

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah teaches that the one who oversees the affairs of orphans is obligated to tithe their produce. A dispute related to whether a court-appointed guardian or a guardian appointed by the father takes an oath that he did not keep any of the orphan's property.

2) Tithing the produce of orphans

The Mishnah's ruling that a guardian tithes the produce of the orphans is challenged.

R' Chisda resolves the contradiction and cites a Beraisa that supports this distinction.

Two incidents involving R' Meir are recorded and the first one relates to an administrator of orphan's property.

Three additional incidents are presented.

3) Transactions involving orphans

The Gemara presents a number of rulings that relate to transactions involving orphans and lays down the parameters when the transaction is considered final and when details of the transaction can be adjusted due to new circumstances.

Two related incidents are recorded.

4) The oath of the guardian

The Gemara explains the rationale for Tanna Kamma's position regarding the case where the guardian takes an oath and the case where the guardian does not take an oath.

The rationale behind Abba Shaul's dissenting opinion is presented.

R' Chanan bar Ami in the name of Shmuel states that the halacha follows Abba Shaul's position.

A contradiction between two Beraisos related to the oath of a guardian is noted.

R' Avahu resolved the discrepancy.

5) **MISHNAH:** The Mishnah presents the parameters of liability for one who causes undetected damage to another's property.

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REVIEW and Remember

1. What sacred items does a guardian buy for the orphans he oversees?

2. How did R' Meir succeed at removing Satan from a home?

3. When is a guardian authorized to sell the property of the orphans without a proclamation?

4. Explain קים ליה בדרבה מיניה.

Distinctive INSIGHT

Lifting a barrel to steal the wine, and pouring its wine for avoda zara

רב אמר מנסך ממש...כדרכי ירמיה דאמר רבי ירמיה משעת הגבהה הוא דקנה, מתחייב בנפשו לא הוי עד שעת נסוך

Rav is of the opinion that a person is liable for damages if he pours someone else's wine for avoda zara. Yet, Tosafos notes that we must reconcile this with a statement R' Avin makes in reference to the halachos of Shabbos. R' Avin says that if a person shoots an arrow on Shabbos, and the arrow travels over four amos while it tears several cloths of silk, he is liable for having violated the Shabbos, and he therefore does not have to pay for the damages to the silk garments (קים ליה בדרבה מיניה). The explanation of this is that from the moment he launches the arrow until it lands is one extended violation of Shabbos.

Tosafos provides three approaches to explain this opinion. Rav agrees that we generally see a legal continuity between the moment an item is lifted up and the ultimate reality that it will be placed back down. This is one extended act (עקירה צורך הנחה). However, this is only said in a case, for example, of shooting an arrow, where the arrow cannot be retrieved once it has been launched. When picking up a barrel it remains under the control of the handler and it can be placed back down any time from when it is lifted up until the time the wine is poured. Here, the lifting of the barrel is not one legal continuum with the pouring, so we can say that the financial liability for stealing the wine is distinct from the avoda zara which is done later.

Another reason we do not say עקירה צורך הנחה regarding the barrel here is that Rav holds that the pouring can be done without ever lifting the barrel at all. The barrel can simply be tipped slightly and the wine would flow. Therefore, even if the thief does lift up the barrel, we do not say that its being picked up is directly associated with the pouring of the wine. This is why we do not say קים ליה בדרבה מיניה to exempt his paying for stealing the wine.

These first two approaches resolve the statement of Rav Avin cited in Kesuvos (30b) who says that lifting of the arrow and shooting it are connected as one act, and that of Rav Yirmiya who says that the lifting of the barrel to steal it is not connected with the pouring of the wine for avoda zara.

The third approach which Tosafos suggests is that Rav Yirmiya, who holds that the lifting of the barrel is not associated with the pouring of the wine, disagrees with the statement of Rav Avin in the case of shooting an arrow on Shabbos. ■

HALACHAH Highlight

Using the aravah from the lulav on Hoshana Rabbah

ועושין להו לולב וערבה וכו'

[The guardian] makes for them a lulav and aravah etc.

