

This month's Daf Digest is dedicated in memory of
 Rivka Yenta bas Asher Anshel & Yosef ben Chaim haCohen Weiss on 8 and 14th of Elul
 By Mr. and Mrs. Manny Weiss

OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

R' Nachman's resolution to the Mishnah is unsuccessfully challenged by Rava.

2) Benefitting from מעשר עני

A contradiction is noted between the Mishnah and a Baraisa. The Mishnah did not list מעשר עני as one of the permitted items for a woman who took a vow against benefiting from others whereas a Baraisa does list מעשר עני as one of the permitted items.

R' Yosef suggested that the different sources represent the differing opinions of R' Eliezer and Rabanan.

The Mishnah that presents the dispute between R' Eliezer and Rabanan is cited.

Abaye rejects R' Yosef's resolution.

Rava offers an alternative resolution to the contradiction between the Mishnah and the Baraisa.

3) The benefit of gratitude

A contradiction of inferences from the Mishnah is noted. The first part of the Mishnah implies that benefit of gratitude is equivalent to money whereas from the end of the Mishnah it seems that benefit of gratitude is not equivalent to money.

R' Hoshaya suggests that the second ruling follows Rabbi's opinion, whereas the first ruling represents R' Yosi the son of R' Yehudah's position.

The Baraisa that presents the dispute between Rabbi and R' Yosi the son of R' Yehudah is cited. ■

REVIEW and Remember

1. Is a husband considered part of the "people"?
2. What is R' Eliezer's position regarding מעשר שני of דמאי?
3. How does Abaye explain the dispute between R' Eliezer and Rabanan?
4. Explain טובת הנאה.

Today's Daf Digest is dedicated
 לע"נ פרומט בת בנימין צבי הכהן
 by Mr. and Mrs. Naftali Goldstein

Distinctive INSIGHT

Why do מעשר עני take off עמי הארץ?

רבי אליעזר סבר לא נחשדו עמי הארץ על מעשר עני כיון דאילו מפקר נכסיה והווי עני ושקל ליה הוא, לית ליה פסידה

The Mishnah (83b) discussed a situation where a woman declares in a neder that she will not benefit from anyone. The Mishnah rules that she may nevertheless eat ownerless foods, such as the agricultural gifts which must be left in the field for the poor. In these cases, the owner of the field is not giving these items to the poor, but we instead say that the poor people gather them from their state of being ownerless. One category left off the list in the Mishnah is מעשר עני—the tithe given to the poor in the third and sixth years of the Shemitta cycle. The Gemara analyzes why this may not be given to a woman who has made a neder not to benefit from people. Why is this different from the other agricultural items which are permitted to her?

In reference to a Baraisa which discusses דמאי מעשר עני Abaye explains that all opinions agree that if מעשר עני is not removed from the grain, the commodity remains טבל and, as such, it is prohibited to be eaten. However, there is a dispute between Rabbi Eliezer and the Chachamim whether עמי הארץ separate this tithe from their grain. Rabbi Eliezer is of the opinion that עמי הארץ do take this tithe from their grain. The reason Abaye gives for the opinion of Rabbi Eliezer is that עמי הארץ do not mind separating this tithe, as they may be eligible to eat it if they simply disown their possessions, thus rendering themselves as poverty stricken.

The גבורת ארי points out that in Makkos (17a) Abaye himself explains the view of Rabbi Eliezer with a different underlying reason. There, Abaye says that עמי הארץ know that the tithe for the poor is allowed to be eaten by them, even if they are not poor. Although there is an element of stealing with their taking that which belongs to the poor, they rationalize that there is no one specific from whom they are stealing (ממון שאין לה תובעים). Therefore, they do not mind taking this tithe off the grain. Why does Abaye give different reasons for the opinion of Rabbi Eliezer here and in Makkos?

גבורת ארי answers that the reason provided in Makkos is based upon the information given in our Gemara. It is all one explanation. Once we say that עם הארץ has a method whereby he can personally access the מעשר עני by forfeiting his possessions and becoming poor, he might then rationalize further and figure that this tithe is edible for non-poor people as well. Therefore, he will designate the tithe, but he keeps it for himself and he does not give it to the poor. ■

HALACHAH Highlight

מעשר שני וצדקה

וחכמים אומרים קורא שם ואין צריך להפריש

Chachamim state that one designates עני מעשר by name but is not required to separate it

There is a general question addressed by the Poskim that relates to uncertainties involving mitzvos and monetary obligations. For example, if one pledged to give tzedaka and does not recall whether he paid up his obligation. Another example is a person who is uncertain whether he left peah for the poor. Do we look at these cases as uncertainties related to money and apply the rule המוציא מחבירו—עליו הראיה—the one who want to collect has the burden of proof or do we say that this is an uncertainty regarding a Biblical command and we will apply the rule ספר דאורייתא לחומרא—uncertainties related to Biblical commandments are treated stringently?

Rav Moshe Feinstein¹ suggested that the overriding principle will be what obligation came first. If there is a financial obligation which triggers a mitzvah, e.g. the obligation to pay a worker, it is treated as a monetary matter but if the mitzvah creates a financial obligation it is subject to the principle לחומרא דאורייתא. ספק דאורייתא לחומרא. Although this distinction is helpful to explain many cases, nonetheless,

there are many cases where it is uncertain which obligation came first. For example, if one vowed to give tzedaka there are two ways to analyze the nature of that obligation. Does his vow create an obligation to give money to the poor which then generates the prohibitions against stealing from the poor and delaying fulfillment of his vow or perhaps the vow creates an obligation to fulfill his vow which then generates his obligation to give the money to the poor. According to the first approach it is a monetary obligation whereas according to the second approach it is the prohibition that comes first.

Another example of this uncertainty relates to our Gemara's discussion of מעשר עני. The Gemara states that when one is uncertain whether he gave מעשר שני he must declare that the grain is מעשר עני, because of the possible prohibition involved, but may subsequently keep the grain. Rav Feinstein explains that regarding מעשר עני there is an uncertainty regarding the nature of the mitzvah. Is there a mitzvah to declare the grain ownerless and once the grain is ownerless the poor can lay claim to the grain? On the other hand, one could assert that the mitzvah is to give the grain to the poor which creates a prohibition for the farmer to retain the grain. Following a thorough analysis he concludes that matter is subject to a dispute amongst the Rishonim related to what is the primary feature of the mitzvah. ■

1. שו"ת אגרות משה ■

STORIES Off the Daf

Degrees of ignorance

לא נחשדו עמי הארץ על מעשר שני

On today's daf we find that Rav Eliezer doesn't suspect an ignoramus of failing to take maser ani even though the Chachamim do. It used to be that an עמי הארץ was one who was tied to working the land and because of his situation never acquired the skills and habits of Torah study. But that is not the only definition of the term.

The Chazon Ish, zt"l, said, "The term עמי הארץ also applies to people

who have a modicum of bekius (משנתן) churim lack bekiyus. In yesteryear they would complete mesechtos and grow great. Today, they lack broad knowledge of basic facts and don't understand anything. A bochur who learns a few daf per מסכתא remains an עמי הארץ."

One time, a certain great Talmudic scholar argued in public with the Chazon Ish. When the Brisker Rav heard about this he said, "He is an am ha'aretz."

When the person present looked surprised, the Brisker Rav said, "Since he doesn't know how to treat someone much greater in Torah, this is a sign that for all his learning he is still an am ha'aretz!" ■

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