



לע"נ ברוך בענדיט וברכה גרוס ע"ה  
by Mr. & Mrs. Duvy Gross

לע"נ אסתר אביגיל בת חיה רבקה וציפורה רחל בת אסתר מחלה THE DIMONT FAMILY EDITION

# THE DAF • A • WEEK **שבוע** MATTERS

שבת קודש פרשת משפטים | מסכת יבמות דף פ"ט

לרפ"ש חיים שאול בן פעסל

## INSIGHTS FROM OUR CHABUROS

**The Teruma is Valid Even if it was Designated Improperly**

ולא תשאו עליו חטא בהרימכם את חלבו ממנו, ואם אין קודש נשיאות חטא למה

**T**he Gemara presents a lengthy discussion to prove whether the sages have the power to enact a law which effectively suspends a Torah law. The example provided here is based upon the rule that teruma taken from a commodity should be similar in quality to the produce itself. This means that one should not take bitter fruit as teruma from a basket of sweet fruits, nor should he use טמא produce to exempt fruits that are טהורים.

What would happen if someone did separate teruma in a manner contrary to the Torah's guidelines as mentioned above? R' Ilayi learns from the verse ולא תשאו עליו חטא that the teruma is nevertheless valid, but the person has sinned.

Tosafos in Kiddushin (46b, קדוש "ד"ה אם אינו קדוש, 46b) refers to the classic dispute from Temura 4b regarding the status of an act which is in violation of a Torah law. Abaye holds that such an act has legal validity (אי עביד מהני). When a person affects a change which is contrary to Torah law, he is liable for lashes. Rava holds that once the Torah commands us not to do a particular act, if someone tries to do this act, it has no legal validity. Although his attempt results in futility, lashes are given due to his very effort in and of itself to commit a forbidden act.

Tosafos notes that R' Ilayi learns that the verse describes the designating of teruma improperly as a "sin." Immediately, R' Ilayi notes that "sin" indicates that the teruma is valid. According to Abaye, we can understand that a person who designates teruma improperly has succeeded in performing an act against the Torah's dictate. We have what our Gemara calls נשיאות חטא. But according to Rava, the teruma designation is invalid, and lashes are administered merely for his misguided attempt to separate inferior specimens for a better quality sampling of fruit. Why, then, according to Rava, does R' Ilayi conclude that the "sin" must indicate that the teruma is valid? The sin could be due to the effort itself being against the Torah's dictate even without its being effective.

Tosafos answers that even Rava understands that extra words in the verse which describe teruma come to teach that the sin and the lashes are due not only because of the attempt to sin, which is the standard situation, but also due to the effectiveness of the misdeed. The teruma is valid as such.

## STORIES OFF THE DAF **The Baal Teshuva's Dream**

משום דהוי לה מת מצוה

**T**here was once a man who went through all the horrors of the haulocaust and survived. After the war he moved to Israel and completely abandoned his Yiddishkeit, and even went so far as to eat on Yom Kippur. After that first Yom Kippur, he had a very frightening dream. He saw his deceased father and a teenage boy standing together.

His father said, "Son, you are חייב כרת. If you don't do teshuva, you will not live out the year!"

When the young man woke up, he decided to pay no attention. "It's just nerves," he reassured himself. But since he kept on having the dream night after night, he decided to stay at a friend's house to calm his alleged nerves. Sure enough, at his friend's house, the dreams ceased. His stay lasted a week, but as soon as he returned home, he had the same frightening dream again. This time, however, his father's manner seemed even more menacing. "This is the last time I warn you! You have a simple choice. Either do teshuvah, or die!" This note of finality scared the young man so much, he decided to travel to consult with the Chazon Ish, zt"l. The next day he took off from work and traveled to Bnei Brak and the young man told the Gadol all that had transpired. The young man broke down, "Please! I want to do teshuvah!" After advising the new baal teshuvah, the Gadol asked, "What zechus do you have that you merited such intervention?"

"Well, maybe it's because I give a lot of tzedakah to poor people." The Gadol shook his head. "Try and remember something that you did with tremendous self-sacrifice." Suddenly the man remembered, "Oh! I know! During the war, my sister lost her son. They lived in a nearby village with no Jewish cemetery. My father asked me to bring the body to our town, to kever Yisroel. Although this was very dangerous, I agreed. The whole way I was trembling like a leaf, but I thought, 'I am doing a double mitzvah. I am going to bury a mes mitzvah and at the same time I am honoring my father.'"

The Gadol exclaimed, "That is the boy who accompanied your father in your dreams!"

## PARSHA CONNECTION

**In this week's daf** the Gemara discusses whether a man can inherit the estate of his wife who died while she was still a קטנה. Rashi explains that we consider the possibility that she would have been נמאן if she lived to become a נערה. This discussion only applies to a girl whose mother or brother married her off, because if her father married her, she cannot do נישואין. The מדרש לקח טוב on this week's Parsha actually connects a father's right to sell his daughter into slavery with his ability to marry her off. In addition to the literal meaning of the possuk וכי ימכור איש we find a fascinating שמות רבה which tells us that this פסוק refers to the תורה that הקב"ה gave us, and is "captured" in the ארון! Like it says in Tehilim (ט, יט) מלאכים which refers to the Torah that the מלאכים tried to hold onto it and leave it in שמים when Moshe Rabbeinu came to get the לוחות.

