

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah teaches that one may only declare cherem some of his sheep, or cattle, or ancestral fields, etc. but not everything he owns in a particular category.

2) Cherem

A Beraisa is cited that provides the source for the Mishnah's ruling that one may not declare an entire category of his possessions cherem.

The necessity for all the different expositions is explained.

3) Clarifying the dispute

It is noted that R' Elazar ben Azaryah seems to maintain the same position as R' Eliezer.

The difference between their positions is identified.

A related incident is recorded.

4) **MISHNAH:** The Mishnah begins by enumerating items that cannot become cherem and concludes with a discussion of who cannot effect cherem.

5) Clarifying the dispute

The rationale behind R' Yehudah's opinion is explained.

R' Shimon's position is clarified.

This understanding of R' Shimon's position is unsuccessfully challenged.

6) Cherem property

R' Chiya bar Avin discusses who receives different cherem properties.

One of these rulings is clarified.

The Gemara inquires which mishmar receives the field if yovel occurs on Shabbos.

R' Chiya bar Ami answers that it is given to the mishmar that is leaving.

R' Nachman bar Yitzchok cites a Beraisa that supports this conclusion.

A phrase in the Beraisa is clarified.

One of the rulings in the Beraisa is unsuccessfully challenged.

Chizkiyah bar Biluto challenges one of R' Chiya bar Avin's rulings.

It is noted that the matter is indeed subject to a debate between Tannaim.

7) **MISHNAH:** The Mishnah rules that kohanic charamim are not redeemed but rather are given to kohanim. A dispute regarding what happens when one does not specify the type of cherem is recorded. How these laws apply to bechor is explained. ■

Distinctive INSIGHT

To which kohen is cherem given?

אמר רב חייא בר אבין החרים מטלטלין נותנין לכל כהן שירצה שנאמר כל חרם בישראל לך יהיה, החרים שדותיו נותנין לכהן שבאותו משמר.

R' Chiya b. Avin teaches that if someone dedicates his movable property as "cherem," about which the Torah says that it shall be given to a kohen, it may be given to any kohen whom the giver chooses. R' Chiya learns this from the verse in Bemidbar (18:14). Tosafos notes that later, the Gemara uses this verse to teach that the cherem given to a kohen retains no aspect of holiness, and it is the kohen's personal property. The actual source that cherem property is given to any kohen the giver chooses is simply a logical deduction. There is no reason this should be more restricted than terumah, where the owner may give it to any kohen.

Sefer Ma'aseh Chosheiv points out that even without the Gemara's later use of this posuk, it is obvious that the posuk cited by R' Chiya is not the true source for his halacha. Regarding the cherem which is presented to the kohanim, the posuk concludes "לך יהיה" - it will be yours". This phrase is similar to that regarding bikkurim (Bemidbar 18:3): "The first fruits from all that is in their land which they bring to you, לך יהיה - it shall be for you," and the halacha of bikkurim is that they are presented to the kohen who is serving in the Mikdash when the farmer arrives with his first fruit (Mishnah Bikkurim 3:12). Therefore, the posuk regarding cherem could not be the source for the law of R' Chiya that cherem may be given to the kohen of one's choice.

Sefer Otzar Chaim explains that although the phrases "לך יהיה" are similar in regard to bikkurim and cherem, there is a substantial difference between these halachos and the rights of the kohen to receive them. When bikkurim are brought, the kohen who is officiating performs a service of waving them and placing them near the Altar. Of course it is appropriate for the bikkurim to be given to the kohen on duty. Cherem entails no effort of the kohen, and it has nothing to do with the kohen who may be working in the Beis HaMikdash. It is reasonable that the cherem not have to be given to the kohen on duty in the Beis HaMikdash, and that it may be given to the kohen of the giver's choice.

Sefer Olas Shlomo notes that it seems from Tosafos that when someone declares his fields to be cherem, they are to be given to the kohanim who were officiating at the moment of his declaration of cherem. Items stolen from a convert who then died are also given to the officiating kohanim, but these are given to those who are serving at the moment the items are brought to the Mikdash. The difference is that with the death of the convert, the stolen items become the property of the thief. The Torah demands that these items be given to the kohen, so he gives them to the kohen who is serving at the moment he brings them to pay. Fields given as cherem are immediately destined for the kohen from the moment their owner declares them as cherem. ■

