

## OVERVIEW of the Daf

### 1) Appraising the value of an object (cont.)

R' Yosef cites a Baraisa that serves as the source for his position that objects used for kiddushin must be appraised.

After unsuccessfully analyzing how Rabbah would explain this Baraisa the Gemara returns to a previously-rejected explanation of the dispute.

R' Yosef cites a Baraisa that serves as the source for his position.

The Gemara rejects the assertion that the Baraisa supports R' Yosef's position.

Tangentially, R' Ashi explains when a person has the ability to elevate an object's value due to its subjective value to that person.

### 2) Kiddushin with a payment plan

R' Elazar rules that kiddushin is valid when the man states that he is giving her a maneh for kiddushin and only hands her a dinar.

This ruling is unsuccessfully challenged from a Baraisa.

Another way of reconciling R' Elazar's ruling with the Baraisa is presented.

Two points in the previously-cited Baraisa are clarified.

### 3) Kiddushin with collateral

Rava in the name of R' Nachman rules that if a husband only gives his wife collateral for kiddushin it is invalid.

Rava unsuccessfully challenges this ruling of R' Nachman.

A related incident is cited.

### 4) Rejecting kiddushin

One Baraisa is cited and analyzed that relates to a woman who rejects the kiddushin that is offered to her.

The progression of the Baraisa is explained.

Another Baraisa is cited that presents a woman's response to kiddushin offered to her and rules whether it is a rejection of the kiddushin.

The necessity for the different cases in the Baraisa is explained.

Another related Baraisa is cited.

The Gemara interrupts the citation of the Baraisa to present an inquiry of R' Bibi that is left unresolved.

Another ruling from the Baraisa is cited.

R' Mari presents a related inquiry that is left unresolved.

Another ruling from the Baraisa is cited and explained.

## Distinctive INSIGHT

### Using a security (משכון) for kiddushin

דאמר ר' יצחק מנין לבעל חוב שקונה משכון, שנאמר ולך תהיה צדקה, אם אינו קונה צדקה מנין?

Rava quoted Rav Nachman who taught that if a man offers a particular sum for kiddushin and he gives a security item (משכון) in its place, the kiddushin is not valid. The reasoning is also presented. The money for kiddushin is not here, and the security was never meant to be the item given for the kiddushin, it was only a placeholder. Therefore, nothing was given to the woman.

Rava questioned Rav Nachman from a Baraisa where we find that if the man offers a משכון for kiddushin, it is valid. The Gemara answers that the Baraisa is speaking of a case where the man had a security in his possession which he had received from his debtor. This item belongs to the man, according to the rule of R' Yitzchok, and the man used it to give to this woman for kiddushin.

The rule is that a creditor becomes the owner of a security which he collects for a loan. This, however, is not speaking about a case where he took it as collateral at the onset of the loan, but rather when he collects the item at the time the loan is due, and the borrower cannot pay. This item, in effect, becomes payment (Bava Metzia 82a). Tosafos explains that after the Torah tells us that the lender becomes the outright owner of the item collected for payment of the loan until it is redeemed, we can also say that if he takes an item as collateral when the loan originates, his subjugation of the borrower is at least enough to be able to offer the collateral for kiddushin, or to use it to purchase slaves or land, which are acquired with money (or its equivalency).

Kehillas Yaakov explains that the distinction whether an item is taken at the outset of the loan or collected when the loan is due is only effective up until the time the loan is due. In other words, while the loan is still out, R' Yitzchok did not say that the lender owns the collateral item. However, once the loan is due, that item taken earlier now becomes fully collectable, just as much as an item which would be taken now for payment. Therefore, we see that that an item taken at the time of the loan has upon it a strong element of control for the lender, to the extent that he may use it for kiddushin. ■

## HALACHAH Highlight

### Saying, "Thank you" for a loan

דאמר ר' יצחק מנין לבעל חוב שקונה משכון

As R' Yitzchok taught, How do we know that a lender acquires the collateral?

