

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) Clarifying the opinions in the Mishnah (cont.)

The Gemara explains how the Baraisa supports R' Ami's explanation of the Mishnah.

A part of R' Akiva's statement in the Baraisa is clarified.

R' Ashi demonstrates that this explanation is consistent with the way R' Akiva's opinion is presented in the Mishnah.

2) MISHNAH: The Mishnah discusses the possibility of a husband pre-annulling his wife's vows.

3) Clarifying R' Eliezer's position

The Gemara inquires whether, according to R' Eliezer, the vows take effect and immediately become annulled or perhaps they do not even take effect.

The practical difference between these two approaches is explained.

An unsuccessful attempt is made to resolve this inquiry from our Mishnah.

An unsuccessful attempt is made to resolve this inquiry from a Baraisa.

Another Baraisa is cited to resolve this inquiry. ■

REVIEW and Remember

1. How do we prove that מאמר is not as strong as נישואין?
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2. Explain the dispute between R' Eliezer and Chachamim.
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3. What is the difference, according to R' Eliezer, whether the vows take effect and are immediately revoked or whether they do not take effect altogether?
.....
4. In what way does a mikvah not protect a person from tumah?
.....

Distinctive INSIGHT

Why can a neder not be sustained before it is made?

האומר לאשתו כל נדריים שתדורי מכאן עד שאבא ממקום פלוני הרי הן קיימין לא אמר כלום

The Mishnah presents the case of a husband who expresses an interest in sustaining or nullifying oaths which his wife has yet to make. The ruling is that if a husband sustains an oath of his wife in advance of her pronouncing it, this his act has no validity. The halacha of nullifying an oath which the wife is yet to pronounce is the subject of a dispute between Rabbi Eliezer, who says that such a nullification is valid, and Chachamim, who say that it is not valid.

The reason a קיום of a non-existent neder is worthless is that an expression of an affirmation of this sort has no meaning. ר"ן explains that even according to Rabbi Eliezer who allows a nullification of a neder which does not yet exist, this is only possible when the husband is denying the yet unstated neder. This is based upon a קל וחומר, as Rabbi Eliezer himself says in the Mishnah. If the Torah allows the husband to disqualify a neder which has already been spoken, we understand that the Torah certainly allows him to deny a neder which has not yet been made. This argument is only valid regarding the denying of a vow. In regards to sustaining a vow, the logic is reverse. Knowing that the Torah allows the husband to sustain a vow that has been spoken, we would say that perhaps it is only in such a case that the husband's affirmation can be effective. A spoken vow is strong and apparent, and here the Torah empowers the husband to reinforce it. However, there is no indication from this that the Torah would also allow the husband to pre-approve vows that are yet to be made. Accordingly, ר"ן explains that Rabbi Eliezer may agree with the opening words of the Mishnah that a husband may not be מקיים a neder which is not yet spoken.

Rosh, however, points out that the rationale of Rabbanan later in the Mishnah is that in the verse (Bamidbar 30:14) the Torah compares vows that may be sustained and those which may be nullified. Accordingly, they hold that only vows which can potentially be sustained may be nullified. We see that the fact that vows which do not yet exist cannot be sustained is not necessarily based upon logic, but it seems to be a known concept. Rosh explains that the source for this rule is that an affirmation of a vow which is not yet spoken is הקמה בטעות. The husband might voice his approval now, but he will later realize details and aspects of the neder later which do not appeal to him. He might regret his having sustained the vow without having heard it. ■

HALACHAH Highlight

Pre-confirming a vow

האומר לאשתו כל הנדרים שתדורי מכאן עד שאבא ממקום פלוני הרי הן קיימין לא אמר כלום

One who says to his wife, "All the vows you take between now and when I return from such and such a place are confirmed." - He has said nothing

The Mishnah rules that a husband who says to his wife, "All the vows you take between now and when I return from such and such a place are confirmed," has not confirmed her vows because it is not possible to confirm vows that have not yet been made. This in contrast to pre-annulling vows where there is a dispute between Tannaim whether it is possible to pre-annul a vow. Different explanations are given why pre-confirming a vow is ineffective. Ran¹ explains that vows that have taken effect can be confirmed but we do not find that one can confirm vows that have not taken effect. Along the same lines Rashi² writes that it is not possible to confirm a vow that has not yet come into existence (נדר שלא בא לעולם). Rosh³ suggests that a pre-confirmed vow is similar to a confirmation that was made in error. In other words, we assume he did not truly intend to pre-confirm her vows out of fear that she will take a vow

that will cause him to suffer or cause him embarrassment

An interesting practical difference⁴ between these two explanations is when the husband declares, "If you vow about the following matter it is pre-confirmed." According to Rosh since he limited his pre-confirmation to a particular vow there is no reason to fear that the confirmation is in error since he knows what the outcome of this pre-confirmation would be. Ran, on the other hand, would maintain that even when the husband specifies which vow he is pre-confirming it is invalid since it is never possible to pre-confirm a vow. Tiferes Yisroel⁵ limits the extent of this principle. It would seem that this ruling would only be true according to the earlier opinion of R' Eliezer who maintains that one may pre-annul a vow, but it will not work according to the position of Rabanan who disagree and maintain that one cannot pre-annul a vow. The reason is based on the principle that vows that cannot be annulled cannot be confirmed. Consequently, only R' Eliezer, who allows vows to be pre-annulled, will allow vows to be pre-confirmed but Rabanan, who do not permit vows to be pre-annulled, cannot allow vows to be pre-confirmed. ■

1. ר"ן ד"ה הרי הן
2. רש"י ד"ה הרי הן
3. רא"ש בפירושו למשנה הנ"ל
4. ע' רש"ש וגליון מהרש"א ליו"ד סי' רל"ד סע' כ"ח
5. תפארת ישראל נדרים פ"י מ"ז ■

STORIES Off the Daf

The purifying waters

ומה מקוה שמעלה את הטמאין

Today's daf mentions that a mikveh has the power to uplift a person from a state of defilement to a state of purity.

When the Sha'arei Deah, ז"ל, was passing through Frankfurt, he naturally met with the famous Rav Shimshon Rapael Hirsch, ז"ל. During his visit, Rav Hirsch asked him a deep question which he recorded for posterity.

"When exactly does the mikveh confer taharah? Is it from when the one immersing is in the water, or when he leaves the water?"

When discussing this question, Rav Marzbach, ז"ל, Rav of Darmstadt, re-

counted, "This surprised me very much. Anyone acquainted with Rav Hirsch's approach towards Torah study knows that theoretical halachic investigations such as when tevilah actually takes effect were not his way. He immediately had a hunch that the purpose of Rav Hirsch's inquiry was not to find out the answer for the sake of theory alone, but as part of his research for his monumental work on the meaning behind the mitzvos."

Sure enough, after some checking, Rav Marzbach found that at the time that Rav Hirsch asked the question, he was working on the meaning behind the purifying powers of the mikveh for his epic Horev. The Rav explained, "What Rav Hirsch wrote includes two ways to understand this phenomenon. We can understand that entering the

mikveh represents removing oneself from all ties to impurity. The person enters the world of renewal and removes the impurity by rejoining his source. He is submerged in water that was not drawn by man and is thus reborn.

"There is another way to understand this, however. It is possible to say that his leaving the state of selfnullification experienced in the water to a new life is what purifies.

The Rav concluded, "It is more than likely that Rav Hirsch's language includes both of these considerations, because either can be true. This was his way in his writings. To work out the halachah and explain the significance of the subject in accordance with what man's understanding can grasp." ■