Today's Daf Digest is dedicated by Mr. and Mrs. Marty Weiss

In loving memory of their father

ר' מאיר בן ר' יחזקאל הלוי ע"ה

Today's Daf Digest is dedicated in loving memory of my mother

שרה נחמה בת שניאור זלמן

By her son Zalman Zlotnick

HALACHA Highlight

The limit against giving more than one-fifth of one's money to tzedaka

באושא התקינו המבזבז אל יבזבז יותר מחומש

One who distributes [his money] should not distribute more than one-fifth

Chasam Sofer¹ writes that Biblically a person who has enough money to support himself for the day must give any additional earnings to the poor. The reason one is exempt from giving one's money to the poor is that one must prioritize himself ahead of others (חייד קודמים) but once one's needs are accounted for he is obligated to give the rest of his money to the poor. However, Chazal in the city of Usha enacted that a person should not give away more than a fifth of his money so that he should not become dependant upon others. Maharam Shik² notes that it seems that Yerushalmi maintains that the origin of the one-fifth limit on tzedaka is Halacha L'Moshe MiSinai rather than an enactment of Usha. This assertion is based on a conversation recorded in Yerushalmi involving R' Gamliel regarding the limitation of giving more than one-fifth of one's money and R' Gamliel predated the enactment of Usha.

Yafeh Mareh³ disagrees with Maharam Shik's understanding of Yerushalmi. He asserts that the origin of this halacha is not Halacha L'Moshe MiSinai as understood by Maharam Shik; rather it was an enactment from the time of R' Gamliel that was forgotten and reinstated in Usha. Sefer Yitzchok

REVIEW and Remember

1. What is the source that one cannot designate all of his property as cherem ?

2. What items cannot be declared cherem ?

3. What is the source that cherem property goes to the kohanim of the current mishmar ?

4. What is done with unspecified charamim ?

Yiranan⁴ cites our Gemara as proof that the origin of the one-fifth limit is not Halacha L'Moshe MiSinai. The Gemara wonders about the difference between R' Eliezer and R' Elazar ben Azaryah since they both maintain that one may not make all of his possessions cherem. The Gemara explains that they disagree whether there was an enactment made in Usha limiting how much one may give to tzedaka. Sefer Yitzchok Yiranan points out that if Tannaim disagree whether an enactment was established in Usha how is it possible to maintain that the halacha could be traced back to Halacha L'Moshe MiSinai? It must be that it is a Rabbinic enactment rather than Halacha L'Moshe MiSinai as explained by Maharam Shik. ■

¹ שו"ת חתפ סופר יו"ד סי' רכ"ט.

² שו"ת מהר"ם שיק יו"ד סי' ר"ל.

³ יפה מראה על אגדות ירושלמי פאה פ"א סי' א' ד"ה ר"ג וד"ה ללמדך.

⁴ ספר יצחק ירנן על הרמב"ם מתנות עניים פי"ז ה"ה. ■

STORIES off the Daf

Not More than a Fifth

"המבזבז אל יבזבז יותר מחומש..."

One year there was a drought and the price for food rose exorbitantly. In Frankfurt, some Jews literally could not put bread on their table. Rav Avraham Avish, the Av Beis Din of Frankfurt, ז"ל, literally gave every penny he owned to help the destitute during that year. One student wondered how this could be halachically permitted. "Didn't we learn that it is forbidden to give over twenty percent of one's property to charity?" he asked.

Rav Avraham Avish rejected this claim out of hand. "Although you have learned you still do not grasp how to understand a sugya in depth. It is true that in general one who gives over a fifth of his property to tzedakah violates a rabbinic prohibition, but that is irrelevant in a year where there is no food and people are endangered. To save a life, we even desecrate Shabbos which is much more stringent than any rabbinic decree!"¹

In Yemen nine centuries ago, life was especially hard due to harsh decrees. In the middle of these challenges to the community one man secretly claimed to be Moshiach, soon to bring the long-awaited redemption. Although many Jews were convinced, others were unsure and put the matter to the Rambam, ז"ל.

The Rambam sent students to test this man and discern if he could possibly be Moshiach. When they returned they began to tell the Rambam everything that they had observed. "This man disburses every cent he has on charity."

The moment the Rambam heard this he immediately interjected that this man cannot be Moshiach. "It is clear that a person who violates our sages' command not to give more than a fifth to charity is not our redeemer. Although it is permitted to give more to redeem one's sins, Moshiach should not have any sins to redeem!"² ■

¹ לוית חן, משלי

² מעשה השם—דינוב, ח"ג, ע' תשמ"ג ■