

שבת קודש סוכות תשפ"ד | מסכת כתובות דף נ"ו

INSIGHTS FROM OUR CHABUROS

The discounted kesubah

טעמא דכתבה ליה. אבל על פה לא.

The Mishnah taught that the standard price listed in the kesubah of a בתולה is two hundred zuz. However, Rabbi Yehuda rules that if the couple agrees, the husband can record that he is promising the full amount, and the woman can write a receipt that she has already received one hundred of the sum. The Gemara points out that this might seem inconsistent with the general policy of Rabbi Yehuda, who holds (Bava Basra 170b) that if a borrower pays back part of a loan, it is not sufficient for the lender to write a receipt for partial payment, as Rabbi Yose holds, but the original document itself must be exchanged for a new one representing the new, smaller balance. We see that Rabbi Yehuda does not agree that writing a receipt is a valid option. Rabbi Yirmiya answers that our case is dealing where the woman writes her acceptance of partial payment within the document itself.

Abaye answers that the cases are fundamentally different. One case is where part of a loan was repaid. We are concerned that if a receipt is issued, and it is later lost, the lender will come to collect the entire loan, including the amount actually paid back. This would be a travesty. However, in the case in our Mishnah, the woman never received any payment toward her kesubah. Even Rabbi Yehuda would hold that a receipt should be written. In case the receipt is later lost, and the woman ends up collecting the full amount, this would not be so terrible, as the truth is that the woman never received any money in the first place. The Gemara notes that the woman's willingness to dismiss part of the kesubah must be put in writing, but if it is simply spoken, she can still collect the entire amount. Although conditions regarding financial matters are generally binding even orally, Rabbi Yehuda holds that the kesubah here is rabbinic, and the Rabbis strengthened their words to be stronger than the words of Torah in this case. The condition is not valid unless it is written.

YOM TOV CONNECTION

In this week's daf the גמרא mentions the משנה regarding two merchants who ride into town to sell their produce, and each one of them vouches for the other's תבואה. The concern is that they might be working together to misrepresent each other's merchandise. This idea of two working together is also found in קהלת, which we read on סוכות. The סוכות פסוק (פרק ד פסוק ט) in Koheles says: טובים השנים מן־האחד אשר יש־להם שכר טוב בעמלם. We find in חז"ל several applications of this concept including two people learning בחברותא or a married couple who together produce a family. קהלת further explains that if two sleep together they will be warm, as opposed to one sleeping alone, who will be cold. The ר"ן in his first דרשה questions why שלמה המלך is telling us something that is so obvious. Of course two people who are close will warm each other? The ר"ן explains that קהלת is using this as a משל, for people benefiting from their partnership even when they are not doing anything. For example, when someone sleeps they are not actively helping someone else, yet another person benefits. So too, when two people work together, each feels better, even when they are not physically helping each other. Knowing that we have a partner in life, is comforting even when the two partners are not together. יום טוב is a time when people usually get together, and we should all appreciate that we are not alone.

STORIES OF THE DAF

Charity in the Form of Honor

החמרין שנכנסו לעיר ואמר אחד מהן שלי חדש ושל חברי ישן, שלי אנו מתוקן ושל חברי מתוקן אין נאמנים

One of the most difficult issues in avodas Hashem is learning how to handle personal honor, when it is supposed to be לשם שמים, for the sake of heaven. It is all too easy for even a great person to lose his sense of humility when others choose to show him honor for his righteousness or scholarship. Rav Wolbe, zt"l, would not allow students to carry his things for him. When one student boldly asked, "But Rebbe, don't we see in Kesuvos 56a that one who doesn't allow his students to serve him is depriving the student of kindness? And this is the ruling in Shulchan Aruch as well—so why doesn't the Rav fulfill this halachah?" The Mashgiach replied, "It is difficult for my own service of Hashem if people honor me, so I am really an אונס, I am caught in a mitigating circumstance. That is why I cannot comply with that particular halachah in Shulchan Aruch. You can't do a chessed for a student at the expense of becoming arrogant!"

When Rav Avraham ben Rav Nachman of Tulchin, zt"l, would make Kiddush, he always recited the prayer with tremendous emotion and sincerity. He would often take a few moments to focus on the powerful mitzvah of Kiddush and only then would he begin. Once, as he stood in contemplation before Kiddush as was his practice, his nephew started to make a ruckus. Rav Yisroel Karduner, zt"l, protested this interruption. "Sha! Sha!" he remonstrated. It was immediately noticeable on the face of Rav Avraham that he was distressed; without waiting an instant, he recited Kiddush.

The next day, when the two met again, Rav Avraham said to Rav Yisroel in a tone of unmistakable pique, "What do you think? You will make me into a famous Rebbe and give me honor in exchange for me doing the same for you?!"

This is a lesson can be learned from a situation described on today's daf: Two merchants enter a city and one claims that although his own produce is not tithed, he testifies that his friend's produce is tithed. We see from here the human tendency to boost the reputation of one's friend in exchange for the other providing a step up. Hashem should only save us from seeking charity in the form of honor from the people we meet each day!

