

This month's Daf Digest is dedicated in memory of  
Mr. Israel Gotlib of Antwerp and Petach Tikva, Yisrael Tzvi ben Zev.  
By Mr. and Mrs. Manny Weiss

## OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses cases of a woman who is betrothed, divorced and betrothed many times in the same day to illustrate that a father does not lose his rights to revoke his daughter's vows until she leaves his domain entirely.

### 2) The right of the last ארוס to revoke earlier vows

Shmuel cites a pasuk as the source for the Mishnah's ruling that the last arus has the right to revoke vows that were made in the presence of previous arusim.

This exposition is unsuccessfully challenged.

A Baraisa is cited that supports Shmuel's exposition.

The conclusion of this Baraisa presents a dispute between Beis Shammai and Beis Hillel whether a father can revoke his part of a vow without the help of a second ארוס in a case where one ארוס revoked his part of the vow and died before the father could revoke his portion.

The Gemara presents an explanation of the point of dispute of this case.

### 3) Divorce

The Gemara inquires whether divorce is equivalent to silence or whether it is equivalent to confirmation.

The practical difference between these two cases is presented. ■

## REVIEW and Remember

1. When does a father lose the right to revoke his daughter's vows?  
.....
2. What is the case disputed by Beis Shammai and Beis Hillel?  
.....
3. How does the Gemara explain the point of dispute between Beis Shammai and Beis Hillel?  
.....
4. What is the practical difference whether divorce is equivalent to silence or confirmation?  
.....

## Distinctive INSIGHT

### The rationale behind the ruling of Rabbi Akiva

עד שבא רבי עקיבא ולימד נדר שהותר מקצתו הותר כולו

In his commentary on the daf, ר"ן cites the Yerushalmi which brings a verse as the source for the opinion of Rabbi Akiva who says that a neder becomes completely nullified if any part of it becomes nullified. In reference to making vows, the Torah states (Bemidbar 30:3): "All that he says with his mouth he shall do." This implies that only when a person can fulfill his entire commitment is the vow in effect. However, as soon as part of the vow is cancelled, only part remains, and as such, that part is no longer binding. רא"ש writes that the opinion of Rabbi Akiva is based upon logic. We understand that the person pronounced a neder expecting that his words would be effective in their entirety, and not only partially. Either he would be responsible for his complete commitment, or none of it.

Yoreh De'ah. #190 explains that רא"ש agrees with the scriptural source of the Yerushalmi, but he explains the rationale behind it. If the person expected that his vow would be effective even partially, he would have pronounced the vow in a manner whereby his intentions would be understood as such. The fact that the person stated his vow in its complete form means that the person meant the entire vow as a "package deal," and that it be valid either in its entirety or not at all.

Ritva explains that when a neder is released by a חכם using an opening (פתח) or with regret (חרטה), the part of the neder that is released is as if it was never stated in the first place. Even if this is true for only part of the neder, this process effectively results in the entire neder never having been made.

רא"ש cites Rambam who says that the rule of Rabbi Akiva is true in regard to mistaken vows (נדר טעות), for example, where a person saw a group of people eating his fruits, and he declared that the fruits should be prohibited from them. The person only later found out that his own father was among the group, and he certainly would not have made such a statement had he known that his father was there. Similarly, this is the case regarding a neder which is released with a פתח, where the vower would not have made his commitment had he realized the consequences of his words. However, when part of a neder is released with חרטה, only the part which is regretted is dismissed, but the rest of the neder remains intact. Tosafos (brought in ר"ן to 27a) clearly holds that even a vow released partially by חרטה is completely null. ■

# HALACHAH Highlight

## Divorcing and remarrying on the same day

ונתארסה בו ביום

And she was betrothed on that day

There was once a couple that divorced and after two or three months a rov was able to help them reconcile their differences and they agreed to remarry. The rov called in a scribe and instructed him to write a kesubah for this couple so that they could marry without delay. The scribe went to seek permission from Rav Dovid ben Zimra<sup>1</sup>, the Radvaz, which was the custom and he ruled that the couple may not marry without waiting seven days before the wedding. The reason is based on a halacha in Shulchan Aruch<sup>2</sup> that when a man marries a woman they must wait at least seven days after he proposes because of his concern of דם חימוד. Radvaz writes that the other people involved in this incident found his ruling strange since the couple had been previously married and seemingly there should not be a concern for דם חימוד. Radvaz argued back that logic would indicate the opposite. If a couple who are marrying for this first time who hardly know one another

must be concerned about דם חימוד certainly a couple who was previously married must be concerned about דם חימוד.

Radvaz cites the opinion of a Gaon who ruled that it is permitted for a couple to remarry on the day that they divorce and this opinion seemingly refutes Radvaz's opinion that would require a couple that is remarrying to wait seven days. Explains Radvaz that the ruling of the Gaon applies only when they remarry close to the time that they divorced so there isn't a chance for דם חימוד but once time transpired after the divorce it is necessary for the couple to wait seven days before the wedding. As evidence to this assertion he cites our Gemara<sup>3</sup>. When the Gemara discusses the practical difference of whether divorce is similar to silence or a confirmation of the vow the Gemara gives a case of a woman who marries numerous times over the course of a day. The reason the Gemara framed the case in this way is to avoid the issue of דם חימוד because once time passed, even to the next day, the concern of דם חימוד arises and she would not be permitted to marry without waiting seven days. ■

1. שו"ת הרדב"ז ח"ד סי' רס"ג
2. שו"ע יו"ד סי' קצ"ב סע' א'
3. שו"ת הרדב"ז ח"ה סי' קל"ז ■

# STORIES Off the Daf

## The returning husband

ואהדרה ביומיה

There was once a man who was happily married. Unfortunately, certain circumstances forced the husband to go on a long and dangerous journey. In order to prevent his wife from becoming an agunah in the case of his disappearance, he divorced her before he left the city.

Two weeks later, he returned to town and explained that the problem was cleared up without his having to travel according to his original plan and he could now return home for good.

"This calls for massive celebra-

tion," he said. "Especially since I can now remarry my wife!" She was perfectly willing, and they were all ready to make a quick wedding when their mesader kiddushin objected.

"Chazal prohibited marrying a divorced woman until ninety days have passed so as to clearly ascertain the paternity of a child in the event that she is expecting. This prohibition is in Even Haezer 13:4 and applies even to women who can't have children for whatever reason. Why should your case be any different? You need a proof to be able to marry before the required 90 days!"

They decided to ask a posek regarding this. The Rav said, "You definitely don't need to wait. First of all, in Nedarim 71 it discusses a case of a husband who divorced his wife and

remarried her the same day. The Ritva says that this shows that one who wants to remarry his divorcée may do so and need not wait the three month separation. Even though the Ran learns that the Gemara is discussing kiddushin and not נישואין, and one could say that he rules that for נישואין one must indeed wait the full period, it is clear that we hold like the Ritva that one need not wait. But we have a further proof. With regards to a different prohibition in Yoreh Deah 192:5, the Shulchan Aruch states that every woman must wait at least seven days before marrying, including a divorcee. If every divorcee needs to wait a full ninety days for the reason that we mentioned earlier, why doesn't it mention this fact in the Shulchan Aruch, Yoreh Deah (192:5)? ■

