

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses one who vows against partaking of dates and winter grapes. A dispute is presented whether the derivative of an item that carries the original item's name is prohibited.

2) Clarifying the Mishnah

It is noted that Tanna Kamma and Chachamim seem to hold the same position.

The Gemara cites a Baraisa that contains a case that represents the difference between the two positions.

3) **MISHNAH:** The Mishnah lists many foods and identifies what related foods are not categorized within those vows.

4) "Oil"

A Baraisa is cited that qualifies the Mishnah's ruling that "oil" refers specifically to olive oil.

The novelty of the Baraisa's last ruling is explained.

The Baraisa continues and discusses vows related to vegetables.

R' Avahu in the name of R' Chanina ben Gamliel qualifies the Baraisa's last ruling.

The Gemara explains the dispute between Tanna Kamma and R' Chanina ben Gamliel whether there is a difference between places that import vegetables and those that do not.

R' Yirmiyah explains the rationale behind Tanna Kamma's position.

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REVIEW and Remember

1. What is the ruling of R' Shimon ben Elazar?
2. In Eretz Yisroel, what is included in a vow prohibiting oil?
3. What is the rationale to prohibit important vegetables into Eretz Yisroel?
4. What is the difference in meaning between the word חטה and חטין?

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Distinctive INSIGHT

Is cooked wine included in the neder not to drink wine?
הנודר מן היין מותר ביין תפוחים

The Mishnah teaches that when one makes a neder not to drink wine it is understood that his intention is not to drink grape wine, but he may partake of wine made from apples. The Rishonim determine from this halacha that it is, nevertheless, still prohibited for this person to drink cooked wine (יין מבושל). The reason is that grape wine still maintains its identity even when cooked, and this is the same type as referred to in the neder. This case is completely different from the case of a person who makes a neder not to eat vegetables, where we say that he may eat vegetables which grow wild. In this case, the intent of the person is only to restrict those vegetables which grow by being tended and tilled, and not those which grow without human supervision. As the Mishnah itself explains, wild vegetables are never referred to simply as "vegetables," but they are rather labeled "wild" vegetables. This puts these items in a different category, and we consider the term "vegetables" to be a descriptive phrase, rather than the identity of their general type.

Rosh (ד"ה חכמים, 53a) and Rashba (פ"ו סימן ג') cite a Yerushalmi (6:8) to prove that cooked wine is included in the prohibition for one who may not drink wine. Rabbi Yose (51b) says that one who makes a neder not to drink milk also may not eat milk-whey. The reason for Rabbi Yose's opinion is that "the name of the father is upon it." In other words, when the name of a by-product maintains part of the name of the original item from which it is derived, the by-product is included in the neder to not partake of it. In fact, even the Chachamim who argue with Rabbi Yose agree with the rule, but in their land whey was only called "whey" and not "milk-whey." Therefore, in Rabbi Yose's land, where whey was generally not called by its name alone, but it was rather called "milk-whey," it was included in the vow not to drink milk. Here, too, cooked wine does not have its own unique name, but it is rather always referred to as "cooked wine," bearing the name "wine" within its descriptive title. It is therefore included in the neder of one who vows not to drink wine.

Meiri notes that if the Mishnah held that cooked wine was permitted, the Mishnah itself would not have stated that apple-wine is permitted, but it would have taught a greater lesson, that being that cooked wine itself is permitted. ■

HALACHAH Highlight

Drinking soda water in the neighborhood following a death מן הירק מותר בירקות השדה שהוא שם לווי

One who vows from greens is permitted in wild greens because that is an accompanying name

Shulchan Aruch¹ writes that there is custom to pour out all the drawn water that is in the neighborhood where someone has passed away. Two reasons² are given for this custom. The first reason is the belief that the Angel of Death puts a drop of blood from the dead into the water. Shach³ cites in the name of Tashbatz that he once saw someone drink some drawn water from the neighborhood where someone had died and that person died. A second reason is that it is a method to inform others that a death occurred without having to verbalize the bad news.

Poskim discuss whether this custom of pouring out the water is limited to water, or perhaps it also includes soda water. Teshuvos Even Yekara⁴ asserts that soda water is not the same as regular water for this custom, and he proves his position from our Mishnah. The Mishnah rules that one who makes a vow against vegetables is permitted to have vegetables that grow in the wild since they have an accompanying name, and although they are certainly vegetables, they are excluded from the vow simply by virtue of the fact that they are not called "vegetables." Along the same lines, the

(Overview. Continued from page 1)

5) MISHNAH: The Mishnah concludes listing foods and identifying which other foods are categorized with the prohibited food.

6) Clarifying the Mishnah

A Baraisa is cited that elaborates on the Mishnah's discussion of prohibiting wheat and grits.

הדרן עלך הנודר מן המבושל

custom is to pour out "water," and since "soda water" carries a different name it is excluded from the custom. Teshuvos Beis Yitzchok⁵ cites earlier authorities who follow the same line of reasoning and maintain that boiling water also does not have to be poured out since it carries an accompanying name (boiling) and, accordingly, it is logical that soda water should also be excluded from the custom.

Other authorities⁶ are strict about this matter, primarily out of concern that the first reason for the custom may apply, namely, the concern that the Angel of Death put some blood into the water. The only leniency that may be permitted, according to this approach, is if the soda water is contained in a sealed bottle. ■

1. שו"ע יו"ד סי' של"ט סע' ה'

2. ש"ך שם סק"ט

3. ש"ך שם

4. שו"ת אבן יקרה מהדו"ת סי' ל"ד

5. שו"ת בית יצחק ח"ב יו"ד סי' ק"נ

6. ע' שו"ת יד יצחק ח"ב סי' קס"ד אות ג' ושו"ת משיב דברים יו"ד

סי' רט"ז ■

STORIES Off the Daf

Business is business

הנודר בין מותר בין תפוחים

There were two merchants who would often do business together. Although they got along, each cultivated fairly sharp business practices in response to the hard times when it was difficult to make a living. During one of their transactions, the first merchant paid what he thought was an excellent price for a large quantity of wine that he expected to resell at a considerable profit. After receiving payment, the second merchant promptly delivered the merchandise. To the surprise of the buyer, the seller had sent "apple wine," or hard

cider. The buyer was furious. He had thought that he was getting a bargain-basement price. Instead, he had received merchandise at just below the market value, which meant that he would earn far less profit than he had anticipated.

The buyer immediately contacted his friend protesting this mistreatment and claiming that it was obvious that he had intended to buy regular wine and not apple wine.

The other merchant responded blithely, "You know very well that the first rule of business is to take nothing for granted. We never discussed the kind of wine being sold. What you had in mind is irrelevant because you never asked or made any statement about it. I had apple wine in mind, and if you had

only asked I would have been straight with you. Next time, don't assume! Besides, the price isn't so bad even for apple wine, so I don't know what you're complaining about."

The buyer refused to accept his argument, so they consulted the Kol Mevasser, zt"l. "The answer to this question is found in a clear Mishnah in Nedarim 53. The Mishnah states that one who makes a neder prohibiting himself from drinking wine may drink hard cider. The Ran explains that when one says wine without any qualification, apple wine is not included.

The Gadol concluded, "Since business transactions also go after the language of people, the seller must replace the apple wine with regular wine!" ■