

OVERVIEW of the Daf

1) Two gittin (cont.)

The Gemara concludes its analysis of R' Huna's explanation of the Mishnah.

2) Clarifying the Mishnah

The Gemara explains why the woman who married a second husband does not receive a kesubah or the other benefits of the kesubah from her first husband.

The necessity for the Mishnah's ruling that she must return benefits that she took is explained.

3) Separating tamei teruma

A Mishnah rules that if one intentionally separates tamei teruma for tahor produce he has done nothing.

R' Chisda and R' Nosson the son of R' Oshaya dispute whether the tamei grain becomes teruma.

The Gemara explains why R' Chisda doesn't subscribe to R' Nosson the son of R' Oshaya's opinion. Three unsuccessful challenges to R' Chisda are presented.

An unsuccessful challenge to R' Nosson the son of R' Oshaya is presented.

4) Uprooting Biblical laws to uphold Rabbinic decrees

Rabbah challenges R' Chisda's ruling and in response R' Chisda declared that Chazal have the ability to override Biblical laws to uphold their decrees.

R' Chisda suggests three proofs to this principle that are refuted by Rabbah. ■

REVIEW and Remember

1. According to the Gemara's conclusion, why does the woman in the Mishnah need a get from her second husband?

2. Is it permitted to separate tamei grain for teruma?

3. Why is the child born from the first husband called a mamzer?

4. Explain הפקר בית דין הפקר.

Today's Daf Digest is dedicated
By the Oberlander family
לעילוי נשמת ר' פינחס אליעזר בן ר' יהודה, ע"ה
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Distinctive INSIGHT

The teruma is valid even if it was designated improperly
ולא תשארו עליו חטא בהרימכם את חלבו ממנו, ואם אין קדוש
נשיאות חטא למה

The Gemara presents a lengthy discussion to prove whether the sages have the power to enact a law which effectively suspends a Torah law. The example provided here is based upon the rule that teruma taken from a commodity should be similar in quality to the produce itself. This means that one should not take bitter fruit as teruma from a basket of sweet fruits, nor should he use טמא produce to exempt fruits that are טהורים.

What would happen if someone did separate teruma in a manner contrary to the Torah's guidelines as mentioned above? R' Ilayi learns from the verse *ולא תשארו עליו חטא* that the teruma is nevertheless valid, but the person has sinned.

Tosafos in Kiddushin (46b, *ד"ה אם אינו קדוש*) refers to the classic dispute from Temura 4b regarding the status of an act which is in violation of a Torah law. Abaye holds that such an act has legal validity (*אי עביד מהני*). When a person affects a change which is contrary to Torah law, he is liable for lashes. Rava holds that once the Torah commands us not to do a particular act, if someone tries to do this act, it has no legal validity. Although his attempt results in futility, lashes are given due to his very effort in and of itself to commit a forbidden act.

Tosafos notes that R' Ilayi learns that the verse describes the designating of teruma improperly as a "sin." Immediately, R' Ilayi notes that "sin" indicates that the teruma is valid. According to Abaye, we can understand that a person who designates teruma improperly has succeeded in performing an act against the Torah's dictate. We have what our Gemara calls *נשיאות חטא*. But according to Rava, the teruma designation is invalid, and lashes are administered merely for his misguided attempt to separate inferior specimens for a better quality sampling of fruit. Why, then, according to Rava, does R' Ilayi conclude that the "sin" must indicate that the teruma is valid? The sin could be due to the effort itself being against the Torah's dictate even without its being effective.

Tosafos answers that even Rava understands that extra words in the verse which describe teruma come to teach that the sin and the lashes are due not only because of the attempt to sin, which is the standard situation, but also due to the effectiveness of the misdeed. The teruma is valid as such. ■

HALACHAH Highlight

Burying someone whose Judaism cannot be established

אי זהו מת מצוה כל שאין לו קוברין וכו'

What is an unattended corpse? Any corpse that does not have other people to bury it...

