

**שבת קודש פרשת קדשים | מסכת כתובות דף פ"ז**

**INSIGHTS FROM OUR CHABUROS**

**Paying the head-tax from the land of the orphans**

אמרי נהרדעי לכרגא ולמזוני ולקבורה מזבנינן בלא אכרוזתא

Rashi explains that the head-tax mentioned here is money collected by the king corresponding to each person. The king assesses this amount even for the orphans, and we therefore take their land to sell it without an auction process of announcing the sale in order to procure the highest price possible. Tosafos (ד"ה לכרגא) asks that this suggests that we can take land of the orphans and liquidate it for their needs, but this must be done with the appropriate advance notice and publicity in order to ensure that we are selling it for the highest price possible, yet the Gemara (Arachin 22a) brings a contradiction. On the one hand, Rabbi Yehuda in the name of Rav Asi teaches that land belonging to orphans cannot be sold to pay their debts, unless they owe a gentile a loan with interest, and the amount is growing. On the other hand the Mishnah (ibid. 21b) states that the process of auctioning the land of orphans should extend thirty days, thus indicating that we do sell their land. The Gemara there struggles and finally resolves the question from the Mishnah against Rav Asi. Asks our Tosafos, according to Rashi's understanding, why did the Gemara in Arachin not simply answer that the Mishnah which allows the fields of the orphans to be sold is speaking about selling the land for the needs of the orphans themselves (and not simply to pay back a loan). Rather, the fact that the Gemara did not offer this solution indicates that when we do sell their land to pay for their needs, we may do so without the thirty day procedure. This leads Tosafos to note that our Gemara in Kesuvos which allows selling the land of orphans without public notice should have been stated in a general manner in terms of paying for any needs of the children, and not limit itself to selling land to pay the head-tax to the king.

Ritva answers that Rashi would say that, indeed, we sell the land of orphans without public notice for any of their needs. The reason our Gemara gives the examples of a head-tax, for food and for burial is that these three categories typify all needs of the orphans. Tosafos explains the case here of כרגא to refer to the headtax for the wife. Just as the orphans must provide for the sustenance of their mother, so too must they cover the basic expenses of her subsistence, including paying the head-tax due to the king on her behalf.

**PARSHA CONNECTION**

**In this week's daf** the גמרא discusses a שבועה which a lady may have to make if she was managing property for her husband. פרשת קדושים is where we find the מצוה of not making a false שבועה. The possuk (ויקרא פרק יט פסוק יב) says: 'ולא-תשבעו בשמי לשקר וחללת את-שם אלקיך אני ה' This איסור is said in the plural, whereas in the עשרת הדברות it is said in יחיד לשון (singular). Why did the תורה change to רבים לשון? The מדרש רבה שמות מג' offers a fascinating explanation. It explains that when בני ישראל did the חטא העגל and the עולם של ריבוננו was telling משה רבינו that they violated the first דיבור from the עשרת הדברות by making it, משה רבינו offered the following defense; he said that since it says "לא יהיה לך" which is singular, משה רבינו assumed that בני ישראל was referring to הקב"ה and he is the only one who was obligated in this מצוה. This is why the תורה in פרשת קדושים repeats the איסור of making a false שבועה in the plural, to make sure that there is no ambiguity regarding who is obligated in it.

**STORIES OF THE DAF**

**The Golden Coin**

"כל הנשבעין שבתורה נשבעין ולא משלמין..."

On today's daf we find that every d'Oraisa oath involves swearing in court to avoid making a payment that is demanded by a plaintiff or purported creditor.

It was the height of a famine in Yerushalayim during World War I, but a certain mohel had a golden Napoleon coin that represented the sum total of his savings. The coin was a veritable fortune which could provide food for an entire family for a year, but the mohel didn't use the money since he was managing to make ends meet. He kept it on top of a closet in his home. One day, his seven year old noticed the coin and took it. Although he didn't understand the value of such a coin, he did know that it must be money, and with money he could buy sweets at the local grocery. He pocketed the coin and left the house.

In the meantime, the mohel came home and checked for the coin as always. To his dismay, it was gone. He informed his wife, and when their child came home they asked him if he had taken the coin. The child replied that he had taken it and bought a few candies for it from the grocer.

The distressed mother rushed to the grocer. "Ganev! You dared to take a Napoleon from my child? My husband has saved money to provide for our family during these difficult times and you took it off of a clueless child it for a few candies?" "What are you talking about?" answered the grocer. "Your boy gave me a chireleh, a Turkish grush. I didn't receive any Napoleon! Everyone knows that a child that young can't distinguish between coins!"

