

OVERVIEW of the Daf

1) Partial redemption of a house (cont.)

R' Sheishes responds to the challenge to his position that a house in a walled city could be redeemed in halves.

The *קל וחומר* mentioned in the previously-cited Baraisa (20b) is challenged.

The Gemara's final conclusion is that rather than a *קל וחומר* the matter can be derived from a *צד השוה*.

The *צד השוה* is unsuccessfully challenged.

2) The redemption of a house in a walled city by relatives

R' Sheishes is asked whether a house sold in a walled city may be redeemed by the relatives of the seller.

After R' Huna bar Chinana explains the question R' Sheishes responds that relatives may not redeem the house.

This position is unsuccessfully challenged from a Baraisa.

One part of R' Sheishes's interpretation of the Baraisa is successfully challenged.

Abaye presents another unsuccessful challenge to R' Sheishes's opinion, which the Gemara answers by asserting that R' Sheishes follows the teaching of R' Nachman bar Yitzchok.

The context of R' Nachman bar Yitzchok's statement is cited which is related to the question of whether a Jewish slave sold to a Jew can be redeemed by his relatives.

Two unsuccessful attempts are made to resolve this question and R' Nachman bar Yitzchok's comment is cited in response to the second attempt to resolve the question.

3) נרצע

The sources regarding the acquisition of the *נרצע* as well as how he reacquires his freedom are cited.

A Baraisa is cited that presents disputes regarding the piercing of the slave's ear.

The Gemara explains the point of dispute between R' Yosi bar Yehudah and Rebbi concerning the instrument that could be used to pierce the slave's ear.

The source that a large awl may be used to pierce the slave's

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REVIEW and Remember

1. Why would one think that relatives should have the ability to redeem a house sold in a walled city?

2. What is the point of dispute between Rebbi and Rabanan?

3. What part of the slave's ear is pierced?

4. What is the point of dispute between Rav and Shmuel concerning a Kohen marrying a *יפת תואר*?

Distinctive INSIGHT

The size and location of the hole drilled through the ear
 'כשהן רוצעים, אין רוצעים אלא במילתא וכו'

We find a dispute regarding where the hole is bored in the ear. Yudan Berebbe holds that the hole is bored in the lobe of the ear, while Chachamim hold that the hole is bored in the upper part of the ear. Ritva explains that the Gemara had established that the tool used to create the hole can be large to the extent that the hole it creates would be as large as a bean. Therefore, Yudan holds that if the hole would be made in the upper part of the ear, the slave (if he was a kohen) would be blemished due to this wound (see Bechoros 37b). Therefore, the hole should be made in the lobe of the ear. Chachamim hold that the hole may be made in the upper part of the ear, and we are not concerned that the slave will become blemished as a result, as they hold that a slave who is a kohen is not subject to having his ear bored at all.

Rambam (Hilchos Avadim 3:8) rules according to Chachamim, that a slave who is a kohen does not have his ear bored, and he therefore rules that the hole is bored through the upper part of the ear. Magid Mishnah (ibid., 9) writes that Rambam does not indicate the size of the hole which must be bored, and he explains that this is probably because Rambam holds that even a small hole is adequate. Mishne L'Melech notes that if Rambam allows even a small hole, why, then, does Rambam assume that the hole will automatically result in the slave's becoming blemished, thus precluding the entire procedure from being done on a kohen? Let the hole which is drilled be smaller than the size which disqualifies a kohen (the size of a bean – *כרשינה* – as indicated in Bechoros 37b), and even a slave who is a kohen may be subject to this procedure. Why, then, do we not drill the ear of the kohen?

Mishne L'Melech explains, based upon the Yerushalmi (1:2) that although it is technically possible to drill the hole in the ear so small that it not result in the kohen slave's becoming blemished, nevertheless, we do not subject the kohen slave to this process at all, as we are concerned lest the hole be drilled a bit larger than we expected, and we might cause him to become disqualified. Therefore, a kohen slave is completely discharged from this procedure. ■

HALACHAH Highlight

Bris Milah by Laser

מאי מעיט מיעט סם

What is excluded? The pasuk excludes the use of a cream

There was once a child who did not receive a bris milah due to a medical condition related to blood clotting. When he was thirteen years old a doctor used a laser to give a bris milah to the young man. Seeing the success of that procedure his brother and another young man inquired about having the same procedure done to them. Dayan Yitzchok Yaakov Weiss, the Minchas Yitzchok¹, cited the ruling of Rav Avrohom Dovid Horowitz, author of Teshuvos Kinyan Torah on the matter. Rav Horowitz ruled that although it is preferable to use a metal knife to perform the milah, nonetheless, since using a knife would put the young men's lives in danger it is permitted to use a laser. The reason is that Shulchan Aruch² writes that a bris milah could be performed with any material (בכל מלין) that cuts (ובכל דבר הכורת) and the laser also cuts.

