

OVERVIEW of the Daf

1) The widow's vow to collect her kesubah (cont.)

The Gemara concludes its explanation why the Mishnah taught specifically that a widow must take a vow before she collects her kesubah.

One suggestion is made to explain why Bais Din did not permit widows to take an oath in order to collect their kesubah.

An unsuccessful attempt is made to reject this explanation.

Rav and Shmuel are cited as ruling that the ban against a widow taking an oath applies only to an oath in Bais Din but she can be made to take an oath outside of Bais Din.

This report of Rav's position is challenged.

The Gemara confirms that there are conflicting reports regarding Rav's position as quoted by R' Yehudah.

The rationale behind Rav's position is explained.

Two related incidents are recorded.

R' Yehudah instructed R' Yirmiyah Bira'ah how to rule in cases of widows who seek to collect their kesubos.

2) A divorcée who seeks to collect her kesubah

R' Zeira in the name of Shmuel rules that a divorcée must take an oath before she collects her kesubah.

The implication that a divorcée may not collect her kesubah by merely taking an oath is unsuccessfully challenged.

3) The widow's vow to collect her kesubah (cont.)

R' Huna rules that a woman who has remarried may not collect her kesubah with a vow.

This ruling is unsuccessfully challenged.

R' Nachman disagrees and rules that even a widow who married may collect her kesubah with a vow.

This position is unsuccessfully challenged.

R' Huna's ruling is successfully challenged and he is forced to admit that the matter is subject to a dispute amongst Tannaim.

4) Annulling a vow

The Gemara asks whether one who annuls a vow must specify the details that related to the original acceptance of the vow.

R' Nachman asserts that it is necessary whereas R' Pappa maintains that it is not.

Each Amora explains his respective rationale.

R' Nachman's position is challenged. ■

Distinctive INSIGHT

Taking a vow not to eat fruit

ונדרת ואסרת פירות שבעולם

The Mishnah taught that if a widow comes to the orphans and wishes to collect her kesubah from them, before receiving anything she must assure them that she has not collected it yet. The way this is done is by having her take an oath to that effect. In later years, the courts stopped issuing this oath. Instead, the woman would take a vow to prohibit upon herself something in case she had collected any or all of her kesubah. The vow would include an item which was difficult to impossible to live without, thus reassuring us that she, in fact, did not receive her kesubah. In the Gemara, Shmuel explained that the reluctance to administer an oath was only in reference to a widow, but a divorcée would still be given an oath. The assumption of the Gemara was that a vow was never allowed for a divorcée as a substitute for an oath.

An actual case is cited where a woman who had received a גט from her husband came and vowed to prohibit herself from "פירות העולם—from [all] fruits in the world" if she had received money from her husband.

In analyzing this particular vow, Tosafos notes that the text should not read "כל פירות—all fruits," because in this case, the vow would not be binding. When a person makes a vow that is simply impossible to keep, we do not have to wait to see if he will fail to observe it. He is immediately in violation of making a false vow, he is liable for lashes, and he may proceed as if the vow never took place. Here, continuing without ever eating any fruit is impossible. The woman would immediately be liable for lashes, and she would be permitted to eat fruit. Her statement to assure us that she never received payment for the kesubah would be meaningless. Rather, the correct text should be read without the word "כל", and the woman's vow was to restrict herself only from certain fruits.

