

OVERVIEW of the Daf

1) The capacity of a minor to acquire possessions (cont.)

The Gemara continues to record the exchange between R' Chisda and R' Chinana whether a child may not acquire property on behalf of others.

R' Avya unsuccessfully challenges R' Chisda's position that a child may not acquire property on behalf of others.

Rava delineates three different stages of development for a child and their significance for boys and girls.

2) MISHNAH: The Mishnah begins with the halachos of a girl who is a minor appointing an agent to accept her **ט** on her behalf. The halachos related to where the husband or wife instructed the agent to deliver/accept the **ט** in a particular location are recorded.

3) Clarifying R' Elazar's position

The Gemara explains why R' Elazar maintains that the husband's instructions regarding the place of the delivery of the **ט** must be followed as opposed to the instructions of the wife.

4) MISHNAH: The Mishnah discusses the duration of time a woman is allowed to continue eating terumah when she sent an agent to bring her **ט**.

5) Clarifying the Mishnah

A contradiction is noted between our Mishnah and the previous Mishnah regarding a woman who instructed her agent to accept the **ט** in a particular location.

The Gemara identifies the exact circumstances of our Mishnah.

6) Clarifying R' Elazar's position (cont.)

The Gemara wonders what R' Elazar adds to our understanding of his position that was not known from the previous Mishnah.

The novelty of R' Elazar's comment in our Mishnah is explained.

7) Instructions for an eruv

Contradictory Beraisos are cited related to whether an eruv is valid if the agent did not take the correct food when making an eruv.

Rabbah suggests one resolution to the contradiction.

R' Yosef suggests an alternate resolution.

Abaye unsuccessfully challenges R' Yosef's resolution.

8) MISHNAH: The Mishnah presents phrases that are interpreted as instructions to write and deliver a **ט** and phrases that do not convey that message.

9) Clarifying the meaning of different phrases

(Overview...Continued on page 2)

Today's Daf Digest is dedicated
 By Mr. and Mrs. Eric Rothner
 In loving memory of their father
 Mr. Nathan Rothner, ז"ל

Today's Daf Digest is dedicated
 לע"נ ר' אלחנן בן ר' יהודה ע"ה
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Distinctive INSIGHT

Appointing an agent for a yet non-existent entity

האומר כתבו גט ותנו לאשתי

The Mishnah lists several examples of expressions which a man might use to instruct an agent to write and deliver a **גט** for his wife. Rashi explains that the lesson of the Mishnah is that each of these expressions is valid, as they are common ways for a man to accurately articulate his intentions to dismiss his wife from the marriage. The Gemara brings more examples of expressions which may be used, and also a selection of variances of this theme which do not clearly indicate the husband's intent, and are therefore deemed inadequate (לא אמר כלום).

The Achronim deal with the issue of how the valid expressions can be effective, for when the husband issues his instructions for the listeners to first write and to then deliver the **גט**, the **גט** does not yet exist. As a result, the appointment of the agent to be a messenger to deliver the **גט** document cannot apply to a yet non-existent document.

In his Teshuvos, Rabbi Akiva Eiger asks a similar question. Tosafos (Nazir 12a, ט"ד"ה מ"ט) reports that it was very common for women to hire other women to knead and bake bread for them. Often the first woman would instruct her friend to knead the dough, separate challah from it, and to bake it. Here, too, the dough was not yet in existence at the moment the appointment was arranged. At that moment, all that they had was the flour, which is not yet obligated in the separation of challah. How can the agency be arranged to have the challah taken at a time when the obligation to designate it has not arrived? Rabeinu Tam explains that we can say that the woman's friend can bring kneaded dough from her house which needs to have challah taken, and the amount taken off could also represent the challah necessary for the flour, as well.

Nevertheless, this presents a problem for us, as the **גט** cannot be delivered before being written. (123:#1) explains that appointing an agent can be valid even for a **דבר שלא בא לעולם** if the sender does not retract his instructions later. Although the **גט** was not written at the moment the instructions to deliver it were issued, the agency is valid, as it was not rescinded. ■

REVIEW and Remember

1. Which Rabbinic enactments do not follow a Biblical pattern?
2. When does a woman married to a Kohen have to stop eating terumah when she is expecting a **גט**?
3. What is the dispute between R' Elazar and Rabanan?
4. When does the instruction to write a **גט** include delivering the **גט** as well?

HALACHAH Highlight

Giving an esrog to a child on the first day of Sukkos

הפעוטות מקחן מקח וממכרן במטלטלין

Young children's purchases and sales are valid when it comes to movable objects.

