

## OVERVIEW of the Daf

### 1) יעוד (cont.)

The Gemara finally concludes that יעוד effects only eirusin.

The Gemara explains how the previously-cited Baraisa could be explained according to R' Nachman bar Yitzchok.

### 2) יעוד with a child who is a minor

Reish Lakish inquires whether a man can marry his minor son to his maidservant in יעוד.

R' Zeira unsuccessfully attempts to resolve this question.

A Baraisa is cited that teaches that יעוד can only be done with an adult.

The wording of the Baraisa is clarified.

Abaye the son of R' Avahu cites a Baraisa that identifies the reason intent of the maidservant is necessary for יעוד.

A second explanation of the Baraisa is presented.

The view of R' Yosi bar Yehudah, who maintains that the original money, given to purchase the maidservant is not the kiddushin money is explained.

The opposing view of R' Nachman bar Yitzchok is cited.

### 3) Applications of R' Yosi the son of R' Yehudah's position

Rava in the name of R' Nachman suggests that according to R' Yosi the son of R' Yehudah a man should be able to instruct his daughter to accept her own kiddushin.

The rationale behind the inference is explained.

Rava in the name of R' Nachman asserts that based on the teaching of R' Yosi the son of R' Yehudah a man should be permitted to betroth a woman with a loan that is held by collateral.

The rationale behind the inference is explained.

A Baraisa is cited that presents the opinion of R' Yosi the son of R' Yehudah as well as a conflicting opinion.

The Gemara explains the meaning of the parable cited in the Baraisa.

A second related Baraisa is cited.

The Gemara explains the meaning of the parable cited in the Baraisa.

Another Baraisa presents a dispute whether the girl's father may stipulate that יעוד may not be done with his daughter.

R' Meir's position that such a stipulation may be made is challenged.

Chizkiyah resolves the contradiction.

A Baraisa is cited that explains how Rabanan expound the phrase "לאמה". ■

## Distinctive INSIGHT

*In a case of יעוד, what is the exact moment of קידושין?*

כיצד מצות יעוד? אומר לה בפני שנים הרי את מקודשת לי

The Mishnah teaches that when a master decides to marry the young girl he owned until now as a maidservant, he must declare in front of two witnesses, "הרי את מקודשת לי—You are betrothed to me." The Achronim ask why it is necessary for the master to make this declaration at the point of יעוד, when its proper time should be when the original purchase of the girl was done? The opinion of Rabbanan is that the original money given to the father to purchase the girl is now considered to be the kiddushin money, the moment of decision being back when the girl left her father's house. The moment of יעוד is only when the original kiddushin is being carried out. It is as if a person gave a woman kiddushin to be valid after thirty days, where the moment of kiddushin is at the earlier moment, although it takes effect only later.

Pnei Yehoshua explains that the purpose of the declaration and the requirement that it be done in front of two witnesses are in order to transform the woman from being a maidservant into being a wife. The status of being a wife puts this woman into a new category regarding her marriageable status, and we need two people to officially make this change—אין דבר שבערה פחות משנים. Normally, this would not be necessary if a man gives a woman kiddushin now to take effect only after thirty days, that is where the man indicated that his intent was for marriage. Here, however, when the master initially bought the girl as a maidservant he did not indicate his intentions were to later marry her. This declaration has to be made, and the time of יעוד is when it is done.

Minchas Chinuch (Mitzvah 43, #14) explains that even though the master did not say "הרי את מקודשת" earlier, when the money was given and the official kiddushin occurred, he is to say it now in front of two witnesses at the time of יעוד, and we consider it as if it is becoming activated retroactively (למפרע).

Kehillas Yaakov (#25:3) explains that kiddushin is made up of two parts. The woman's status is being changed (איסור), and there is a financial aspect of the man presenting her with cash or an item of value. A financial transaction can exist independently, but the financial aspect of kiddushin is only valid when the woman's marital status is being changed. When the man bought her from the father, he only acquired her as a maidservant. When he later takes her for יעוד, he completes the kiddushin with her change to becoming married, and the money given earlier is now seen as money for kiddushin. Because the process is being finished now, this is when he makes the declaration. ■

Today's Daf Digest is dedicated  
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 In memory of their grandfather  
 Dr. Peter Harry Okner  
 ר' פנחס הערש בן ר' שמואל, ע"ה

## HALACHAH Highlight

### Does one own his body?

האומר לאשה הרי את מקודשת לי ע"מ שאין לך עלי שאר כסות ועונה  
 If a man says to a woman, "You are betrothed to me on condition that you can not claim food, clothing or marital relations."

