

OVERVIEW of the Daf

1) Acquiring a slave with chazakah (cont.)

The Gemara concludes explaining the incident related to acquiring a slave by means of chazakah.

2) Clarifying R' Meir's position

The Gemara infers that according to R' Meir a slave acquires his freedom when others give money to his master but not when he gives his own money. This leads the Gemara to conclude that R' Meir maintains that a slave does not acquire property independent of his master.

The assumption is challenged that R' Meir refers to a case where the slave is emancipated with his consent.

Abaye suggests a resolution to the challenge.

This resolution is unsuccessfully challenged.

Rava offers an alternative resolution.

3) Clarifying Chachamim's position

The implication of Chachamim's position, namely that the slave can use money to secure his freedom but others cannot, is challenged.

This challenge forces the Gemara to assume that Chachamim allow the slave or others to acquire his freedom with money and when a document is used it may only be done by others. This position would follow the opinion of R' Shimon ben Elazar.

Rabbah explains the rationale behind R' Shimon ben Elazar's position.

Rabbah inquired whether according to R' Shimon ben Elazar a non-Jewish slave could appoint an agent to accept an emancipation document from his master.

After presenting the question Rabbah answered that the

(Overview...Continued on page 2)

REVIEW and Remember

1. What happens to the adult slaves of a convert who dies without heirs?

2. What are the three opinions regarding the freedom of a slave?

3. How did R' Huna the son of R' Yehoshua demonstrate that kohanim are the agents of Hashem?

4. Does a slave-owner take possession of money given to his slave on condition that the master has no rights to the gift?

Distinctive INSIGHT

The role of the kohen—our agent, or the agent of Hashem?

הני כהני שלוחי דרחמנא נינהו, דאי סלקא דעתך שלוחי דידן נינהו מ' איכא מידי וכנ'

Rav Huna the son of Rav Yehoshua notes that when the kohanim officiate in the Beis Hamikdash, they do so as agents of Hashem (שלוחי דרחמנא), and not as agents of the Jewish people (שלוחי דידן). The logic behind this argument is that it is impossible for an agent to be appointed to function in a role which the sender himself cannot serve. We know that a non-kohen cannot officiate or serve in the Beis Hamikdash beyond the slaughter of an animal. Yet, the kohen takes the offerings and performs all the stages of its service, well beyond that which the non-kohen himself is allowed to do. It must be, therefore, that the kohen accepts the offerings from the Jewish people, and his service is in a role as Hashem's messenger.

The Gemara in Nedarim (35b) probes to understand the role of the kohen, whether he is our messenger in bringing the offerings, or whether he is the messenger of Hashem in accepting the offerings. A practical case where there is a difference between these approaches is where a Jew declared that a particular Kohen cannot provide him any benefit. When this person comes to the Beis Hamikdash, can this kohen officiate for him? If the kohen is the Jew's messenger, the kohen cannot help him. If, however, the kohen is representing Hashem, he is not providing personal benefit to the Jew as his messenger, and he can officiate.

The Gemara in Nedarim was aware of Rav Huna, who was an early Amora. Yet, it does not cite the words of Rav Huna from our Gemara to resolve its issue. The Rishonim ask why Rav Huna is not cited in Nedarim to prove that the kohanim are messengers of Hashem, and, accordingly, a kohen could officiate even for a Jew who has declared that the kohen not provide him personal benefit. Several answers to this question are posited.

Tosafos (here, ד"ה דאמר, and ר"ן (in Nedarim) suggest that the Gemara wanted to find a source in a Mishnah or Baraisa to clarify the role of the kohen, and it did not want to suffice with a statement of an Amora (Rav Huna).

Tosafos also explains that the Gemara here understood that Rav Huna was correct in that the kohen's role has within it an element of being שלוחי דרחמנא—an agent of Hashem. The question still remains whether the kohen also serves as the messenger of the Jewish people, as well. This is not resolved. The Gemara in Nedarim probes whether the kohen is an agent of the Jew in addition to his role which is certain, that he is an agent of Hashem. ■

Today's Daf Digest is dedicated

In memory of

ר' בערל בן ר' יחיאל

HALACHAH Highlight

Tefillin for someone with paralyzed arms

מי איכא מידי דאנן לא מצין עבדין ואינהו מצי עבדי

Is there such a thing that we cannot do [for ourselves] and they can do them?

