

OVERVIEW of the Daf

1) Clarifying R' Shimon's position (cont.)

Abaye continues to demonstrate that R' Shimon, R' Shimon ben Gamliel and R' Elazar maintain that when the principal gives instructions he does not intend to exclude other ways of fulfilling his agency.

Ulla asserts that the dispute between Tanna Kamma and R' Shimon is limited to monetary cases but when it comes to matters of lineage everyone would agree that if he misled her in any way the kiddushin is invalid.

A Baraisa is cited that supports Ulla's assertion.

R' Ashi infers the same conclusion from the Mishnah.

Mar bar R' Ashi challenges the inference from the Mishnah.

Two responses to Mar bar R' Ashi are recorded.

2) Betrothal with a stipulation

A Baraisa presents a dispute regarding the meaning of a stipulation that the man is a "reader of Scripture."

R' Yehudah's position in the Baraisa is explained.

Chizkiyah and R' Yochanan argue about the meaning of a stipulation that the husband is one who studies.

R' Yochanan's interpretation, as it was initially understood, is unsuccessfully challenged.

An additional qualification to this dispute is added.

The Gemara presents the meaning of numerous other stipulations.

3) Measures

The Gemara lists different items that came into the world and how they were distributed.

The assertion that Eilam took nine parts of arrogance that fell into the world is challenged.

The Gemara answers that nine parts of arrogance fell to Bavel and then moved to Eilam.

The assertion that Eilam took nine measures of arrogance is unsuccessfully challenged.

The Gemara resumes listing how different traits were distributed throughout the world.

4) MISHNAH: The Mishnah presents many cases of kiddushin that was made with a stipulation that was not met.

5) Unstated stipulations

The Gemara presents an incident of a man who sold his possessions to move to Eretz Yisroel but did not verbalize that the sale was conditional.

Rava ruled that the unstated stipulation is not recognized.

Rava begins to search for the source that indicates that unstated stipulations are not recognized. ■

Distinctive INSIGHT

A condition in one's heart

ההוא גברא דזבין לנכסיה אדעתא למיסק לארץ ישראל

The Gemara tells the story of a person who sold his possessions in order to move to Eretz Yisroel, but when his plans did not materialize, he wanted to cancel the sale of those items. The halacha is, however, that the sale was final, and the seller cannot expect his items be returned to him. The reason the sale is not to be reversed is that his idea that the sale be contingent upon his moving to Eretz Yisroel was a thought he had in mind, but he never verbalized it. A condition in one's heart is not legally binding (דברים שבלב אינם דברים).

The Rishonim ask why the the Gemara contends with the condition stated by the seller, but then dismisses it due to its not having been verbalized. We should simply say that the seller is not believed regarding what he now claims to have been the reason he sold his possessions. In other words, there is no condition at all. In fact, if this claim of the seller would have any validity, every seller would challenge his sales after the fact by presenting all kinds of excuses.

Rashba and Tosafos HaRosh explain that our case is dealing where the seller had mentioned to those present that he was selling his items due to his upcoming move, but at the moment of the sale he did not state it as a condition. Tosafos Ri"d explains that the seller's neighbors knew that the sale was due to the seller's planned relocation. Ran and Rashi also explain that the seller either mentioned something about moving, or we observe that his intentions were in order to move to Eretz Yisroel, as he was involved in other preparations for his move. In any case, it was clear that the seller's intent was to sell his items due to his move, but because he did not state this as a clear condition of the sale, this condition remained silent, and thus non-binding.

Rashba (ד"ה בעידנא) writes that even if the seller spoke about his move to Eretz Yisroel before he sold his possessions, we do not regard this as a formal condition, as it could be that the seller changed his mind at the moment of the sale and wished to sell even if he did not move. שיעורי רבי שמואל explains that Rashba does not mean that there is a true doubt whether the seller changed his mind, but that otherwise the condition would have to be considered. Rather, Rashba is addressing how we can dismiss the comments of the seller prior to the sale. ■

HALACHAH Highlight

Is verbal confession necessary for repentance?