The mohel and his wife summoned the grocer to beis din, but he was adamant that he had done no wrong. "I am willing to swear on it!" The plaintiffs were astounded at the man's audacity, but they dropped the case rather than cause him to swear falsely.

After the war, the mohel received an anonymous letter with a Napoleon enclosed. "You should know that I saw your son walking down the street playing with the Napoleon and asked to see it. My family was starving, and I thought: If this boy's parents have enough money to allow him to use this coin as a plaything, they will not miss it. I gave him a grush in its place, but he didn't notice. Please forgive me for my theft!"

## HALACHA HIGHLIGHT

The credibility of a store owner's ledger

ואלו נשבעין ונוטלין ... וחנוני על פנקסו

*The following are cases where they take an oath and collect ... the storeowner [filing a claim recorded in his] ledger.*

**P**oskim have addressed the common issue of a store owner who claims to be owed money from a customer who bought merchandise on credit and hasn't paid the bill. The basis for the store owner's claim is that he has recorded in his ledger the total amount of purchases made by the customer and the payments the customer has made, and since the totals do not match it is evident that money is still due. The customer claims that he has paid off all his debts and the ledger is not reliable since the storeowner is not careful to record all of the transactions. Our Gemara mentions the case of a store owner's ledger and states that the store owner takes an oath and collects his debt. In the Mishnah in Shevuos<sup>1</sup> the case is explained in greater detail. An employer instructed a store owner to provide food for his employees on credit and he would pay the store owner at some point in the future. Some time later the employees file a claim against their employer that they never received their food, but the store owner has recorded in his ledger that he provided those employees with food. In this case the Mishnah rules that the employees and the store owner take an oath and each can collect their claim from the employer.

This halacha indicates that a store owner's ledger is not accepted as fact in all circumstances, rather it is credible only when there is additional circumstantial evidence (רגלים לדבר) that the claim of the store owner is true, like the case of the Mishnah where the employer admits that he instructed the store owner to advance him credit. Therefore, the Noda B'Yehudah<sup>2</sup> wrote that it is clear and obvious that the store owner's ledger is no stronger than if the store owner had filed his claim orally. Consequently, if the store owner has a record that a customer owes him money and the customer disputes the claim, the store owner will not be able to collect any money. However, he will be able to force the customer to take an oath denying the claim, similar to any case of one who denies a claim filed against him, where he must take a Rabbinic oath (שבועת כופר בכל).

1. משנה שבועות מד:  
2. שו"ת נודע ביהודה מהדו"ת חו"מ סי' ט"ו.

## MUSSAR FROM THE DAF

Negativity Bias

אלא אמר רבא: מדרבנן, דפרע – דייק, דמיפרע – לא דייק, ורמו רבנן שבועה עלה כי היכי דתידוק.

**T**he Gemara tells us that the payor is careful in ascertaining how much he is paying for the Kesuva, but the payee (the woman that is receiving the money) may not be as careful, therefore the Rabbanan placed a Shavua on the woman so should be more careful. Why do the Rabbanan hold that the one giving the money is more careful?

There is a concept called negativity bias. This means that a person naturally is more affected by the negative that happens in their life than the positive. There are many applications of this rule. Punishment makes more of an impact on a person than the potential reward. Likewise, people remember bad things that happened more easily than good things that occurred. Perhaps this concept is what the Chachamim were referring to when they taught that a person remembers how much they pay more than how much they receive. The negative stimuli that occurs when a person has to pay money makes a bigger impact on a person than when they receive funds. Therefore they more readily trust the one paying the funds (in our case the husband) than the wife who would potentially be receiving funds.

There is a great lesson from the gemara. While we can naturally focus on all the seemingly negative happenings in our lives, it takes much effort and practice to put our focus on the good that occurs to us as well.

## POINT TO PONDER

**The Gemara says** asks why would a lady assume that she will be asked to manage her husband's business and ask for assurance that she will not have to swear as an אפוטרופיא. Why can't we say that she only asked for this assurance once her husband asked her to be an אפוטרופיא?

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

The גמרא says that if someone owes a debt on a loan and also a debt resulting from a כתובה and he only has one piece of land, the land is given to the lender and not to the wife. Why was it necessary for the גמרא to add that we don't give the wife. Obviously if we give it to one then we don't give it to the other?

The גמרא addresses another question regarding this גמרא, and with his answer we can answer our point. He writes that the גמרא is talking about a case where the land's value is sufficient to cover both debts. What the גמרא is saying is that even if the lady wants the land the חוב בעל gets it, and he can pay her with cash (even though in a case where the husband had both cash and land the lady would get the land).