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OVERVIEW of the Daf

1) The arusah and yevamah

The Gemara explains why Shmuel rejects the parallel between his dispute with Rav and the dispute between R' Yonason and R' Yoshiyah.

2) A woman who violates halacha

The Gemara inquires whether a woman who violates halacha (i.e. behaves promiscuously) requires a warning to deny her the right to collect her kesubah.

Two unsuccessful attempts are made to resolve this inquiry.

R' Chanina from Sura demonstrates that a woman must be warned before she can lose her kesubah.

The Gemara explains why the other opinions did not offer this proof.

The Gemara inquires whether a husband is obligated to divorce his wife who violates halacha.

An unsuccessful attempt is made to resolve this issue and the question remains unresolved.

3) Canceling the husband's warning

The Gemara inquires whether a husband can rescind the warning he gave his wife regarding seclusion with another man.

On the third attempt the Gemara is able to demonstrate that the husband can cancel the warning he gave his wife.

R' Acha and Ravina dispute whether the husband can cancel his warning even after his wife went into seclusion with the other man.

The Gemara demonstrates that the position that maintains that the husband can cancel the warning after his wife went into seclusion is incorrect.

4) The dispute between Beis Shammai and Beis Hillel

The Gemara explains the point of dispute between Beis Shammai and Beis Hillel.

5) Clarifying the Mishnah

R' Nachman in the name of Rabbah bar Avuha asserts that the dispute in the Mishnah regarding the question of whether certain women will drink the bitter waters does not apply to the איילונית for everyone will agree that she does not drink. The Gemara begins to mount a challenge to this assertion. ■

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לע"נ הרב דוד בנימין בן הרב זעליג ע"ה
Rabbi Donald Starr
on his Yahrzeit

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מרת זהור בת ר' מכלוף, ע"ה

Distinctive INSIGHT

Why do we not allow the warning of Beis Din to be annulled?

תא שמע: ואלו שבית דין מקנין להן וכו' סתמא דמלתא אדם מסכים על דעת בית דין

The Gemara probes the issue whether the husband may retract a warning which he issued. In this discussion, the Gemara cites the Mishnah which teaches that where the husband is incapacitated or absent, the Jewish court acts in his stead and warns the wife not to be in seclusion with a man other than her husband. The Gemara suggests that we would not expect the court to be able to issue a warning on the behalf of the husband if the husband himself can retract his own warning. This system would put the court in a vulnerable and absurd position of issuing a warning where the husband could simply reverse it. It must be, therefore, that the husband cannot retract his warning.

The Gemara rejects this proof, and responds that it could be that the husband may retract his warning, but the court is still prepared to issue a warning in his absence. The reason is that we assume that the husband is generally satisfied with an appropriate warning, and that he will probably not reverse it

Sefer Machane Ephraim (זכיה ומתנה סי' ו') notes that the power of a court to issue a warning is predicated upon this act being to the husband's credit and benefit (זכיה). Even if we were to say that a husband cannot retract his own threat, this is because we do not allow him to renege on his warning. But we must admit that if the husband informs us that he does not honor the court's actions as being to his benefit, the court's actions will automatically be void. It seems, therefore, that the inquiry of the Gemara about the husband's rights to retract his warning has no relevance to the issue as it affects

(Continued on page 2)

REVIEW and Remember

1. Is a husband allowed to maintain his wife who is עוברת על דת?
2. Is Sanhedrin permitted to forgive זקן ממרא?
3. Explain שטר העומד לגבות כגבוי דמי?
4. Why does R' Nachman maintain that an איילונית does not drink the bitter waters?

