



OVERVIEW of the Daf

1) Lashes for an אונס who divorces his wife (cont.)

The Gemara explains that R' Yochanan and Reish Lakish who disagree why a person does not receive lashes for not fulfilling an oath to eat a loaf on a particular day derive their respective positions from a ruling of R' Yehudah.

The reason R' Yochanan and Reish Lakish rejected one another's inference is explained.

This discussion uncovers a contradiction between two rulings of R' Yehudah.

The Gemara records how Reish Lakish and R' Yochanan resolve these contradictory rulings.

2) Remedying a transgression with a positive command

A Mishnah is cited that presents a dispute whether one receives lashes for taking a mother bird while she is on her young.

R' Yochanan notes that according to Chachamim there are only two cases, one of which is the taking of the mother bird while on her young, where fulfillment of a positive command remedies a transgression.

Upon R' Yochanan's directive R' Elazar began a search for the second case.

Different cases that seem to follow this pattern are raised and the Gemara explains why they are not included in the list.

3) Consuming non-kosher creatures

R' Yehudah rules that one who eats a cabbage worm is subject to lashes and R' Yehudah, in fact administered lashes to one who ate a cabbage worm.

Abaye enumerates the different prohibitions one violates for eating different non-kosher creatures.

Tangentially the Gemara records two additional violations of בל תשקצו.

Rava bar R' Huna enumerates the prohibitions one violates for eating an olive's volume of ants that includes at least one live ant.

Different opinions elaborate on these prohibitions.

4) Tevel of ma'aser rishon

Rav teaches that one who eats tevel of ma'aser rishon receives lashes.

It is assumed that this ruling follows a ruling of R' Yosi recorded in a Beraisa.

R' Yosef asserts that there is a dispute between Tanaim on this topic. ■

Distinctive INSIGHT

If he accepted kiddushin for her without her consent...

אי לא שוויתיה שליח כל כמיניה

R' Yochanan taught his students that the case of שילוח הקן is one of only two cases in the Torah where we can apply the rule of ביטלו ולא ביטלו, and that one who violated a לאו can finally receive lashes once he ruins the ability to ever perform the positive commandment associated with this negative commandment. For example, upon coming across a bird hovering over its nest of eggs or chicks, one must chase the mother bird away before taking the contents of the nest. If the person violated the halacha and grabbed the mother bird (לא תקח האם על הבנים), according to the opinion which holds ביטלו ולא ביטלו the sin is not yet complete, as the mother can still be released (שלה תשלח את). If the person then finalizes the sin by killing the mother bird, he can now receive lashes. R' Yochanan told his students that there is only one more example of this in the Torah. R' Elazar, his student, surmised that this additional case would be אונס שגירש. The Gemara clarifies that it cannot be where the man kills the woman, which would prevent his ever marrying her again, as this would not result in lashes, but rather capital punishment. It also cannot be where this man accepted kiddushin from another man on behalf of this woman, which, again, would prevent his ever being allowed to remarry her again. The reason this cannot be the case is that if the woman herself had appointed him to be her agent, the act of marrying someone else would be her doing (albeit via his agency), and not his. If the man acted on his own without being authorized as an agent of the woman, the kiddushin would have no validity. Therefore, the Gemara concludes that the case is where the man declared with a publicly recognized oath that he would never benefit from this woman again. This statement now prevents him from ever remarrying this woman, and he is eligible for lashes for the violation of having divorced her.

In its analysis of the case of the אונס accepting kiddushin as an agent for this woman, the Gemara mentioned that if the man was not appointed as an agent, the kiddushin would not be valid. הל' נערה בתולה (to Rambam, אור שמח) points out that this would be too obvious of a factor for the Gemara to formally present. Sfās Emes answers that according to the opinion view of ביטלו ולא ביטלו it is not necessary for the mitzvah opportunity to be nullified directly (בידים), but lashes can be given even if the mitzvah becomes unavailable on its own. The suggestion was, therefore, that the man accepted kiddushin as the woman's agent, even with this being attributed to the woman. ■

HALACHAH Highlight

Destroying chometz via nullification

כל מצות לא תעשה שיש בה קום עשה וכו'

Any prohibition that has in it a positive command etc.

