

OVERVIEW of the Daf

1) The maturation of boys and girls (cont.)

R' Zeira successfully challenges the assertion that hairs grown between 12 and 13 render a boy an adult.

R' Nachman suggests that the issue is subject to a debate between Tannaim.

This suggestion is rejected and four alternative explanations of the Beraisa are offered.

The Gemara qualifies the statement of R' Yosi the son of R' Yehudah in the Beraisa that hair grown between a boy's tenth and twelfth year is a sign of adulthood.

Rava rules that "within the time" is like before the time.

A second version of Rava's statement is recorded.

The Gemara analyzes Rava's second statement.

R' Dimi of Nehardea rules in regards to a girl who reaches the age of twelve who was married by her brother or mother that we are concerned that she had hairs and they fell out.

This ruling is qualified.

2) A minor's vows

R' Huna rules that a minor in the final year before adulthood who consecrates food and then eats it is subject to lashes.

Proof to this ruling from a Beraisa is suggested.

The proof is rejected.

The rejection is unsuccessfully challenged.

3) The sanctification of a minor

R' Kahana maintains that one who eats food sanctified by a minor is not subject to lashes whereas R' Yochanan and Reish Lakish maintain that he is subject to lashes.

The point of dispute is explained.

The ruling of R' Yochanan and Reish Lakish is unsuccessfully challenged.

Abaye unsuccessfully attempts to prove R' Yochanan's and Reish Lakish's opinion correct.

The assertion that according to R' Yosi terumah nowadays is Rabbinic is unsuccessfully challenged. ■

Distinctive INSIGHT

The court must prevent a child from violating a prohibition

שמע מינה קטן אוכל נבילות בית דין מצווין עילו להפרישו

Rav Huna taught that if a child who is within one year of adulthood utters an oath not to eat a particular item, he can be liable for lashes if he later violates his verbal promise. R' Huna b. Yehuda tried to bring a proof to the statement of R' Huna from a Beraisa which says that anyone who is responsible for his oaths, including a child in the year before adulthood, is also liable for the consequences of "לא יחל"—not to break his vow." This is understood to mean that he or she is liable for lashes.

The Gemara initially dismisses the proof, because the reading of the Beraisa could be that there is only a violation involved in not keeping one's word, but not that lashes are given. Alternatively, the proof from the Beraisa is refuted, because the punishment of lashes might be directed at the adults who are responsible to monitor the actions of the child, but not that the child, who is underage, is liable to receive this punishment. Rashi explains that the Gemara's response at this point is based upon the opinion that the validity of a vow of a underage child is rabbinic. The Gemara's comment is based upon the rule that if a child is eating non-kosher (neveilah), the Jewish court has the responsibility to stop him from continuing to sin. Rashi explains that this issue is the subject of dispute in Yevamos (114a).

The Rishonim point out that according to the conclusion of the Gemara in Yevamos, all agree that the court is not commanded to interfere to stop a child from sinning if the violation involved a rabbinic commandment. The disagreement there is only if the child is involved in a Torah violation. Therefore, Rashi's comment here has to be studied, because he explains that the Gemara's response at this point is assuming that the validity of a child's oath made in the year prior to his or her adulthood is only rabbinic. Why, then, would the Beraisa be saying that the court is deserving of lashes for their not monitoring the child and preventing him from violating his oath?

Aruch LaNer says that this is a proof for the opinion of Mishnah LaMelech (Hilchos Ma'achalos Asuros 17:27) who says that the Gemara's answer is based upon the view that the oath of a child before adulthood is a Torah law. Accordingly, the Gemara thought that the child himself should be deserving of lashes, and the answer is that there this violation does not apply to the child, but only to the court. When this child utters a vow, it is binding. If the child violates his word, the child is not directly responsible, but the court who should have monitored his adherence to the mitzvah is accountable, and it is they who are liable for lashes. ■