Rashba¹ writes that it is possible to give an esrog to a child who has reached the age of פעוטות since at that age the child has the capacity to transfer ownership of an object to another person. This ruling, however, is difficult since the Gemara in Sukkah (46a) rules that one should not give an esrog to a child on the first day of Sukkos before fulfilling the mitzvah. The reason is that a child knows how to take possession of an item but does not know how to convey ownership to someone else. Consequently, once the child has taken ownership of the esrog the adult cannot retake ownership and will be unable to fulfill the mitzvah. Rashba asserts that the Gemara there refers to a child that has not yet reached the age of פעוטות but the Gemara would certainly agree that it is permitted to give an esrog to a child who has reached the age of פעוטות since he is capable of conveying ownership back to the adult.

Lechem Mishnah² maintains that Rambam disagrees with this leniency. He explains that according to Rambam when an adult conveys ownership of an object to a child it constitutes a Biblical acquisition. Thus even if a child has reached the age of פעוטות one should not give the esrog to a child before fulfilling the mitzvah since the child acquires the esrog on a Biblical level but only conveys the esrog back to the adult on a Rabbinic level. Sha'ar Hamelech³, in fact, challenges Rashba about this specific point. He notes that Rashba agrees that when an adult conveys ownership to a child he

(Overview...Continued from page 1)

Two Beraisos are cited that clarify additional phrases.

Rava suggests an explanation for the difference between the position of our Mishnah and R' Nossan's position in the Baraisa.

The Gemara presents a series of inquiries regarding the meaning of some phrases.

Only one of the inquiries is resolved.

10) **MISHNAH:** The Mishnah presents circumstances when a husband's partial instruction is interpreted as if the husband gave explicit instructions to write and deliver a גט to his wife.

11) **A gift given when it was expected that the gift-giver would die**

The Gemara recounts that as Geniva was taken out in chains he gave instructions to give some of his money to R' Avina. ■

acquires that object on a Biblical level and yet he also ruled that once a child reaches the age of פעוטות one can convey ownership of the esrog to the child and take it back even though the child can only transfer ownership of an item to an adult on a Rabbinic level.

Shulchan Aruch⁴ cites the strict opinion that one should not give an esrog to a child on the first day of Sukkos before personally fulfilling the mitzvah. He then mentions the opinion of others that if the child has reached the age of פעוטות it is permitted. Be'ur Halacha rules that one should follow the strict opinion and not give an esrog to a child on the first day of Sukkos until he has already fulfilled the mitzvah. ■

1. רשב"א לסוגיין.
2. לחם משנה פ"ח מהל' לולב ה"י.
3. שער המלך סוף הל' לולב.
4. שו"ע או"ח סי' תרנ"ח סעי' ו'.
5. ביאור הלכה שם ד"ה לא יתנו. ■

STORIES Off the Daf

The Absentee Husband

"האומר כתבו גט ותנו..."

A certain man abandoned his wife. Understandably, the poor woman was greatly pained—especially since no one knew where the man was or how to reach him. One day, out of the blue, the runaway approached a friend from a neighboring town who knew that he had absconded. This man, who had his wits about him, immediately asked, "Would you like to divorce your wife?"

When the husband answered in the affirmative, they summoned a sofer and witnesses as is customary. After they arrived, he again asked the husband, "Would you like to divorce your wife?"

"Yes." He told them his and his father's full name as well as his wife's and his father-in-law's.

When the husband answered in the affirmative, they summoned a sofer and witnesses as is customary. After they arrived, he again asked the husband, "Would you like to divorce your wife?"

"Yes." He told them his and his father's full name as well as his wife's and his father-in-law's.

It was clear that he was in a big rush when he said, "Write a divorce and give it to my wife when she comes here. I heard you can send it by mail, too, so if she can't make it here, send it to her by mail."

Shortly after this, a man asked to speak to him. The two left. It was later ascertained that this man was staying with missionaries who refused to allow anyone to speak with him.

They didn't know what to do: should they write the divorce or not?

The local rabbi felt that they should, since it was likely that they would never be able to get another גט out of him, but had his

doubts. "The Beis Shmuel brings an opinion that saying divorce her, merely means that they should send her away, not necessarily give her a divorce, except in very unusual circumstances, such as if he had been led away in chains.

They asked Rav Yitzchak Elchonon Spec- tor, zt"l, what they should do. "You may give the woman the divorce," he replied. Although there may have been some doubt here, in our case he clearly meant they should use the get to divorce the woman. Since he told them to give it to her if she came or mail it if she cannot, this is tantamount to the Mishnah in Gittin 65 which states that we issue the divorce to the wife of one who has said to, 'write and give the document of divorce to my wife.' Although the Beis Shmuel casts aspersions on this, he admits that it works if they were discussing divorce and in our case they were. Furthermore, his order to send the גט is better than merely discussing divorce."¹ ■

1. שו"ת עין יצחק, כלק ב', אה"ע, סימן מ"א