Later authorities debate whether one fulfills the mitzvah of destroying chometz by nullifying it in a majority of permitted food. R' Akiva Eiger¹ maintains that the mitzvah is fulfilled when one obliterates chometz from the world. Therefore, if one merely mixes chometz into a majority of permitted food the mitzvah is not fulfilled. When mixed into permitted food the chometz is not obliterated, it is just not recognizable. The fact that the owner does not violate **בל יראה ובל ימצא** does not mean that he has fulfilled his obligation of destroying the chometz. Avnei Nezer² disagrees and holds that it is not necessary to physically destroy chometz in order for the mitzvah to be fulfilled. The very fact that halachically it no longer exists, even if due to its nullification, means the mitzvah has been fulfilled.

Rav Akiva Eiger challenges his own position from our Gemara. The Gemara searches for a case of a prohibition that could be remedied by a positive command (**לאו הניתק לעשה**) where it is possible to render the positive command impossible to fulfill. Seemingly a case of chometz would be a good example of this. If one acquires chometz on Pesach, thus violating a prohibition, he is obligated to destroy that chometz. If instead of physically destroying the chometz he mixes the chometz into permitted food, thus nullifying the chometz, he will have, according to R' Akiva Eiger, eliminated the possibility of ful-

REVIEW and Remember

1. What are the contradictory rulings of R' Yehudah?
2. What type of vow is not subject to annulment?
3. When is the last time to leave "peah" for the poor?
4. How many sets of lashes does one receive for eating an ant?

filling the positive command. The fact that the Gemara does not mention this case indicates that by mixing chometz into permitted food he does fulfill the mitzvah of destroying the chometz and thus it is not suggested by the Gemara.

Avnei Nezer responds that this case is not a proof. Even if one adopts Rav Akiva Eiger's position that nullification is not a fulfillment of the mitzvah to destroy chometz the mitzvah is not lost once one mixes chometz into the permitted food. It is possible to add more chometz to the mixture so that the original chometz is no longer nullified. Once that is done it is then possible to fulfill the mitzvah of physically destroying the chometz. Consequently, it cannot be said that by mixing chometz into permitted food the positive command can no longer be fulfilled. ■

1. שו"ת רעק"א מהדו"ק סי' י"ט.
2. שו"ת אבני נזר או"ח סי' של"ו אות ח'.
3. שו"ת רעק"א שם בהג"ה.
4. שו"ת אבני נזר שם אות י"ב. ■

STORIES Off the Daf

"No evil will befall one who fulfills a Mitzvah"

"המשהה נקביו עובר בלא תעשה..."

Today's daf discusses the prohibition of refraining to relieve oneself.

When the Steipler, zt"l, was a young man, he was trapped in communist Russia along with many other yeshiva bochurim in the many branches of Novardok. Eventually he decided to attempt to cross the border along with a large group of students who wished to go to what was officially Poland. Of course this was dangerous, since if a border guard

caught someone trying to cross the border he was within his rights to shoot to kill. Indeed, many people were killed while trying to escape the "worker's paradise."

When one group was already well on their way in the middle of the pitch-black night, the Steipler suddenly needed to relieve himself. Although he knew his group would not wait for him and he also did not even know the way to the border, even if there had been any light, the Steipler immediately stopped and relieved himself. He reasoned that the dictum, **"שומר מצוה לא ידע דבר רע"** — "No evil will befall one who fulfills a mitzvah," also applies to the mitzvah of **לא תשקצו**. After all, why was this

prohibition any less important than any other?

When the Steipler finished, his group was far ahead of him yet he began to continue in what he thought was the same direction they had been travelling for quite some time. In the morning, after many hours of travel, he found that he was back where he had started and it took a whole year before he finally was able to escape to Poland.

He later explained that the first time when he had attempted and failed, he obviously did not have the merit to escape. It was only after the next Rosh Hashanah that it was decreed from heaven that he could cross over into Poland.¹ ■

1. פניני רבינו הקמילות יעקב ■