## HALACHA HIGHLIGHT

### Burying Someone Whose Judaism Cannot be Established

אי זהו מת מצוה כל שאין לו קורבין וכו'

*What is an unattended corpse? Any corpse that does not have other people to bury it...*

**T**he definition of a מת מצוה according to Shulchan Aruch<sup>1</sup> is a Jewish corpse found on a road or in a city of non-Jews that does not have someone to bury it. Furthermore, from the place it was discovered there is no one to call to for assistance in burying the deceased. When such conditions are present it is prohibited to abandon the body even to find others to help bury the deceased and one is obligated to bury the deceased, even if the one who discovered the body is a kohen. Rema<sup>2</sup> adds that if a corpse is discovered and one does not know whether it is a Jewish corpse or a non-Jewish corpse one should follow the majority of people in the area. If most people are Jewish one should assume the corpse is Jewish but if the majority of the people in the area are non-Jewish one should assume the corpse is not Jewish.

Pischei Teshuvah<sup>3</sup> cites a teshuvah of Rav Moshe Sofer<sup>4</sup>, the Chasam Sofer, who was asked to voice his opinion regarding the following incident. A wounded soldier was brought into a hospital and passed away. The Chevra Kadisha was called and it was noticed that the man was circumcised and upon inquiry they learned that no one knew whether the soldier was Jewish. However, he was wearing an idolatrous necklace when he was first brought to the hospital. Upon inquiry they were instructed to bury him and they buried him in the Jewish cemetery.

Chasam Sofer responded that it was correct to bury this soldier, and it would be correct to bury the deceased even had the soldier been found where there were mostly non-Jewish soldiers. However, the decision to bury this person in the Jewish cemetery was a mistake. The reason is that Halacha L'Moshe M'Sinai teaches that it is prohibited to bury someone wicked next to one who is righteous. Since the matter is Biblical, one must be strict in cases of doubt, and being that there was a doubt regarding the Jewish heritage of this soldier he should not have been buried in the Jewish cemetery. Chasam Sofer added that although it was improper in the first place to bury this soldier in the Jewish cemetery, once the burial was done the body should not be exhumed and moved to another location.

1. שו"ע י"ד סי' שע"ד

2. רמ"א שם

3. פת"ש שם סק"א

4. שו"ת חת"ס י"ד סי' שמ"א

## MUSSAR FROM THE DAF

Use it for Good

מאי טעמא תקינו לה רבנן כתובה כדי שלא תהא קלה בעיניו להוציאה

**T**he Gemara asks why the Rabbanan instituted the Kesuba. The Gemara answers that the Kesuba was instituted so that it should not be so easy for a man to divorce his wife.

How are we to understand this concept? If a man feels that he shouldn't be married to a certain woman, would he really change his mind because he knows he would have to pay the Kesubah?

The Torah tells us "you shall love Hashem, your God with all your heart, with all your soul, and with all your means." Chazal (Meseches Brachos 54a) explain that the phrase "with all your heart" means "with both your inclinations." We must serve Hashem with both the Yetzer Tov and the Yetzer Hara.

How does one serve Hashem with his Yetzer Hara?

Most people naturally have a love for money. Chazal understood this and were concerned there might be times that the man may be in a bad state and want to act rashly and divorce his wife. Therefore, they wanted to use his yetzer hara for money as a way to keep him "in check". So when he thinks about spending the extra money, he may rethink his decision and then try to give the marriage more effort.

Along those lines, the Ballei Mussar often use a financial סונק (fine) as a way to help a person commit to a certain Avodah that is naturally difficult for him. In that way he is channeling his love for money in a way that supports his committing to an Avodah that is difficult for him.

## POINT TO PONDER

The Gemara discusses whether a husband can inherit his wife's estate if she died before becoming a נערה. Since a קטן or a קטנה have no ability to acquire anything, how does she have assets that would be available to inherit? (אין קנין לקטן).

### Response to last week's Point to Ponder:

When the Gemara says that a person is believe with respect to תרומה and the like because the necessary action is בידו. Are we assuming that he already took this action, or do we believe him because he can do it?

This question is discussed by various מפרשים and is contingent upon our understanding of בידו. If בידו is the equivalent of a מיגו it would not work retroactively, since he cannot undo the past. If, however, the concept of בידו is considered like "his" because of ריטב"א & רשב"א See the נאמנות on the sugya as well as the א' א' שב שמעתתא ו' א' א'.

ר' יוסף שמואל שמעלקא ב"ר יצחק מערמעלשטיין ז"ל, Shelly Mermelstien, לע"נ

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