The definition of a **מת מצוה** according to Shulchan Aruch¹ is a Jewish corpse found on a road or in a city of non-Jews that does not have someone to bury it. Furthermore, from the place it was discovered there is no one to call to for assistance in burying the deceased. When such conditions are present, it is prohibited to abandon the body even to find others to help bury the deceased and one is obligated to bury the deceased, even if the one who discovered the body is a kohen. Rema² adds that if a corpse is discovered and one does not know whether it is a Jewish corpse or a non-Jewish corpse one should follow the majority of people in the area. If most people are Jewish one should assume the corpse is Jewish but if the majority of the people in the area are non-Jewish one should assume the corpse is not Jewish.

Pischei Teshuvah³ cites a teshuvah of the Chasam Sofer⁴ who was asked to voice his opinion regarding the following incident. A wounded soldier was brought into a hospital

and passed away. The Chevra Kadisha was called and it was noticed that the man was circumcised, and upon inquiry they learned that no one knew whether the soldier was Jewish. However, he was wearing an idolatrous necklace when he was first brought to the hospital. Upon inquiry they were instructed to bury him and they buried him in the Jewish cemetery.

Chasam Sofer responded that it was correct to bury this soldier, and it would be correct to bury the deceased even had the soldier been found where there were mostly non-Jewish soldiers. However, the decision to bury this person in the Jewish cemetery was a mistake. The reason is that Halacha L'Moshe M'Sinai teaches that it is prohibited to bury someone wicked next to one who is righteous. Since the matter is Biblical, one must be strict in cases of doubt, and being that there was a doubt regarding the Jewish heritage of this soldier he should not have been buried in the Jewish cemetery. Chasam Sofer added that although it was improper in the first place to bury this soldier in the Jewish cemetery, once the burial was done the body should not be exhumed and moved to another location. ■

1. שו"ע יו"ד סי' שע"ד

2. רמ"א שם

3. פת"ש שם סק"א

4. שו"ת חת"ס יו"ד סי' שמ"א ■

STORIES Off the Daf

The Baal Teshuvah's dream

משום דהוי לה מת מצוה

There was once a man who went through all the horrors of the holocaust and survived. After the war he moved to Israel and completely abandoned his Yiddishkeit, and went so far as to eat on Yom Kippur. After that first Yom Kippur, he had a very frightening dream. He saw his deceased father and a teenage boy standing together.

His father said, "Son, you are **חייב כרת**. If you don't do teshuvah you will not live out the year!"

When the young man woke up, he decided to pay no attention. "It's just nerves," he reassured himself.

But since he kept on having the

dream night after night, he decided to stay at a friend's house to calm his alleged nerves. Sure enough, at his friend's house, the dreams ceased. His stay lasted a week, but as soon as he returned home, he had the same frightening dream again. This time, however, his father's manner seemed even more menacing. "This is the last time I warn you! You have a simple choice. Either do teshuvah, or die!"

This note of finality scared the young man so much, he decided to travel to consult with the Chazon Ish, zt"l.

The next day he took off from work and traveled to Bnei Brak and the young man told the Gadol all that had transpired. The young man broke down, "Please! I want to do teshuvah!"

After advising the new baal teshuvah, the Gadol asked, "What zechus do

you have that you merited such intervention?"

"Well, maybe it's because I give a lot of tzedakah to poor people."

The Gadol shook his head. "Try and remember something that you did with tremendous self-sacrifice."

Suddenly the man remembered, "Oh! I know! During the war, my sister lost her son. They lived in a nearby village with no Jewish cemetery. My father asked me to bring the body to our town, to kever Yisroel. Although this was very dangerous, I agreed. The whole way I was trembling like a leaf, but I thought, 'I am doing a double mitzvah. I am going to bury a mes mitzvah and at the same time I am honoring my father.'"

The Gadol exclaimed, "That is the boy who accompanied your father in your dreams!" ■