שמא הרהר תשובה בדעתו

Perhaps he had thoughts of teshuvah in his mind

Minchas Chinuch¹ questions whether teshuvah can be done without verbally confessing (וידוי) one's sins. He cites our Gemara as proof that teshuvah without a verbal confession is effective. The Gemara relates that if a person, who until this time was wicked, betroths a woman on condition that he is righteous we are concerned with the possibility that he had thoughts of teshuvah. Since the Gemara does not relate that he verbally confessed his sins it would seem that his teshuvah is accepted and he can now be described as righteous by merely having thoughts of teshuvah. Ultimately, the Minchas Chinuch does not accept this as definitive proof since it is possible that atonement (כפרה) requires a verbal confession but one's status as one who is righteous or wicked is not dependent upon whether he has achieved atonement or not. Sefer Or Zarua² seems to subscribe to the first approach of Minchas Chinuch. He writes that once a person has thoughts of repentance he is called a tzadik but he is still deserving of punishment as atonement for his previous transgressions.

Sefer Kli Chemda³ suggests a novel approach. He asserts that the four components of teshuva enumerated by earlier authorities are necessary only for those people who are doing teshuva from fear. Someone who is repenting out of love, about whom Chazal teach that their transgressions can be

REVIEW and Remember

1. Why would a woman reject marrying a man with a more distinguished lineage than he originally reported?
2. What is the definition of one who "studies—שונה—?"
3. Where is most of the wisdom found in this world?
4. Explain דברים שבלב אינם דברים.

transformed into mitzvos, is only required to have thoughts of teshuvah. Thus in our Gemara when the wicked person stipulated that he was righteous we are concerned that he did teshuvah out of love and thus the different components of teshuvah are unnecessary.

Teshuvos Dovev Meisharim⁴ offers an original way of understanding our Gemara. Chazal teach that Hashem forgives three categories of people and one of those categories is a chasan on the day he marries. Accordingly, if the wicked person has thoughts of repentance before the kiddushin and the woman accepted the kiddushin from the man he is immediately forgiven for his sins. Consequently, the kiddushin is valid since it is considered as if the kiddushin and his atonement occur simultaneously. ■

1. מנחת חינוך מצוה שסייד אות א'.
2. אור זרוע או"ח סי' קי"ב.
3. כלי חמדה פרשת נשא סק"א.
4. שו"ת דובב מישרים ח"א סי' כ"ב. ■

STORIES Off the Daf

Conditions of Kiddushin

"המקדש אשה על מנת שאני צדיק גמור..."

On the day that Rav Tzaddok HaKohen of Lublin, zt"l, was to be married for the second time, he immersed himself in teshuvah. He davened and learned with great intensity right up until the chuppah.

At the chuppah, he turned to his prospective father-in-law and recounted the words of the Kotzker Rebbe on the day that he had wed his second wife:

"Chazal say in Kiddushin 48 that one who proposes marriage on condi-

tion that he is a tzaddik may be married, since even if he was definitely wicked until that point it is possible that he thought of repenting and he was considered a tzaddik at the moment he proposed. One who attempts to betroth a woman who believes he is a Rebbe, however, is probably not covered by this principle. So what should I do? The kallah surely believes I am a Rebbe and is marrying me because of this, yet, in truth, I know that I am no Rebbe at all!"

The Chidushei HaRim, zt"l, immediately replied to the Kotzker, "I don't think this is a problem at all. If we think about it we will realize that the kallah believes you are a Rebbe because that's what the world says about you. There-

fore, since the world will not change its mind, she will never feel that she was misled. You are a Rebbe because that's what people believe you to be."¹

Rav Tzaddok added, "That answer was good for the Kotzker Rebbe who was himself a Rebbe and everyone believed him to be a Rebbe. As for myself, I think you should tell my kallah the truth: I am no Rebbe and the world also knows this. She should have no illusions which—when she is disillusioned—can cast doubts on the marriage."

Rav Tzaddok's shver couldn't say one word: he was stunned at Rav Tzaddok's holiness and purity.² ■

1. שיח שרפי קודש, חלק ג', עמוד ל"ט, אות רמ"ה
2. מנהגי נישואין—לעלוב, עמוד צ"ז