Rav Shmuel Halevi Wosner¹, the author of Teshuvos Shevet Halevi, was asked about the obligation of a person whose arms are paralyzed to don tefillin. In his analysis of the matter he writes that the uncertainty is based on the juxtaposition of the words **וקשרתם** and **וכתבתם** which teaches that just as the writing of tefillin must be performed with one's right hand so too one must bind the tefillin onto his arm with his right hand. Accordingly, one can argue that a man whose right hand is paralyzed and therefore cannot bind his tefillin with his right hand should be exempt from the mitzvah. Even though it is obvious that it is acceptable to have another person bind one's tefillin to his arm, perhaps that is based on the principle that something one can do for himself he can have others do for him. If, however, a man is unable to do the binding himself perhaps he should not be able to have another do the act for him and thus he should be exempt from the mitzvah altogether.

Shevet Halevi mentions that he found this question addressed by Teshuvos Maharam Shik² and his conclusion was that it is permitted for a man whose arms are completely paralyzed and cannot assist at all in the binding of the tefillin to his arm to appoint an agent to help him bind tefillin to his arm. Maharam Shik notes that this conclusion seems to violate the principle expressed in our Gemara that one cannot appoint an agent to

(Overview...Continued from page 1)

non-Jewish slave may appoint an agent to accept his emancipation document.

It is suggested that Rabbah's conclusion undermines the proof of R' Huna the son of R' Yehoshua that kohanim are the messengers of Hashem when they perform the service of the Beis Hamikdash.

This challenge is rejected.

4) Clarifying the dispute between R' Meir and Rabanan

An explanation of the point of dispute between R' Meir and Rabanan is suggested.

Rabbah in the name of R' Sheishes rejects this explanation and offers an alternative explanation.

R' Elazar rejects the suggested explanation of Rabbah in the name of R' Sheishes and offers his own explanation.

The Gemara notes that R' Meir and Rabanan seem to contradict positions they established elsewhere in the Gemara. ■

do something that the principal himself cannot perform. He therefore explains that that principle is limited to where the person is not obligated to perform the mitzvah altogether, e.g. a non-Kohen offering a korban, but where the person is obligated in the mitzvah and for some reason he is unable to perform the mitzvah he may appoint an agent to act on his behalf. Although Shevet Halevi challenges this understanding of the principle of Maharam Shik, nevertheless, he concurs with the conclusion that one who is paralyzed in both arms can fulfill the mitzvah of tefillin by having another person bind the tefillin to his arm. ■

1. שו"ת שבט הלוי ח"א סי' ח'

2. שו"ת מהר"ם שי"ק או"ח סי' ט"ו ■

STORIES Off the Daf

"A person is benefitted even in his absence"

זכין לאדם שלא בפניו

A certain non-Jewish woman became interested in Judaism. After a lengthy period of study she converted in the year 1949. In that same year she married. Several years later she and her daughter traveled to Israel with the intent to make aliyah. Unfortunately, all her documents were completely destroyed so she had absolutely no proof that she was Jewish to present to the Israeli Rabbinate.

They apologized, "We are sorry, but if you have no proof you must reconvert

now." The woman agreed, and she and her two-year-old daughter underwent a conversion l'chumrah.

In 1977, the daughter finally found the right match. When they went to the Rabbinate to arrange the marriage, there was a serious problem since the man was a kohen, who may not marry a convert. However, the daughter of a convert may marry a kohen, and since coming to Israel, the family had met several people who had been present at the chuppah in 1949 and could testify with absolute certainty that this woman was Jewish.

Although the beis din accepted their testimony, they were in a quandary since the Rashbah states clearly in several places that a woman who mistakenly underwent chalitzah may not marry a Kohen and pre-

sumably the same holds true regarding a mistaken conversion.

In an effort to avert sundering the two well-matched people forever, they consulted with Rav Yosef Shalom Eliashiv, zt"l. He answered, "In this case, where the girl was a minor when she underwent the conversion, she may definitely marry a kohen according to everyone. A minor is converted because of the principle of **זכין לאדם**. It follows that if the conversion turns out to have been clearly to her detriment this shows that the conversion was a chov and didn't take effect. This is similar to a woman who mistakenly received an invalid chalitzah—it does not prohibit her from marrying a kohen."¹ ■

קובץ תשובות חלק ג' סימן קפ"א ■