Minchas Yitzchok disagreed with this conclusion and cited authorities who maintain that bris milah may not be performed with a cream (סם) since the instruction of the verse - המול - to cut implies that the cutting of the skin must be done by hand or with a knife and pointing a laser does not involve a person cutting the foreskin. Proof to this can be found in our Gemara that expounds a pasuk to teach that the piercing of the ear of the נרצע may not be performed with a cream. The reason, Rashi³ explains, is that piercing a hole in the slave's ear with a cream is not similar to the use of an awl since the cream makes the hole by itself rather than the slave owner. Additionally, Minchas Yitzchok expresses a strong hesitation to use an innovation to give someone a

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ear is cited.

The reason a kohen can not be rendered defective through the piercing of his ear is explained.

4) Giving a kohen who is a slave a non-Jewish maidservant

The Gemara inquires whether the master of a kohen who is a slave is permitted to give him a non-Jewish maidservant.

Rav maintains that it is permitted whereas Shmuel maintains that it is prohibited.

R' Nachman successfully challenges Shmuel's position.

5) The kohen marrying the יפת תואר

The Gemara inquires whether it is permitted for a kohen to marry a יפת תואר.

Rav maintains that it is permitted whereas Shmuel holds that it is forbidden.

The exact point of dispute is identified and the Gemara explains the rationale behind each position.

A second understanding of the dispute is recorded.

Tangentially, a Baraisa is cited that expounds on the verses related to the יפת תואר. ■

bris milah when their medical condition does not permit the procedure to be performed. He cites examples of precautions and deviations that could have even been employed in the time of Chazal to allow a person with blood clotting issues to receive a bris milah and notes that none of these methods were suggested by Chazal. From this we can conclude that Chazal did not want to deviate from the normal way bris milah is done, even if it means that a person will remain uncircumcised. ■

1. שו"ת מנחת יצחק ח"ח סי' פ"ט.

2. שו"ת יו"ד סי' רס"ג.

3. רש"י ד"ה מיעט סם. ■

STORIES Off the Daf

Two options

"מיעט סם..."

A certain Jewish man was serving in the British Army. According to regulations, all soldiers were required to be clean-shaven. Unfortunately, this man naturally had a lot of facial hair and his superior officer noticed his unshaven countenance every Shabbos. When he asked the soldier why he was not clean-shaven as required, the soldier tried to explain that it was forbidden for him to shave on Shabbos. This infuriated his superior. "If I ever catch you unshaven again you will regret it for the rest of your life!"

The soldier was deathly afraid of the officer's threat and figured that he had two choices. He could either remove the hair with a depilatory chemical which may not be a d'oraisa transgression of Shabbos at all, or he could have a non-Jew shave him Shabbos morning. But he was in a quandary which was the lesser halachic evil.

When Rav Tzvi Pesach Frank, zt"l, was consulted regarding this question he replied, "The gemara states on Kiddushin 21 that a master who pierces his slave's ear with a סם, a caustic chemical, has not done נרצע, and Rashi explains it is because the actual piercing has not been performed by human agency. One might think that the same holds true regarding your situation. If using a caustic chemical is not considered

piercing, presumably it is also not considered the melachah of shaving since it is only secondary effect, a גרמא?

Rav Frank continued, "However, this is untrue. When it comes to the forbidden labors of Shabbos, the rule is that as long as the action is done in a normal way, one transgresses the prohibition in its sense of being a meleches machsheves. Using a depilatory chemical is a common enough means of removing hair to make it meleches machsheves. Therefore you—who have no choice—should actually have a non-Jew remove your facial hair. Although you transgress a לא תעשה by allowing him to do so, this is preferable to violating the very serious prohibition of מלאכת שבת." ■

¹ שו"ת הר צבי, חלק יורה דעה, סימן קמ"ד