HALACHAH Highlight

Selling a friend's chometz without authorization

סתמא דמלתא אדם מסכים על דעת בית דין

It is generally assumed that people accept that acts of Beis Din

There was once a man who was not home on Erev Pesach and as a result, was unable to authorize the Beis Din in charge of selling chometz to sell his chometz. The Beis Din, acting on their own initiative, sold this man's chometz under the principle that allows one to act for the benefit of another even without first obtaining the necessary authorization to do so (זכין שלא בפניו). The question was whether the sale was indeed a valid sale since the Beis Din had not obtained permission to sell this man's property. The inquiry was sent to Teshuvas Be'er Yitzchok[1] who discussed the issue of whether the principle that allows one to act for the benefit of another applies even in this case. The classic case is when someone performs an act of acquisition on behalf of another and it is assumed that the beneficiary desires his friend to act on his behalf since it is entirely for his benefit. This case, however, is different because it requires taking property from another person. Although it is certainly beneficial for one's chometz to be sold, nevertheless, since it involves taking away another's property without permission perhaps the principle of זכין שלא בפניו does not apply.

(Insight. Continued from page 1)

the court.

Sefer Oneg Yom Tov (#110) suggests that the court's acting in the husband's best interests is a type of super-merit, which the husband cannot later deny or question. The validity of the court's warning is therefore comparable to that of the husband and whether מחילה can be exercised.■

Teshuvas Be'er Yitzchok cites our Gemara as proof that one may act on behalf of another even if it involves taking something from him. The Gemara rules that Beis Din represent a husband who is out of the country, and warn his wife against going into seclusion with another man. This allowance applies even when there is a possibility that the couple will be forced to divorce as a result of that warning. The reason is that there is an assumption that people will accept decisions made by Beis Din. Accordingly, it is reasonable to assume that a person would agree to the sale of chometz that Beis Din made on his behalf since there is an obligation to sell chometz in order to not violate the prohibition against owning chometz. Teshuvas Imrei Yosher[2] notes that Magen Avrohom[3] rules explicitly that one person is permitted to sell the chometz of another because it is considered as if he is returning a lost object to his friend since without the sale of that chometz it would become prohibited for benefit. ■

1. שו"ת באר יצחק או"ח סי' א'
2. שו"ת אמרי יושר ח"ב סי' כ"ג
3. מג"א סי' תל"ו ס"ק י"א ■

STORIES Off the Daf

False reasoning

עוברת על דת

A marriage of long standing was unfortunately floundering. The couple lived in Israel and the husband wanted a divorce. Since they had several children, the wife was unwilling to divorce and wanted to try again to hold the family together. The husband paid an experienced rabbinical lawyer to go before the high court and plead the case for forcing his wife to accept a divorce.

The lawyer said, "Although we do not divorce a woman against her will so as not to violate the Cherem D'Rabbeinu Gershom, if a woman is in violation of religious law, for example here where she does not comport herself with proper modesty for a bas Yisrael and refuses to change her ways, she can be summarily divorced. We rule this way based on Sotah 25. Some Rishonim even state that the husband is wicked if he does not divorce such a woman.

The lawyer continued, "I therefore believe this is an open and shut case, since the wife in question doesn't dress modestly or cover her hair. Either of these alone is sufficient to enable the husband to divorce her against her will. I suggest that the husband warn his wife to alter her behavior; and if she refuses to comply with the laws of tznius, he should be permitted to divorce her against her will."

This question eventually reached the office of the Rav Ovadia Yosef, zt"l. After being apprised of the question, he replied, "This reasoning is incorrect. This man who seeks a divorce met and married his wife on a secular kibbutz. The woman has even presented a picture in which they appeared in immodest swimwear together. We know that there has been strife between them and now the husband is attempting to force a divorce while masking himself under a cloak of righteous indignation and piety. His claim that he does not want to make peace because of his wife's dress is absurd. Only in a case where the husband is sincere with a solid reputation and there is no strife between them can we credence a claim that he wishes to divorce because of das yehudis."

Rav Ovadia concluded, "This man married and fathered several children. Now he wishes to betray the wife of his youth through the pretext of religion. Should we not prevent this outrage?"■

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