

Today's Daf Digest is dedicated
In loving memory of **שרגא פייוול דוד בן קמואל**
The Abramowitz family

OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah concludes the discussion between R' Tarfon and Chachamim whether one pays full or half damages for קרן on the property of the damaged party.

2) Clarifying R' Tarfon's position

The Gemara questions what seems to be R' Tarfon's rejection of the principle of דיו which is impossible since it is Biblical in origin.

The Gemara explains why in this particular instance R' Tarfon rejects the principle of דיו.

The exchange between Rabanan and R' Tarfon regarding this issue of דיו is recorded.

R' Pappa takes note of the fact that there seem to be Tannaim who reject the principle of דיו altogether.

The Gemara explains how this Baraisa is another example of a kal v'chomer that would be rendered meaningless if the principle of דיו were to be applied.

Tangentially the Gemara discusses the authorship of the Baraisa that was just cited since it does not seem to follow the opinions of R' Eliezer or R' Yehoshua.

The Gemara identifies a Tanna who expresses the same position as the Baraisa.

The proof is unsuccessfully challenged.

R' Acha from Difti points to another Tanna who seemingly rejects the principle of דיו even though the kal v'chomer is not nullified.

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REVIEW and Remember

1. What is the principle of דיו?

2. What is the biblical source for the principle of דיו?

3. What is the source that a mat is susceptible to טומאה from a corpse?

4. How do we know that one is not liable for שן and רגל in the public domain?

Distinctive INSIGHT

The basis for the argument that full payment be made for קרן in רשות היחיד

אמר להם אף אני לא אדון קרן מקרן

The Mishnah features the classic disagreement between the sages and R' Tarfon regarding the payment of קרן in a private domain. Tanna Kamma is of the opinion that the payment is half, just as it is in the public domain. R' Tarfon, however, disagrees and says that the payment of half is only in the public domain, but in private property the payment is full.

To argue his point, R' Tarfon presents a קל וחומר. He first notes that no payment needs to be made for damage of שן in the public domain, yet full payment is made for damage done in the private domain. This demonstrates that payment for damage in a private domain is more strict than in the רשות הרבים. Therefore, קרן, where the animal's owner pays half in רשות הרבים, should certainly pay full in רשות היחיד.

The sages reject this argument, saying that logic would only allow us to conclude that payment for קרן in רשות היחיד should be at least half, as much as is paid in רשות הרבים. Due to the concept of דיו, we cannot conclude and establish a payment greater than the source (קרן in רשות הרבים).

R' Tarfon accepts this point, and he reissues a different line of reasoning, this time basing his lesson on וּשְׁן rather than on קרן in רשות הרבים. If in the public domain we find that payment must be made for קרן but not וּשְׁן, then in the private domain, where payment is made for וּשְׁן and רגל, we should certainly expect full payment be made for קרן. Once again, however, because of דיו, the sages reject this approach of R' Tarfon. Ultimately, it again is based upon קרן in the public domain, where it only pays half.

Tosafos notes that R' Tarfon himself holds that the limitation of דיו is not applied where the entire argument would thereby be undermined. Therefore, R' Tarfon is in favor of his first lesson where קרן in the private domain is determined to pay full, as it is learned from קרן in the public domain. He only offered a second approach to learn קרן from רגל in response to the sages' complaint. ■

HALACHAH Highlight

Nullification of items that were all mixed

לפי שאי אפשר בלא צחצוחי זיבה

Because it is impossible without traces of זיבה

Mordechai¹ asks why שכבת זרע should be tamei just because it is impossible to have זרע that doesn't have some זיבה mixed in; the זיבה should be nullified in the majority of זרע. He suggests two answers to this inquiry. One possible resolution is that the זיבה is recognizable and something that is recognizable cannot be nullified. His second resolution is that the mechanism of nullification works only when one begins with two distinct entities that become mixed but if two entities were mixed before they entered the world (e.g. זיבה and זרע together) the principle of nullification does not apply.

Later authorities note that in a different context Mordechai seems to adopt a different approach. Mordechai rules that if wine comes out of a grape by itself on Shabbos while those grapes are submerged in wine, the mixture (the existing wine and the wine that came out of the grapes on Shabbos) is permitted. The reason is that the new wine is nullified by the majority of existing wine that was already in the cup. Furthermore, there is no reason to be strict and wait until after Shabbos to drink the wine as a דבר שיש לו מתירין - an item that will become permitted - because the prohibited wine is easily nullified due to the fact that when

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This suggestion is rejected and the Gemara explores the source of the halacha stated in the Baraisa.

3) Clarifying Rabanan's position

A kal v'chomer is suggested that would lead to the conclusion that one should be liable for שן and רגל in a public domain.

The verse ובער בשדה אחר refutes that kal v'chomer. ■

it emerged it was immediately nullified to the permitted wine. This clearly indicates that it is easier to nullify something that was never distinct than it is to nullify something that was distinct, which contradicts Mordechai's other ruling.

Noda B'yehudah² explains that the first ruling addresses a case where neither the permitted item nor the prohibited item has a distinct identity to itself and that is why one entity cannot nullify the other. In contrast, in the Shabbos case, although the prohibited wine was never distinct, the permitted wine was distinct before the prohibited wine mixed in and thus it has the capacity to nullify the prohibited wine. The source for this principle can be derived from the origin of the mechanism of nullification. The Torah teaches the mechanism of nullification in the context of Sanhedrin and the nature of Sanhedrin is that there are two groups that form, one says guilty and the other says not-guilty and the principle of nullification teaches that the minority is nullified to the majority. ■

1. מרדכי חולין רמז תשלז

2. שו"ת נודע ביהודה מהדור"ת י"ד סי' נ"ד דד"ה ש"ך ■

STORIES Off the Daf

Between man and his fellow

קל וחומר לשכינה י"ד יום

The Beis Shaul applies today's daf regarding Miriam's punishment to each and every one of us. "The Chovos HaLevavos teaches that every sin בין אדם לחבירו also has a בין אדם למקום element to it.¹ When Miriam spoke against Moshe, she originally deserved fourteen day's punishment. When Moshe in his humility completely forgave her, Hashem relented His share of it. This left only the seven

days of בין אדם לחבירו which, in Moshe's case, Hashem refused to leave unpunished. We can learn from here the severity of sins against our fellow man since there is double the punishment. It follows that the most important thing to work on is בין אדם לחבירו."

Once, the lay leaders of a certain group in Bnei Brak went to see Rav Aharon Leib Steinman regarding a very serious matter. Several members of their community had become very ill and they wished to call for a community-wide gathering to strengthen the masses spiritually. It is well known that such gatherings are most success-

ful when they focus on not more than one element, and they wished to do just that. However, they were unsure of what the focus of the gathering ought to be. They had narrowed it down to two possibilities: either strengthening learning, or improving interpersonal relationships.

Without hesitating an instant, Rav Steinman replied, "Clearly you should focus on בין אדם לחבירו. We see this clearly from the well known Gemara: 'ואהבת לרעך כמוך זה כלל גדול בתורה.' Clearly, the foundation and first subject to strengthen is this!"² ■

1. חובות הלבבות שער התשובה פ"ט

2. עלינו לשבח שמות עמוד ע"ו