

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) Revoking a conditional vow before it takes effect (cont.)

Rava explains Rav Acha bar R' Huna's behavior in the previously-cited incident and while doing so he also explains the dispute between Rabbanan and R' Nosson.

R' Pappi offers a different explanation of the dispute between Rabbanan and R' Nosson.

The Gemara suggests a proof to R' Pappi's explanation.

The proof is rejected.

Another unsuccessful attempt to support R' Pappi's explanation is suggested.

Ravina presents an alternative explanation, from R' Pappi, of the dispute between Rabbanan and R' Nosson.

Two attempts are made to refute this explanation and on the second attempt the Gemara succeeds at refuting this explanation.

2) **MISHNAH:** The Mishnah presents three cases where a woman's declaration becomes grounds for divorce, but Chazal subsequently changed these rulings.

3) "I am טמאה to you"

The Gemara inquires whether a woman who claims that she is טמאה is permitted to eat teruma.

R' Sheishes rules that she may eat teruma whereas Rava rules that she may not eat teruma.

Rava qualifies R' Sheishes' opinion.

4) A Kohen's wife who was raped

R' Pappa reports that Rava asked whether a Kohen's wife who was raped receives her kesubah.

He presents the two sides of the question. ■

REVIEW and Remember

1. What did Rava find impressive about R' Acha bar R' Huna's behavior?
2. How does R' Pappi explain the dispute between R' Nosson and Rabanan?
3. What are the three women who could leave their husbands and collect their kesubah?
4. Explain the dispute between R' Sheishes and Rava.

Distinctive INSIGHT

Who may release a neder when the city's residents are the subject of the neder?

קונם שאיני נהנה לפלוני ולמי שאשאל עליו

The Gemara brings a case where a neder is pronounced to prohibit benefit upon a person. The Gemara discusses before whom it may be presented for it to be released.

The Yerushalmi (5:4) discusses a case of a person who declared a neder upon the residents of his city. The Halacha is that no חכם of that city may participate in the release of that neder. Beis Yosef (Y.D. 228:5) explains that the case is where the speaker prohibited himself from benefiting from anyone in the city. The reason a local חכם may not judge the case is that by doing so, he is, at that moment, providing a benefit to the person who declared that he not receive such favor from the residents of the city. But if the neder was for the speaker not to provide benefit to his neighbors, here the local חכם could officiate, as the speaker is not giving him anything by appearing before him for a ruling.

Shulchan Aruch (ibid.) cites the first halacha above from the Yerushalmi. He then writes that if, בדיעבד, the local חכם did release the neder, the neder is released. ש"ך (#11) explains that in a case where the neder was to prohibit benefit from every Jew (not only the members of his city), in this case a local חכם may directly be approached to release the neder, as the entire case is considered as בדיעבד. בדעיבא איגר. חידושי רבי עקיבא איגר cites our Gemara (89b) as a source for the comment of ש"ך, where a man had declared himself prohibited from benefit by marrying before fulfilling his commitment to be proficient in halacha, yet Rav Acha brought him to Rav Chisda for a release.

Tur and ריב"ש explain the case in the Yerushalmi in the reverse manner of the Beis Yosef. The neder was that no one in his city could benefit from the speaker's possessions. The halacha is that no חכם of that city may sit in judgment of that neder. All residents of the city are subject to the restrictions set by the neder, and with his decision, a local חכם would be causing the neder to be released. He, among others, would now be permitted once again to benefit from this person. This places the חכם in a position of having a personal interest in the outcome of the case, and he is thereby disqualified from judging it. If the neder was not to benefit from the city's residents, a local חכם could judge it, as his service in doing this mitzvah is not a legal benefit (מצוות לאו ליהנות ניתנו), and it is therefore not prohibited. ■

HALACHAH Highlight

Annuling a vow before it takes effect

אין חכם מתיר כלום אא"כ חל נדר

The Torah scholar cannot annul anything unless the vow has taken effect

There was once a person who, for a number of years, had fasted the first day of selichos, until one year he was not going to be able to fast. Realizing that he would need to annul his vow he became concerned that he would not find three people to annul the vow on the morning of the first day of selichos and did not know whether he could have the vow annulled earlier. The basis for his uncertainty is our Gemara that states that one cannot annul a vow until it takes effect. Accordingly, perhaps someone who fasts on the first day of selichos is not able to have his vow annulled until that day arrives because it is considered a vow that has yet to take effect.

Rav Dovid Tzvi Hoffman¹, the Melamed Leho'il, notes that there is a dispute regarding the type of vow to which the Gemara's ruling applies. According to some Poskim

only vows that are subject to a condition and may never apply cannot be annulled until they take effect but according to others even vows that are not conditional but are merely waiting for the designated time to take effect cannot be annulled until that time. Accordingly, since concerning our question of annulling a vow to fast the first day of selichos the vow is not conditional but is merely waiting for the correct time to arrive it would be subject to this dispute. Therefore, since Shulchan Aruch² rules that one may not annul any vow until it takes effect it seems that in our case the person would have to wait until the first day of selichos to annul his vow.

Melamed Leho'il then suggests that according to all opinions he should be able to annul the vow before the arrival of the first day of selichos. We are not discussing a person who vowed that he would fast this coming year on the first day of selichos, rather his commitment is to fast every first day of selichos. Since he has already fasted on the first day of selichos for a number of years the vow is already in force and thus is certainly subject to annulment.

1. שו"ת מלמד להועיל או"ח סי' קי"א
2. שו"ע יו"ד סי' רכ"ח סע' י"ז ■

STORIES Off the Daf

An untimely annulment

אין חכם מתיר כלום עד שחל הנדר

A certain man had the practice of fasting every Erev Rosh Chodesh. Since he didn't say "bli neder" when he began fasting, his actions constituted a neder.

For a long period he fasted without any regrets, but at one point happened to fall ill at just the wrong time. In the state he was in, he could only fast with great mesiras nefesh. Although it was not dangerous for him, fasting could hinder his recovery. Obviously, it was not worth it to fast if doing so might keep him in bed for an extra day or two, so the man decided to annul his vow. He went to a חכם before Erev Rosh Chodesh and ex-

plained his problem. The חכם promptly nullified his fast.

On Erev Rosh Chodesh, a concerned friend suggested that he annul his vow since fasting could be harmful for him in his present state. When the sick man explained that he had already annulled his vow with a certain חכם, his friend was astounded.

"How could that be?" he asked. "The Gemara in Nedarim 90 states black on white that a חכם may not annul one's vow until it has taken effect."

There was a great outcry from this seeming blunder throughout the entire district. How could the חכם make such an error?

Someone mentioned this to the Beis Yehudah, zt"l, but to the man's surprise, the Beis Yehudah agreed with the חכם. He said, "In Nedarim 15 and Shulchan Aruch 214, we see clearly

that the neder incurred by acting a certain way three times is merely a rabbinical vow. Regarding the issue of annulling a vow before it has taken effect as discussed in Nedarim 90, there is a dispute whether this applies only to a vow which takes effect after the vower does a certain action or even to a vow that has not yet taken effect because the time has not yet arrived. Although in Shulchan Aruch 228 rules as Rambam that one may not annul in both cases, the Ran and Rashba disagree.

The Beis Yehudah concluded, "Possibly regarding our case, Rambam would admit that one may nullify before the time. Even if not, we can rely on the Ran here since the Maharit states that great Rabbanan held like the Ran. The חכם annulled correctly!" ■

