

OVERVIEW of the Daf

1) Women who do not collect a fine (cont.)

Two explanations are offered for the meaning of the terms שניות לעריות and עריות.

A contradiction in the Baraisa is noted because in one ruling the Baraisa indicates that a minor collects a fine and yet in a second ruling the Baraisa indicates that a minor does not collect a fine.

After a number of failed attempts the Gemara concludes that the Baraisa follows different opinions on different matters and there is no contradiction.

Rafram offers an alternative explanation but it is refuted.

The Baraisa's ruling that an איילונית does not collect a fine is challenged from a Baraisa that rules that an איילונית does collect a fine.

The contradiction is resolved by distinguishing between the positions of R' Meir and Chachamim.

The Gemara proceeds to explain that this contradiction was noted in order to be able to cite an additional Baraisa that poses a contradiction between the second and third Baraisas.

R' Sheishes resolves this contradiction by distinguishing between the positions of R' Gamliel and R' Yehoshua.

This explanation is unsuccessfully challenged.

2) The claim of a בוגרת that she is a בתולה

A contradiction is noted between the earlier-cited Baraisa and a ruling of Rav whether one may file a claim that a בוגרת was not a בתולה.

The contradiction is resolved.

3) A blind girl

The Gemara explains why Sumchus in the name of R' Meir does not accept a בתולים claim regarding a blind woman.

4) Clarifying the Baraisa

R' Sheishes clarifies that the case of the Baraisa of היוצאת שם רע refers to a woman who acquired a bad name in her youth.

R' Pappa suggests that this reasoning should also invalidate

(Overview...Continued on page 2)

Distinctive INSIGHT

The ממאנת in the case of a חידוש

הממאנת אין לה לא קנס ולא פיתוי. הא קטנה בעלמא אית לה, מני? רבנן היא, דאמרי קטנה יש לה קנס

A ממאנת is an orphaned girl whose marriage was arranged by her mother or brothers and who now, at the age of majority, refuses the marriage. The Baraisa on 35b stated that this girl, if violated, does not receive the fifty shekel penalty. Rashi explains the reason for her not receiving the קנס is that we must assume that she is not a בתולה, being that she was previously married.

Our Gemara contrasts the case of a ממאנת with a standard case of a minor girl. We can deduce from this statement of the Baraisa that although a ממאנת does not receive קנס, a קטנה does receive this payment. In Tosafos, ר"י notes that according to Rashi, the reason a ממאנת does not receive קנס is not that she is a special category of a קטנה, but rather that she is simply not a בתולה. The inference of the Gemara is therefore not precise. The case of a ממאנת could be referring to when the אונס took place when she was a נערה, and the inference would be that although a ממאנת does not get קנס, a regular נערה does receive this payment.

As far as the inference of the Gemara is concerned, ר"י learns that we are speaking about a case where the husband was the one who did the אונס or פיתוי while she was a minor, before the מיאון. Although once מיאון takes place we now realize that this couple was never married, the girl still does not receive a penalty payment. The contrast of the Gemara is now precise, as we can say that a regular minor does receive the payment.

Ritva explains how to understand Rashi. The statement of the Baraisa that a ממאנת does not receive קנס actually goes without saying, as this girl is not a בתולה. The point must be, rather, that a similar girl, who is a minor, is eligible to receive the קנס.

Rashba also defends the comment of Rashi, and he understands that there is a חידוש within the case of ממאנת itself, even in the case where the אונס or פיתוי took place while she was a minor. He explains that even if there are witnesses that this girl whose marriage was arranged by the mother or brother was never in seclusion with the husband, and we might have therefore concluded that she was a בתולה, we can nevertheless not rely upon the witnesses for financial matters, and the penalty cannot be extracted from the attacker. ■

REVIEW and Remember

1. What is R' Yehudah's position concerning מיאון?
2. Does a deaf-mute woman have to claim she was a besulah to collect two hundred zuz?
3. Which categories of arayaos do not collect a fine?
4. Why did the Gemara initially think that R' Yehudah's and R' Dosa's rulings were similar?

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HALACHAH Highlight

The credibility of rumors

יצא לה שם מזנה בעיר אין חוששין לה

If a woman has a rumor circulate that she was promiscuous it is ignored

Shulchan Aruch¹ ruled that a chazzan is not removed from his position unless he is found to be unfit (נמצא בו פסול). Rema² adds that he is not removed based merely on rumors that he committed severe transgressions but if witnesses step forward to testify against him he should be removed from his position. Mishnah Berurah³ infers from Magen Avrohom that if there was an uninterrupted rumor regarding a transgression an individual would have the right to protest to have him removed from his position. Biur Halacha⁴ cites the commentary of the Gra who points to our Gemara as the source for this halacha. Since our Gemara does not draw a distinction between an interrupted rumor and an uninterrupted rumor it must be that for these matters it is not a valid distinction.

