

## OVERVIEW of the Daf

### 1) Weights and measures

Two Beraisos are cited that discuss details related to providing honest measurements.

R' Yehudah from Sura presented an exposition related to the verses cited in the previous Baraisa.

Another Baraisa teaches that we must appoint people to assure that weights and measures are honest.

A related incident is recorded.

Three Beraisos are presented that discuss honest weights.

A Baraisa discusses the correct construction of scales.

R' Mani bar Patish applies some of these concepts to the laws of tum'ah.

A Baraisa discusses materials that may or may not be used for weights.

Two Beraisos discuss the utensil that is used to smooth out the contents in the measuring utensil.

The Gemara asks whether R' Yochanan ben Zakkai decided to share the ruling that could be misused by dishonest people.

R' Shmuel bar R' Yitzchok answered that he did publicize this teaching.

A last Baraisa expounds on the pasuk that discusses honest weights and measures.

R' Yehudah in the name of Rav teaches that it is prohibited for a person to maintain dishonest measuring devices in his home.

R' Pappa qualifies this ruling but the Gemara rejects the qualification.

A Baraisa is cited that echoes this ruling. ■

## REVIEW and Remember

1. What does the phrase **אבן שלמה וצדק יהיה לך** teach?  
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2. Why is it necessary to measure ten litras at once rather than one at a time?  
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3. Why was R' Yochanan ben Zakkai hesitant to teach a halacha related to honest measures?  
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4. Is it prohibited to maintain an undersized measuring utensil in one's home?  
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## Distinctive INSIGHT

*Measures and balances where the fraud is less than a peruta*

במשורה—שלא ירתיה

The Baraisa analyzes the verse from Vayikra 19:35, "Do not falsify any measurements, whether in length, in weight or in liquid volume." The word "במשורה—in liquid volume" teaches us that the seller should not allow the liquids he measures to become frothy, in which case the buyer will be cheated when the cup prematurely appears full. Tosafos asks why it is necessary for this lesson to be taught with the word "במשורה," when this should certainly be prohibited due to the standard law not to steal ("לא תגזול"). Tosafos explains that the special warning not to falsify liquid measures teaches us that the violation is already in effect from the moment the liquid is poured improperly (משעת הרתחה), even before it is measured and presented to the buyer.

Tur (#231) writes that it is prohibited to pour liquid for sale in a manner where it froths and appears as filling a larger volume than it actually does. He then adds that this is prohibited "even if the discrepancy is very small and the amount of money defrauded is less than a peruta." ר"ח notes that based upon the comment of Tur, the question of Tosafos can be answered. The violation not to steal only applies to amounts above a peruta, but the extra exhortation in the verse "במשורה" teaches that this transgression of liquid measures applies to even less than the value of a peruta. Nevertheless, this is the opinion of Tur, but Tosafos, who did not offer this explanation, is of the opinion that the prohibition of liquid measures does not apply to where the fraud is less than the value of a peruta.

The issue of whether the laws of measures apply to less than a peruta is subject of disagreement among the Rishonim. The Chinuch (Mitzvah 258) writes that although the laws of theft only apply to amounts above a peruta, the verse (Vayikra 19:35) teaches us that measures are different. The verse demands that one be careful not to cheat with a משורה, and our Sages have explained that this is the smallest measure, 1/36 of a log. This indicates that the Torah is particular in regard to measures about any amount, even less than a peruta. ר"ח explains that this is also the opinion of Rambam.

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# HALACHAH Highlight

## Dishonest weights and measures

ת"ר "לא תעשו עול במשפט במדה במשקל ובמסורה"

The Rabbis taught: "You should do no wrong in judgment, measuring length, width or liquids."

The Gemara emphasizes that when it comes to dishonest measurements the Torah is particular even for discrepancies less than a sixth. Sefer Hachinuch<sup>1</sup> takes note that when it comes to other forms of theft the Torah prohibition is not violated unless one steals a perutah or more, nevertheless, when it comes to dishonest weights and measurements the Torah prohibition is violated even when the dishonesty yields for the swindler less than a perutah. Shevet Halevi<sup>2</sup> notes that although it is prohibited to steal less than a perutah, the prohibition that is violated is the general restriction against violating prohibitions in a smaller measure than the Torah considers significant (חצי שעור אסור מן התורה) but it is not the prohibition of theft per se. Dishonest weights and measures are different in this regard and one violates the Biblical prohibition against dishonest weights and measures even for the slightest amount. The importance of this distinction relates to whether an oath taken about these matters is binding. There is a principle that an oath taken to not violate an explicit Biblical prohibition is not binding. Accordingly, whereas one could not take an oath pertaining to dishonest weights and measures an oath taken related to stealing less than a perutah is binding.

Chasam Sofer<sup>3</sup> suggests that although there are circum-

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Minchas Chinuch disagrees, and he writes that the standard rules of theft are that one is not liable for stealing less than a perutah, but stealing less than this amount is prohibited based upon the general rule of חצי שיעור. This rule teaches that although liability for any violation begins at a proscribed limit (i.e. only where one steals a perutah or more or where one eats an olive's volume of prohibited food), actions even less than the limit are still prohibited. ■

stances where the prohibition against dishonest weights and measures will not be violated, nevertheless, one will not fulfill the positive command to be righteous (צדק) in the area of weights and measures. For example, if one lives in a place where sellers are not particular to tilt the scale for their customers who purchase small quantities or places where a seller lowers the price when he smooths the measure rather than provides a heaping measure, although the seller has not violated a prohibition he has also not fulfilled the positive command of צדק. Teshuvos Shevet Halevi<sup>4</sup> explains that Sefer Hachinuch who wrote that the prohibition is violated even for the slightest amount referred to where some deception was performed but when people are not מקפידים there was no deception and thus as long as one is consistent with the local custom he has not violated the prohibition. ■

1. ספר החינוך מצוה רנ"ח.
2. שו"ת שבט הלוי ח"ה קונטרס המצוות אות מ"ה.
3. שו"ת חתם סופר חו"מ סי' קע"ז.
4. שו"ת שבט הלוי הנ"ל אות מ"ו. ■

# STORIES Off the Daf

## Honest Business

"לא יהיה לך בכיסך משום אבן ואבן..."

A certain young man who had recently married wished to open a store. He went to his rebbe, the Avnei Nezer, zt"l, with this question, and to his delight the rebbe ruled that he should open a store. "It's not as though you are going to learn anyway, so you should certainly be occupied in business."

But the store which was located

right next to a factory with many non-Jewish workers was an abysmal failure from the start, inexplicably losing money no matter what the young entrepreneur tried. Eventually he was frustrated enough to go back to the rebbe for help. "Tell me—are you certain that all of your weights and measures are absolutely honest? Perhaps you cheated someone?"

After thinking about it for a few moments the young man recalled that although his weights and measures were true, he had sometimes taken advantage of his many non-Jewish customers, claiming something cost more

than its true price.

"That is why you have thus far failed to make an adequate living," declared the rebbe. "I learn this from the Gemara in Bava Basra 89. There we find 'לא יהיה בכיסך' one should not even keep a dishonest weight in his pocket, because the verse states, 'אבן ואבן.' But we can understand this in another way: One who cheats on weights will not have any money in his pocket since he will sustain financial losses as a punishment. Stop cheating your customers and you will begin to prosper!"<sup>1</sup> ■

1. שיח שרפי קודש, פרשת כי תצא ■