The Chicago Center
Digest
# Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Thurs, January 27, 2022 ■ כ"ה שבט, תשפ"ב
סימן קנ"ג סעיף כ"א-כ"ב

# Overview

**Siman 153 Seif 21:**

**Material that had been used for non-sacred purposes should not be purchased for use for sacred items.** A zonah's payment or the exchange for a dog may not be used for a mitzvah, e.g. a Bais HaKnesses or a sefer Torah. The restriction applies to the object received as payment but if she received money as payment that money may be used for a mitzvah. It is categorized as zonah only if there was an ervah prohibition but it is permitted to take items from unmarried harlots.

- Certainly items used for idolatry may not be used and if they were purchased they must be sold and new items purchased. (M.B. 102)
- Material used for non-sacred items may be used for mitzvah purposes. (M.B. 103)
- The halacha of a zonah's payment is limited to where she was given payment before the services but if she provided her services and then was paid the item may be used. (M.B. 105)
- An "exchange for a dog" refers to an item received in exchange for a dog. (M.B. 106)
- Other mitzvah objects may also not come from a zonah's payment or the exchange of a dog. Pri Megadim implies that one should not make their talis or tzitzis from these items. (M.B. 108)
- If one received money for the sale of a dog it may be used to purchase a mitzvah item. (M.B. 110)
- Rema refers to kares prohibitions and some say even חייבי לאוין. Items may not be taken from a gentile zonah. (M.B. 111)

**Siman 153 Seif 22:**

**Someone who is accustomed to fulfilling a particular mitzvah, for example, gelilah, and experiences an ones or poverty and the tzibbur gave the mitzvah to someone else but later regained his wealth and wants the privilege of the mitzvah back – if when the tzibbur gave the mitzvah to the replacement the original person had the ability to pay his obligations but chose not to and he agreed with the rest of the tzibbur to find a replacement he has lost his claim to the mitzvah. If when he was replaced he did not have the means to pay his obligations and now that he has the means to fulfill his obligations he wants to pay his obligations and resume fulfillment of the mitzvah, he returns to his original position.**

- He performed the mitzvah with permission from the tzibbur and according to Radvaz if he fulfilled the mitzvah for a long period of time and no one protested it is the same as if he was given permission. (M.B. 112)
- In other words, even in his difficult circumstance he had the means to pay his obligation. (M.B. 113)
- A mitzvah may not be given from an am ha'aretz to a Torah scholar unless there is a strong complaint against him. (M.B. 115)
- If one lost his position because of a transgression he may not return to his position but Elya Rabba is uncertain whether this applies to any transgression other than murder. (M.B. 115)

# Halacha Highlight

## A chazakah on a mitzvah

Shulchan Aruch Siman 153 Seif 22

**אדם שהוא רגיל בשום מצוה**

**A person who is accustomed to fulfill a particular mitzvah**

Shulchan Aruch (סע' כ"ב) discusses one who became accustomed to fulfilling a particular mitzvah, for example, gelilah, who later became unable to fulfill that mitzvah and was replaced. Now that the original person's circumstances have changed he wants to return to his role as the designated person to fulfill that mitzvah. The halacha is that if he had the ability to fulfill his financial obligation but chose not to during his difficult time he cannot demand the return of the mitzvah. If, however, during his difficult time he was unable to fulfill his financial responsibilities but now he is prepared to resume those responsibilities, the mitzvah is returned to him.

Mishnah Berurah (ס"ק קט"ו) writes that under normal circumstances a person who has a chazakah on a mitzvah may not be replaced, even if he is an am ha'aretz and the potential replacement is a Torah scholar. Biur Halacha (ד"ה שהוא רגיל) cites authorities who reference Sefer Chassidim who maintains that if the potential replacement is willing to spend more money to fulfill the mitzvah than the original person he can actually supplant the original person. Accordingly, Shulchan Aruch and Mishnah Berurah must be referring to a potential replacement who is not interested in spending more money than the original person. Biur Halacha then notes that Teshuvas HaRadvaz disagrees with this position and contends that the original person with the chazakah cannot be replaced even if the second person is willing to spend more money. Biur Halacha concludes that the final halacha regarding this matter is not clear. Rav Ovadiah Yosef (שו"ת יביע אומר ח"ז סי' כ"ג) asserts that in a circumstance in which the potential replacement is willing to donate more money and the first person was not formally appointed to the position, rather he started doing the mitzvah on his own but the community did not protest, the original person can replaced.

# Stories to Share

## The Holy and the Mundane

ש"ע, סי' קנ"ג, כ"א: "אין להקנות מעילים שנשתמש בהם הדיוט לתשמיש קדושה..."

A wealthy man purchased an expensive mirror in an ornate frame. It struck him that the frame of his mirror would look beautiful as an aron hakodesh, so he decided to donate it to his shul.

The rav, however, wondered if this was permitted. "Moshe refused to accept the mirrors of the daughters of Israel for the kiyor since he felt this was inappropriate for the mishkan. Although Hashem told him to accept them, this was a one-time exception..."

When Rav Shlomo Kluger was consulted, he agreed. "First of all, we find that the Rama rules that one may not use an object that had been used for a mundane purpose to cover the bimah. Similarly, it is forbidden to use other items that were previously used for mundane matters for other holy uses in shul. It is irrelevant that the present owner has never used it for anything else, since the prohibition applies if it was ever used for a mundane purpose, regardless of who owned it then.

"In this particular case, it is even more problematic since the mirror was purchased from non-Jews and was almost certainly used for purposes that have no relationship to holiness and definitely disqualify the item. However, there is another side to this question. Beis Hillel rules that even things which are prohibited to be used to purchase a korban may be used if there is a change in the item.

רמ"א בי"ד, סי' קמ"ז

Rav Kluger added, "In view of this, why would we think the mirrors were prohibited for use in the kiyor? The answer is that since it was not a normal use for mirrors, it would be recognizable that mirrors had served as the base material and a superficial change would not help. Similarly, in our case, although the frame was not directly used for an unseemly purpose, since it would be recognizable that the aron hakodesh comes from the frame of such a mirror it is definitely prohibited."

שו"ת האלף לך שלמה, ח"א, סי' ע"ב