Rav Moshe Sofer⁵, the Chasam Sofer, wrote at length on this topic and arrived at the following conclusions. If there is an uninterrupted rumor but the chazzan remains acceptable to the community they are permitted to allow him to retain his position. If, however, even one person protests he must be removed from his position. There are times that even if there is no one who protests against retaining the chazzan it is necessary to remove him from his position. For example, if there is a rumor that the chazzan behaved in an unseemly fashion in the presence of witnesses but the alleged witnesses are abroad and are not available to testify the chazzan should be removed.

The Gemara Yevamos⁶ indicates that the definition of an uninterrupted rumor is if the residents in town are discussing the rumor for a day and a half and the person named in the rumor does not have enemies who would falsely start a rumor. Maharik⁷ adds that

a suspicious contract.

R' Pappa's application of this principle is unsuccessfully challenged.

5) **MISHNAH:** The Mishnah enumerates different women who do not collect fines in the event they are violated or seduced.

6) **Clarifying R' Yehudah's position**

R' Yochanan suggests that R' Yehudah's ruling in the Mishnah and a ruling of R' Dosa revolve around the same reasoning.

Rabbah rejects the assertion that R' Yehudah and R' Dosa agree with one another's ruling.

Abaye unsuccessfully challenges Rabbah's explanation of R' Yehudah's position.

The assertion that R' Yehudah maintains that a woman taken captive retains her sanctity is challenged from a Baraisa.

A point in the Baraisa is clarified and the challenge is completed.

Two resolutions to the challenge are presented.

The position of Rabanan who disagree with R' Yehudah is clarified. ■

(Overview...Continued from page 1)

in order to qualify as an uninterrupted rumor the alleged incident must be one that the residents in town believe to be true because we assume that the rumor must have some validity. In contrast, if it is known that the rumor was started by one person and people kept repeating the story it is not considered an uninterrupted rumor. ■

1. שו"ע או"ח סי' נ"ג סעי' כ"ה.
2. רמ"א שם.
3. מ"ב שם ס"ק ע"ח.
4. ביה"ל שם ד"ה א"ס.
5. שו"ת חת"ס או"ח סי' י"א.
6. גמ' יבמות כ"ה.
7. מובא דבריו בביה"ל הנ"ל. ■

STORIES Off the Daf

The Chezkas Kashrus

"יצא לה שם מזנה בעיר לא חוששין לה..."

A Jewish man who claimed to be poor circulated in religious neighborhoods collecting tzedakah. After doing this for a period of years, people began to say that he was really well off and had none of the troubles that he claimed. People whispered that it was all contrived and that this man was a fraud who was becoming wealthy on the account of an unsuspecting public.

A baal habayis approached Rav Yitzchak Zilberstein in an attempt to clarify the matter. "Since the number of people who say that this person is a fraud means that the rumor constitutes a קול, a public opinion,

must we still support this man with our donations?"

Rav Zilberstein replied, "In Sefer Chofetz Chaim, in the sixth principle of the laws of Lashon Harah, the Chofetz Chaim writes that although there is a proscription against accepting something negative that one has heard about another as true, one may still act with precaution as if it was indeed true. What this means is that one can take steps to prevent incurring any damage, but it does not mean that the other person is himself in the category of a doubt of being himself suspicious, since everyone has a חזקת כשרות, and is presumed to be upstanding. Therefore, one is still obligated to bestow on the slandered man all of the good that the Torah commands us to bestow on our fellow Jews. You must take care not to allow slanderous aspersions to color your

judgment of this person at all. This is all explained in the Be'er Mayim Chayim there, based on the Gemara in Kesuvos 36b. Chazal taught that one may only suspect a קול, a rumor. This means that one may take precautions against the content of the rumor, but not that it actually can put the status of the person himself in doubt. It is for this reason that we find there that we do not even place credence in a קול about a woman which instigated her divorce. The Maharshal, ז"ל, explains that every person's חזקת כשרות cannot be compromised without genuine evidence.

"So in your case," concluded the Rav, "Unless presented with evidence, you must continue to give as if you never heard the rumor at all." ■

