

## OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah begins with a dispute regarding a husband who consecrates his property and then divorces his wife. R' Shimon ben Gamilel issued a similar ruling regarding a similar case.

### 2) The debate between R' Eliezer and R' Yehoshua

The Gemara suggests an explanation of the debate between R' Eliezer and R' Yehoshua.

This explanation is unsuccessfully challenged.

Another explanation of the debate is suggested.

A variation of this second version is noted.

These variations are refuted and a third explanation of the debate is presented.

A Baraisa is cited that supports this explanation.

### 3) Collecting a kesubah from a guarantor

Abaye wonders why R' Huna who was poor was never advised to divorce his wife to collect the kesubah from the guarantor and then remarry her.

Rava unsuccessfully challenges the validity of this approach.

The reason Abaye was allowed to offer this advice is explained.

Additional analysis regarding this incident and the associated details are recorded.

The Gemara issues final rulings related to when a guarantor is obligated to pay a woman's kesubah.

### 4) Property encumbered towards the kesubah

R' Pappa and Nehardea disagree whether the halachos in the Mishnah regarding a guarantor and hekdesch apply to purchased property as well.

R' Mesharshiya explains the rationale behind Nehardea's opinion that it does not apply to purchased property.

5) **MISHNAH:** The procedure for redeeming property from hekdesch to pay a debt or a kesubah is described.

### 6) Clarifying the Mishnah

The wording of the Mishnah is clarified.

It is noted that the Mishnah's ruling concerning one whose debt exceeds the value of the consecrated property does not follow R' Shimon ben Gamliel's ruling.

R' Huna bar Yehudah in the name of R' Sheishes teaches the extent of Rabanan's position.

7) **MISHNAH:** The Mishnah discusses details related to the halachos of the Beis HaMikdash taking security from those who made erech pledges. ■

## Distinctive INSIGHT

*Would a person use subterfuge against the Mikdash?*

אלא הכא בשאלה דהקדש קמייפליגי

A man consecrated his field. The field must be given to the Mikdash which will arrange for it to be redeemed, either by its owner or by someone else. If the original owner divorces his wife and the consecrated field was designated for payment of the kesubah, the woman's rights to the field supersede the consecration, and the Mikdash must forfeit the property. Yet, it is possible that the owner and his wife are in collusion to defraud the Mikdash by arranging a divorce just in order to usurp the field from the Mikdash to pay for the kesubah, after which the man plans to remarry his wife.

R' Eliezer therefore rules that the woman cannot collect her kesubah unless the husband divorces her together with taking an oath to never benefit from this woman ever again. This oath guarantees that the divorce is a final decision and not just a trick to collect the field from the Mikdash. R' Yehoshua rules that there is no need for the husband to take such an oath.

Three approaches are presented to explain this difference of opinion between the Tannaim. One approach is that R' Eliezer suspects that a normal, healthy man (as opposed to a man in fear of imminent death, see below) might try to use subterfuge against the Mikdash by divorcing his wife, so we must have him take an oath to prevent this trick. R' Yehoshua holds that we do not suspect that a person will act in this deceitful manner against the Mikdash, so there is no need for a preventative oath.

A second approach to explain this disagreement is that all

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## REVIEW and Remember

1. What is the point of dispute between R' Eliezer and R' Yehoshua?
2. What advice did Abaye have for R' Huna to alleviate his financial difficulties?
3. When is someone who guarantees a kesubah obligated to honor that commitment?
4. What possessions may not be confiscated when the Beis HaMikdash takes one's possessions for security?

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By Mr. and Mrs. Jonah Bruck  
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מרת יהודית בת ר' אייזק אברהם, ע"ה  
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# HALACHAH Highlight

## Collecting a debt from the debtor's sefarim

וסנדליו ותפלין

His shoes and his tefillin

The Mishnah teaches that when someone makes an erech pledge and does not fulfill that pledge the Beis Hamikdash is authorized to take his possessions from him as security for his pledge. Essentially the Mishnah enumerates the bare minimum necessities that the person may keep for himself and his remaining possessions are confiscated. Rambam<sup>1</sup> rules that these same guidelines are followed for someone who has an unpaid debt.