Other Rishonim do have the text of "כל פירות", and they understand that it does not technically refer to all fruits (לאו דוקא), but rather that the woman left some fruits for herself to eat. Ritva differentiates between a שבועה and a נדר. A שבועה only applies when the act can conceivably be done. Therefore, a שבועה not to eat any fruits is not valid. She would get lashes and be able to eat. A נדר, however, applies to the object—the fruit is prohibited from her—and is valid. Once she eats, she would be liable, but until then the vow is binding. ■

HALACHAH Highlight

Taking an oath

מה מי שנשבע באמת כך הנשבע על שקר על אחת כמה וכמה

If this is the punishment for one who made an oath that was truthful, how much more so for one who takes an oath that is false

Rambam in his Sefer Hamitzvos¹ writes that one who takes an oath when it is needed fulfills a positive mitzvah. He also rules this way in the Yad Hachazakah² where he writes that just like an oath made in vain or one that is false violates a prohibition so too one who takes an oath in Bais Din fulfills a mitzvah. Additionally, taking an oath is considered a form of worship of Hashem (מדרכי העבודה) and it displays great honor to Hashem. Teshuvos Shoel U'meishiv³ notes that our Gemara seems to indicate that it is improper behavior to take an oath and certainly not a mitzvah, even if it is true. How then could Rambam write that it is a mitzvah? Shoel U'meishiv answers that in our Gemara the oath was unnecessary, thus not only does it not represent a mitzvah but it is also a punishable transgression. Rambam, on the other hand, is referring to an oath which is necessary and mandated and when an oath is taken under such conditions it is indeed a mitzvah.

Shulchan Aruch⁴ warns against taking an oath (שבועה) even if one is certain that the oath is true for we find that King Yannai had a thousand cities that were destroyed because the people took oaths despite the fact that they fulfilled those oaths. Teshuvos Tzitz Eliezer⁵ notes that alt-

REVIEW and Remember

1. Why did people refrain from taking oaths?

2. How did R' Yehudah emphasize that halach follows Shmuel?

3. What is the significance of a vow taken in public?

4. Is it necessary to present the circumstances surrounding a vow to a scholar when seeking an annulment?

hough the proof cited by Shulchan Aruch regarding the thousand cities discusses oaths that were taken about future events, nevertheless, the initial comment of Shulchan Aruch that, "One should not take an oath even if true," indicates that even an oath about the past should be avoided. This ruling formed the basis of the custom to avoid taking an oath even if one is certain that the oath is true. Furthermore, one should avoid an oath even if refusing to take an oath will result in a loss of money. This custom to avoid taking an oath includes witnesses as well and thus they have the right to refuse to take any sort of oath in Bais Din. ■

1. ספר המצוות עשין ז'.
2. רמב"ם פי"א מהל' שבועות ה"א.
3. שו"ת שואל ומשיב מהדו"ג סי' כ"ט.
4. שו"ע או"ח סי' קנ"ו סעי' א'.
5. שו"ת ציץ אליעזר ח"ח סי' ח'.

STORIES Off the Daf

The Widow's Dilemma

"התובעת כתובתה בב"ד..."

A certain woman was happily married to her second husband. Although they only had children from earlier marriages, they lived very harmoniously. Sadly, tragedy struck and the wealthy husband passed away. As a widow, she was supported by her late husband's estate in the manner to which she had become accustomed.

Years passed and she was getting older. She heard that a widow must swear that she had not previously re-

ceived the value of her kesuvah before collecting and was afraid that if she didn't swear now, she might die suddenly and her children would not inherit the asset. Without going to beis din, her late husband's children could claim that she had already received her considerable kesuvah. Since her late spouse's children were very generous with her, she wished to arrange the proceedings so that they wouldn't hear about it until after she left the world and her children wished to collect the money for her kesuvah.

She wondered if swearing in such a manner would prohibit her from taking food from her spouse's estate; couldn't the act of swearing peremptorily be con-

sidered like collecting her kesuvah, which prohibits her being sustained from the estate's assets?

The Mahartitz was consulted regarding this question and replied, "This is no problem at all, for even if she swears she does not lose her right to all the benefits a widow is allotted from her deceased husband's estate. This is clear in many places, such as Gittin 35. There we see that a widow who went to beis din and demanded her kesuvah loses her benefits. Clearly, until she demands her kesuvah she loses nothing even if she swears she has not received her kesuvah until that point."¹ ■

¹ שו"ת מהריט"ץ החדשות, סימן נ"ה