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לעילוי נשמת

— Rabbi Dr. Milton Kanter

By his children — The Kanter family

HALACHA Highlight

Chazakah d'Rava

חזקה הביאה סימנין

There is a presumption that she produced physical signs of maturity

Rava states that once a girl reaches the age of majority it is unnecessary to examine her to confirm that she is an adult since the presumption is that she is physically mature. This presumption is known in the Poskim as “chazakah d’Rava.” It essentially indicates that when a boy or girl reaches the age of majority it is presumed that they are physically mature. Maharit¹ asserts that this presumption is extremely strong and would not even be categorized as a doubt when formulating a sfek sfeikah since we find instances in which halacha adopts a lenient position even for Biblical matters. Even if the signs are not present it is assumed that they were there and merely fell out since that is more common than a child reaching that age without producing those signs of maturity.

The Poskim maintain that chazakah d’Rava may be relied upon only for Rabbinic matters but when it comes to Biblical matters one may not rely upon this presumption and it is necessary to examine the child to confirm physical signs of maturity. For this reason Rema² rules that it is unnecessary to examine a child for physical signs of maturity in order to permit him to serve as the sh’liach tzibbur. Since davening is only a Rabbinic obligation it is sufficient for the boy to be 13 years old and chazakah d’Rava indicates that he is already physically ma-

REVIEW and Remember

1. At what age do hairs indicate that one is an adult ?

2. What is Rava’s chazakah ?

3. Is one liable to lashes if he ate food sanctified by a minor ?

4. Is the obligation to separate terumah nowadays a Biblical obligation ?

ture. Similarly, Rema³ rules that a boy who is 13 years old may be included in a zimmun. Although the obligation to recite birkas hamazon is Biblical, the obligation to form a zimmun is only Rabbinic and as such he may participate in the zimmun. He may not, however, recite birkas hamazon on behalf of others since that would involve discharging the obligation of adults and that may not be done unless the one discharging the obligation of others is also an adult. Taz⁵ explains that when it comes to Biblical matters anytime the matter could be definitively confirmed we do not rely upon a presumption. ■

¹ שו"ת מהרי"ט ח"א סי' מ"א.
² רמ"א ארו"ח סי' נ"ה סעי' ה'.
³ רמ"א שם סי' קצ"ט סעי' י'.
⁴ מג"א שם סק"ז.
⁵ ט"ז אהע"ז סי' קנ"ו סק"ב. ■

STORIES off the Daf

Coming of Age?

”והאמר רבא...”

A sofer once visited Rabbi Akiva Eiger, zt”l, when he was in Freidland. He was accompanied by his son, who was tall for his age. “My son here is sixteen years old. He assists me in my writing since we assume he has attained majority, despite his lack of facial hair.”

Rabbi Akiva Eiger immediately protested this. “Even Rava who said that a minor girl doesn’t need to be checked for signs of majority in Niddah 46, only

said so regarding annulment of her marriage as a minor by her mother or brothers. This marriage is only rabbinic so we can rely on her chazakah for it. But regarding chalitzah she must be checked, since this fulfills her Torah obligation. The same holds true for writing safrus. If the boy is not yet developed, he may not write this even if he is tall and over bar mitzvah.”

The sofer protested this. “But I have done this for a while with the full consent of various great rabanim and not one rabbi protested in any way!”

Rabbi Akiva Eiger showed the man that the halachah was clearly written in the Magen Avraham who clearly makes the distinction between a rabbinic hala-

chah—on which one can rely on chazakah—and a Torah mitzvah which a young man can fulfill for someone else only if we know he has signs of maturity.

“This is especially clear here, since it is easy for two witnesses to check whether the child has two hairs below. In terms of the **בדיעבד** status of tefillin and the like which he wrote since he became bar mitzvah, we can rely on the hairs we found to permit whatever he did since he came of age. **בדיעבד**, we can assume that he was already a halachic adult from that time.”¹ ■

¹ שו"ת רעק"א, מהדוהר קמא, סי' ז' ■