Poskim debate whether the treasurer of the Beis HaMikdash or a creditor is authorized to confiscate the sefarim of a Torah scholar who has not yet paid his pledge or debt. R' Yehudah Al'bartzeloni<sup>2</sup> cites authorities who maintain that if the debtor is a Torah scholar his sefarim may not be confiscated but if the debtor is an am ha'aretz they are confiscated even though his children are Torah scholars. This is similar to the halacha in the Mishnah that the debtor retains his own clothing but his children's clothing are confiscated even though he is obligated to support them. He then cites dissenting opinions who maintain that a debtor's sefarim are confiscated even if he is a Torah scholar and needs his sefarim to study Torah. Once the debt was created all of his possessions become encumbered towards that debt and if he wanted to retain possession of his sefarim he should have specified that the lien does not include his sefarim. There fore, since the Mishnah only states that he may retain his tefillin it must be that all other possessions can be confiscated to cover one's debt. Sefer HaChinuch<sup>3</sup> also cites authorities who contend that even if the debtor is a Torah scholar and he supports himself by tutoring others he is not allowed to keep his sefarim by claiming that they are his "work

(Insight...continued from page 1)

agree that healthy people might try to maneuver and trick the Mikdash, but the argument is whether an oath taken in public may be released by a beis din. R' Eliezer holds that it may not be released, so it is worth administering such an oath. It is binding and will deter this man from using the ploy of divorcing his wife. R' Yehoshua holds that such an oath is reversible, so there is no point in giving such an oath.

The final approach is that they disagree along the lines of the disagreement between Beis Hillel and Beis Shamai regarding releasing an oath of consecration. R' Eliezer holds according to Beis Shamai, that a pledge to consecrate one's field is irreversible, so the owner has no choice other than to retrieve his field using deception. This person is desperate, so we must administer an oath to deter his plot. R' Yehoshua holds like Beis Hillel, that a pledge of consecration may be reversed. He needs no oath when divorcing his wife, because if he was insincere, he could simply regret his consecration and retrieve his land.

Rambam (Hilchos Arachin v'Chamarim 7:17) rules according to R' Eliezer, which surprisingly aligns his ruling with Beis Shamai. Additionally, we rule according to R' Yehoshua versus R' Eliezer (Niddah 7b). Ra'n and Kesef Mishnah note that Rambam relies upon the view of R' Huna in our Gemara who says that only a deathly-ill person would not trick the Mikdash, which implies that we do suspect that a healthy person might do. ■

tools." This indicates, notes Sefer HaChinuch, that it is the student's responsibility to bring the sefarim from which he will study with his teacher rather than the teacher's responsibility. ■

1. רמב"ם פ"א מההל' מלוה ולוה ה"ז
2. הר"ד בספר התרומות שער א' ח"א אות ח'
3. ספר החינוך מצוה ש"נ ■

# STORIES Off the Daf

## Accidental Hekdesh

הקדש טעות הקדש...המקדיש נכסיו מעלן לו תפלין

The Chozeh of Lublin, zt"l, writes that prayer—even when it is thoughtless or lackluster—always has value. "In Arachin 23 we find that according to Beis Shammai—which is the way that things will be in the ultimate future—if something is declared hekadesh mistakenly, it is nevertheless consecrated. This alludes to the person who prays without any kavanah, whose mouth intones certain words but whose thoughts have boarded a very different train of thought. While prayer is compared to a sacrifice, this

can be considered like sanctifying a sacrifice accidentally. In the future world, hekadesh declared erroneously is still holy. Despite its lack of perfection, it will still be precious when it is finally elevated on high."<sup>1</sup>

Nevertheless, prayers that are intoned without proper focus can sometimes take a very long time to ascend. The Baal Shem Tov, zt"l, once entered a shul with his disciples and immediately left. When asked why he refused to pray there, he gave a very strange explanation. "That shul is full of prayers."

When he noticed that those with him were very confused by this reply he explained. "A shul should not be filled with Torah and tefilah, since these should ascend on high. It is only if the prayers were said in a very inferior manner that they re-

main below waiting for someone to elevate them.

On another occasion the Baal Shem Tov said, "Today I elevated prayers that have waited below for eighty years!"

The Tiferes Shlomo, zt"l, uses this story to explain another statement on today's daf. "This is the deeper meaning of the statement of our sages that one who elevates his property is allowed to keep his tefillin. The word for tefillin, תפילין can also refer to prayers. The tefillos of one who sanctifies his property— meaning, one who nullifies himself and stops thinking about business during prayer—are elevated. This person who works to nullify himself as well as he can will be elevated."<sup>2</sup> ■

1. רמתים צופים ע' רצ"א
2. תפארת שלמה, מטות