There was once a borrower, Reuven, who agreed that if he did not repay the money he borrowed, the lender, Shimon, would have the right to imprison him until he can pay back the loan. The due date for the loan arrived and Reuven did not have the money to pay back the loan and consequently, Shimon sought to imprison Reuven, consistent with the terms of the loan. Reuven claimed that it would be against halacha for Shimon to imprison him since we do not have any precedent in the Torah that a Jew should be forcefully imprisoned. The question was sent to Rivash for a ruling. Rivash<sup>1</sup> answered that Reuven is correct in his assertion that Shimon may not imprison him even though Reuven had originally agreed to the stipulation because such a stipulation is invalid. Proof to this is found on our Gemara. R' Yehudah rules that conditions attached to kiddushin that relieve the man of responsibilities that are monetary are valid but a man may not make a condition that he would not have marital relations with his wife. The reason, explain the commentators, is that a person does not have the authority to make stipulations that will involve physical pain. Accordingly, the stipulation Reu-

## REVIEW and Remember

1. Is it possible for a minor to commit adultery?

2. What money is used to affect יעוד?

3. How is יעוד performed?

4. What halachos are derived from the word לאמה?

ven made to allow himself to be imprisoned if he defaults on the loan was invalid and thus Shimon may not imprison Reuven.

Rivash adds that when someone gives permission to another person to strike him he only exempts that person from paying for the damage he inflicted but it does not exempt the assailant from the transgression of striking another Jew. The same idea is expressed by Shulchan Aruch Harav<sup>2</sup> where he rules that one is not permitted to strike another Jew even if the other person gives permission. The reason is that a person's body is the property of Hashem rather than the property of the person himself and since he is not considered to be the owner of his own body he may not authorize others to hit him. ■

1. שו"ת הריב"ש סי' תפ"ד.

2. שו"ע הרב נזקי גוף ונפש הי"ד. ■

## STORIES Off the Daf

### Child's play

"אין יעוד אלא בגדול אין יעוד אלא מדעת  
 תרתי למה לי..."

We find on today's daf that da'as and maturity are one, since most children have no halachic da'as. There are, however, exceptions that prove the rule, as the following story illustrates:

In the town of פינטשוב a certain wealthy Jew kept a spice shop that was separated from the shop of the neighboring non-Jewish butcher by a very thin wooden partition. After an especially lucrative day, the Jew sat in his shop counting his earnings. Unfortunately, his unscrupulous neighbor looked on through a hole in one of the wooden

slats and carefully noted the increments and exact amounts of the spice merchant's earnings.

The next day, he and a few false "witnesses" went to the police claiming that the money had been stolen and demanded justice. When the police found the money in a cupboard in the spice man's shop he was accused of grand larceny, a crime which held a penalty of many years backbreaking labor.

Rav Nosson Nota Shapiro, zt"l, the Rav of פינטשוב, brainstormed time after time with the community's leading scholars in an attempt to find a way to prove the Jew's innocence. Despite their efforts, they could find no way to prove the Jewish merchant's innocence. As the date of the trial grew near, the case even became the topic of conversation among

the children of the community. Once, while one of the Roshei Kahal was trying to think of a solution, he spied a group of children playacting the trial. The Rav's brilliant son, Rav Yonasan Eibshitz, zt"l, played the role of the non-Jewish judge. After hearing both sides, the "judge" ruled, "Let the coins be cast into boiling water. If they are truly the butcher's, they are coated with animal fat which will float to the surface. If no fat floats to the surface this shows that he lies!"

The Rosh Hakahal immediately ran to the non-Jewish judge and repeated the point. The judge decided to put it to the test; the coins were clean, the Jew was freed, and the butcher and his cohorts were punished.<sup>1</sup> ■

1. שרי המאה, חלק א', עמוד 122-123