannot. Perhaps this situation has the same halachic status?”

When this question came before the Chochmas Adam, zt"l, he said that it certainly helps. “Although the Gemara in Nazir 12 states that one may not make a messenger for what he can't himself do, this is not relevant to our case. As long as if he transferred the sheep to the messenger it would be efficacious, he can do it for himself as well. Besides, the rule of the Gemara is only regarding a Torah law. Regarding a rabbinical law it doesn't matter if the man who makes the messenger can perform the act himself or not!” ■