HALACHA HIGHLIGHT

Chupah by day or night

חופה נמי לא קשיא... אורח ארעא קא משמע לן דבלילה

Chupah also is not difficult... [the Tanna is] teaching derech eretz that the chupah should be held at night

Rav Yaakov Emden¹ writes that the Gemara seemingly indicates that in the time of Chazal the chupah ceremony was held at night. The Shearim HaMetzuyanim B'Halacha² also cites the opinion of the Bach, who wrote that it is correct to have the chupah at night. Shearim Hamitzuyanim B'Halacha cites our Gemara as well as a Tosafos in Yoma as proof to that position.

Rav Akiva Eiger³, on the other hand, wrote that the custom in some communities to delay the chupah until nighttime has no source in the writings of the earlier or later halachic authorities. He then mentions that Teshuvos Re'aim rules that a get that is given at night is invalid, and since the Torah equates marriage and divorce, it is possible that kiddushin should also not be held at night. He concludes that one should make an effort to comply with the opinion of the Re'aim and kiddushin should be done during the day, but if there is a compelling need (שעת הדחק) kiddushin may be held at night since most Poskim maintain that even a get may be delivered at night.

Most Poskim rule that there is no difference whether the chupah is held during the day or at night and Aruch Hashulchan⁴ writes that many communities have the custom to hold the chupah specifically at night. Rav Moshe Shternbuch⁵, in Teshuvos V'Hanagos, suggests that the reason is that the stars are visible at night and that is considered a good omen (סימן טוב) for the marriage.

Pishchei⁶ Teshuvah writes that some communities had the custom to hold the chupah between mincha and maariv and they would begin the meal immediately. Some time later the guests would arrive and they would recite birkas hamazon and sheva berachos. Teshuvos V'Hanagos⁷ notes that even though a majority of Poskim allow the chupah to be held at night the custom in Yerushalayim is for kiddushin to be done during the day rather than at night.

1. הגהות רב יעקב עמדין ד"ה קמ"ל דבלילה.
2. שערים מצויינים בהלכה סי' קמ"ו קו"א סק"ד.
3. שו"ת רעק"א מהדו"ת סי' ע"א.
4. ערוה"ש אה"ע סי' כ"ו סע' י"ד.
5. שו"ת תשובות והנהגות ח"ד סי' רפ"ו.
6. פתחי תשובה אה"ע סי' ס"ב סק"י.
7. שו"ת תשובות והנהגות הנ"ל.

MUSSAR FROM THE DAF

Monetary Damages

מיהו מלוה לא חשבינן כתובה בתורה דאפילו למאן דאמר (קדושין דף יג:): מלוה הכתובה בתורה ככתובה בשטר דמי היינו דוקא כגון נזקין וערכין ופדיון הבן דמסברא לא הוה מחייבינן להו אם לא שחיבתו תורה בפירוש

The Gemara discusses the concept of being שכתוב בתורה and in such a case the תנאי doesn't work. Tosafos explains that a loan is an example of an exception, because we do not need the Torah to teach us that one is obligated to pay back a loan. Therefore, if a person does an action on condition that he doesn't have to pay back a loan, the תנאי is not בטל. Tosafos then brings three examples in which we needed the Torah to teach us laws which we wouldn't have thought of on our own. The three examples that Tosafos brings are נזקין, ערכין and פדיון הבן. One can understand why we need the Torah to teach us the concepts of ערכין and פדיון הבן. However, what does Tosafos mean when he says that we wouldn't know about (monetary damages) נזקין? Even secular courts generally have the concept of (monetary damages) נזקין as part of their judicial system? Furthermore, why would loans be any different? I heard from my friend, R' Reuven Lurie that loans are different than general נזקין. In case of a loan, we understand מסברא that the person should pay back because he has another person's money in his possession. When it comes to monetary damages, however, one might have thought that we do not mandate one to pay another if they damage the other person's property. Why not? Since we know that nothing happens without a גזירה from Shamayim, one might have thought there is no reason to force the damaging party to pay back since Hashem decreed that the person's property should be damaged. Therefore, we need the Torah to teach us the halachos of נזקין to inform us that one can still go to Bais Din and claim compensatory damages.

There is a great lesson that Tosafos is implicitly teaching us. If we chas v'Shalom ever suffer damages, we should remember that מסברא, there should be no reason to try to recover the money since Hashem was גודר that we should lose it. It is only because the Torah has created a system that indicates compensatory damages, that we have a right if we choose to be reimbursed for our damages.

POINT TO PONDER

If someone is מוקדש a lady and says that it's conditioned on him not having to provide כסות ועונה, שאר כסות ועונה, according to רבי יהודה it's a valid תנאי regarding the שאר כסות ועונה which are ממון. What is the reasoning of יהודה? Does he argue on the concept of שכתוב בתורה? If yes, why wouldn't it work for עונה as well? (ראה רש"י writes that it's only valid for כסות ושאר כסות).

Response to last week's Point to Ponder:

The Gemara says that there is a מחלוקת regarding אומדנא, and whether we can rely on them. What is the difference between an אמן סהדי which is found in many places in ש"ס and seems to be universally accepted, and אומדנא in our גמרא over which there is a מחלוקת? There are different levels of אומדנא. For example something that everyone agrees to is called אמן אומדנא. Our גמרא is discussing a אומדנא דמוכח, while a lower level is called אומדנא דמוכח. Our גמרא is discussing a אומדנא which is not מוכח but likely. (See אבריהם).

For more points to ponder by Rabbi Yecheil Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, dafaweek.org, or download the app

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