Tosafos<sup>1</sup> explains that the proof that the lender becomes the owner of the item that was given as collateral for the loan is derived from the earlier part of the verse that states, "ושכב בשמלתו וברכך" – And he will sleep in his garment and bless you. Tosafos explains, if the garment belonged to the borrower and he would offer a blessing to the lender for allowing him to use while sleeping there would be a violation of ריבית דברים – verbal interest since the lender is receiving a blessing in addition to the money he lent. If, however, the garment became the property of the lender when it was given as collateral the blessing the borrower gives when returning the garment would not constitute an additional benefit that the lender receives for the loan; rather it is a blessing the lender receives for allowing someone to use his property.

Rav Shlomo Zalman Auerbach<sup>2</sup> deduced from Tosafos that it is not proper for borrowers to bless their lenders with the words, תזכו למצוות – you should merit additional mitzvos since this violates the prohibition against verbal interest. A permitted expression would be to say, "Thank you," since this phrase does not contain a blessing from the borrower to the lender. ספר דיני רבית המצויים<sup>3</sup>, however, records a letter of Rav Auerbach in which he retracts his original ruling that permits saying, "Thank you," to the lender. He notes that Shul-

## REVIEW and Remember

1. What allowed R' Kahana to inflate the value of the kerchief he took for a pidyon haben?
2. What is "bad" money?
3. How do we know that a creditor becomes the owner of the collateral that he has in his possession?
4. Is kiddushin valid if the woman agreed to vmarry someone who offered to save her life in exchange for kiddushin?

chan Aruch Harav<sup>4</sup> adopts a strict position on matters related to verbal interest and according to that strict position even saying, "Thank you" is prohibited.

Rav Moshe Feinstein<sup>5</sup> also ruled that it is not permitted to say, "Thank you" but it is permitted to inform the lender that he will be blessed for the mitzvah he performed. The reason is that the borrower is not offering a blessing of his own, which would violate the prohibition against verbal interest; rather he is informing him of the fact that people who do mitzvos are blessed and thus he has not given anything additional to the lender. ■

1. תוס' ד"ה צדקה מנין.
2. שו"ת מנחת שלמה סי' כ"ז.
3. ספר דיני רבית המצויים קו"א פ"ב אות י"א.
4. שו"ע הרב ה"ל רבית סעי' טו.
5. שו"ת אג"מ יו"ד ח"א סי' פ'. ■

## STORIES Off the Daf

### Misreading the Halacha

דגברא רבה הוא ומבעי ליה סודרא ארישיה..."

On today's daf we find that even in the ancient times the sages covered their heads.

A certain rabbi once taught that head coverings are not actually a halachah, so it would be permitted during the summer to go around outdoors bare-headed. "After all," he claimed, "The Beis Yosef brings the Kol Bo who states clearly that this is only a midas chassidus, a pious stringency. It is so hot dur-

ing the summer that one feels as though his head will burst. Surely ameliorating the pain caused by the extra heat one's head covering generates is worthy enough to override a mere stringency. In addition, a head covering can cause real damage to one's head during the extreme heat of the summer..."

Someone heard this Rav but was not convinced by his reasoning. He decided to ask the Maharitz, zt"l, a leading posek of his time, if this was a halachically viable opinion. The Maharitz responded furiously, "I am enraged at talmidei chachamim who search the Beis Yosef for a lenient opinion and use it to contravene the halacha. They resemble Yera-

vam ben Nevat who sinned and caused the multitudes to sin. As the verse states, 'The ways of Hashem are straight. The righteous go in them while the wicked stumble in them.' Simple people who wish to fulfill the halacha with their entire heart are misled into false ways by such scholars. They are taught that one may carry without an eiruv and many other falsehoods."

He concluded, "The truth is that that the Kol Bo is not discussing outdoors at all... This rav is misquoting, since every posek concurs that it is forbidden to walk four amos outdoors without a head covering."<sup>1</sup> ■

1. שו"ת מהריט"ץ החדשות, סימן ר'