Shulchan Aruch¹ writes that on Hoshana Rabbah we take an aravah in addition to the one that was used in one's lulav but a beracha is not recited for this practice. He then emphasizes² that one does not fulfill the obligation of taking the aravah from the lulav even if one places down the lulav and then lifts it a second time; others (ו"א) maintain that if the aravah was taken twice the obligation is fulfilled. Mishnah Berurah³ asserts that the debate between the two opinions relates to the case where a person takes the lulav twice, once for the mitzvah of lulav and once for the mitzvah of aravah. All opinions agree, however, that if one were to untie the lulav and remove the aravah from the bundle the custom of aravah would be fulfilled.

Teshuvos Z'kan Aharon⁴ demonstrated from our Gemara that one is not able to fulfill the custom of aravah with the aravah taken from the lulav. Our Gemara writes that a guardian purchases a lulav and aravah for the orphans that are in his care. Since a guardian is not permitted to spend any more money of the orphans than necessary he would not be permitted to purchase aravos for the orphans if it was possible to use the ones in their lulav. The fact that he is authorized to purchase aravos is proof that the aravah from the lulav may not be used for the mitzvah. He then rejects this proof because the Gemara uses plural

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6) מנסך

Rav asserts that the Mishnah's case of מנסך refers to one who used another's wine to worship idolatry whereas Shmuel maintains that it refers to a case of someone who mixed nesech wine into another's kosher wine.

Shmuel explains why he rejects Rav's explanation and the Gemara records Rav's response to that challenge.

Rav begins to explain why he rejects Shmuel's explanation. ■

language in reference to the orphans. This hints to the fact that we are discussing a case involving numerous orphans and the guardian is authorized to purchase aravos for the orphans because it is necessary for each orphan to have his own aravah. The lulav may be shared amongst the different orphans but once the aravah was used for the custom by taking it and striking it on the floor it may not be used by another person. Therefore, the allowance to purchase many aravos for the orphans is not a proof that one may not take the aravah from the lulav to fulfill the aravah obligation.

The assumption of Teshuvos Z'kan Aharon (that once an aravah has been used for the custom it may not be used again) is not a universally accepted position. Bikurei Yaakov⁵ and Shevet Halevi⁶ both write that one can fulfill the obligation of taking an aravah with an aravah that was already used. ■

1. שריע אויך סיי תרסייד סעי' ב'.
2. שריע שם סעי' ו'.
3. מייב שם סייק כ"א.
4. שריית זקן אהרן (וואלקין) ח"א סי' ל'.
5. ביכורי יעקב סיי תרסייד סייק ט"ז.
6. שריית שבט הלוי ח"ב סי' נ"ח. ■

STORIES Off the Daf

Stopping abuse

"הנהו בי תרי דאיגרי בהו שטן..."

On today's daf we find that the Soton provoked two people to fight every erev Shabbos until Rav Meir came three weeks in a row and remedied the situation. Sometimes only a great person can heal strife and abuse.

Once there was a young woman who felt as though she was absolutely losing her mind. Her parents were very abusive and always found something else to fight about. The girl did no wrong but this did not save her from harsh recriminations and abuse. Things kept getting out of hand until her school friends heard and called in some well-known askanim to help ease the situation. But no one knew how to remedy the problem. How could they

realistically stop the terrible conflict in the house? The askanim sent someone to Rav Shlomo Zalman Auerbach, zt"l, for guidance.

When he heard this young woman's plight he was very upset, "Does this unfortunate girl have family out of Israel?"

"Yes," the messenger replied.

The Rav ruled that they should arrange to send the girl to these relatives so she could finally live a sane life.

When the askanim heard this they immediately started to put their plan into action. The young woman was willing and so were the relatives abroad. Everything seemed to be going smoothly until the ticket was purchased and the plan was told to her mother.

The distraught woman cried to her daughter, "Heartless girl! If you fly, my death will be on your hands—believe me, I will kill myself if you go!"

The mother continued to threaten her child, morbidly pronouncing that the trip would be the death of her. Understandably, the girl felt very guilty about going. Rav Auerbach was again consulted. He answered, "Tell the girl that she should go and not to worry about being punished in gehinnom for the 'sin' of abandoning her mother. She already went through gehinnom in this world."

Even when the parents stole the young woman's passport, the Rav remained unfazed. "Just get her a new one," he said in his direct way.

When the girl left, her parents bid her a tearful farewell and all three fell into each others arms. All threats and recriminations were clearly left behind. When Rav Shlomo Zalman was told about the "unexpected" loving farewell he merely said, "Exactly as I expected..."¹ ■

1. חכו ממתקים, חלק א', עמוד ע"ח- ע"ט

