



OVERVIEW of the Daf

1) Ten stipulations of Yehoshua (cont.)

The Baraisa presents the ten stipulations enacted by Yehoshua to settle Eretz Yisroel.

The Gemara begins to elaborate on each of the ten stipulations.

Related to the sixth enactment a Baraisa is cited that discusses enactments related to catching fish and Naftali's ownership of the Sea of Tiberias.

Another Baraisa related to the division of Eretz Yisroel is cited.

The Gemara continues to elaborate and cite incidents related to the ten enactments of Yehoshua.

It is noted that the Baraisa enumerated eleven rather than ten enactments.

The Gemara answers that the eleventh enactment was introduced by Shlomo Hamelech rather than Yehoshua.

It is noted that there are additional stipulations that are attributed to Yehoshua that were not enumerated in the list.

The Gemara answers that stipulations that are known to us from individuals are not included in the list. ■

REVIEW and Remember

1. What type of wood is one permitted to gather from other's fields?

2. Is one obligated to pay for water that he takes from a new spring that emerges in another's property?

3. Do the stipulations of Yehoshua apply outside of Eretz Yisroel?

4. What enactment was made by Shlomo HaMelech?

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 In loving memory of
 Mrs. Joan Dachs
 מרת גושה רחל ע"ה בת ר' אברהם דוד נ"י

Distinctive INSIGHT

The conditions set by Yehoshua for division of the Land
 תנו רבנן עשרה תנאין התנה יהושע

Rambam (Nizkei Mamon 5:3) writes that Yehoshua and his team of judges established these ten guidelines as rules at the moment the Jewish people were set to divide the land among the tribes. In his commentary to Rambam, הלכה למשה explains that although our Gemara does not mention that Yehoshua set these rules as conditions to the division of the land, Rambam understood that this was the case based upon the discussion later (81b) regarding other conditions and stipulations that were set among the tribes regarding the division of the land. However, Mishnas Ya'avetz (Choshen Mishpat, 30:6) explains that Rambam does not actually write that these were set as conditions regarding dividing the land. Rather, these were communal laws which were accepted universally, but that they were established at this time, based upon the authority of הפקר בית דין הפקר, and these rules therefore apply in all Jewish communities, even outside of Eretz Yisroel.

Sefer ידי אליהו (Tikkun #128) notes that the reason for these laws is that Yehoshua and his Beis Din knew that as society in the land would be established, it was necessary to establish guidelines to avoid strife and conflict between people. People's nature is sometimes to be lax and careless with other people's money and property. However, in regard to their own money people tend to be controlling and unyielding. Yehoshua and the sages who joined him realized that if they did not enact these laws to regulate civic interaction, it would be inevitable that there would be disagreements and controversies among neighbors and the citizens of each city as they dealt with daily issues. The system was therefore set up to define certain communal conditions where everyone would be defined as partners, thus aiming to defuse what would otherwise be volatile and contentious encounters. ■

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HALACHAH Highlight

The parameters of midas S'dom

ומלקטין עצים משדותיהם

It is permitted to gather wood from a friend's field

One of the stipulations made by Yehoshua was that it is permitted to take wood from a neighbor's field. This enactment, the Gemara explains, is limited to types of wood where it is logical that the owner would not have used for himself. A question Poskim ask regarding this enactment is why was it necessary? There is a well known principle **כופין על מידת סדום** - we force a person to not behave in a selfish - S'dom type fashion. Seemingly that principle should permit taking wood from a neighbor's field that he would not use, why then was it necessary for Yehoshua to make a formal enactment on this matter?

There is a disagreement between Rambam and Rosh regarding the parameters of the principle of **מידת סדום**. Two brothers inherit two fields from their father. One brother wants a particular field because it is close in proximity to a field he already owns and the second brother also, for some random reason, wants that field. Rambam, cited by Shulchan Aruch¹, rules that we force the second brother to allow the first brother to take the field under dispute as a result of the principle of midas S'dom. Rema²

cites Rosh who disagrees, claiming that midas S'dom can only be invoked when it does not involve giving away property that one owns, like a case where one wants to expand his house and a neighbor protests without a substantial claim. In this case, however, upon the death of the father they became partners in each property and we cannot force the second brother to give up his share of the disputed property.

Accordingly, we could explain that according to Rosh the necessity of Yehoshua's enactment is easily understood. The principle of **מידת סדום** does not allow one to take property that belongs to another person and thus it was necessary for Yehoshua to stipulate that it is permitted to take wood from a neighbor's field. The question that remains is why according to Rambam was an enactment necessary. Noda B'Yehudah³ suggests that even according to Rambam one can be forced to give up his property because of **מידת סדום** only if he will be properly reimbursed for that loss, like the case of the brothers where the second brother will receive a replacement field, but **מידת סדום** cannot force a person to give away property without any reimbursement and thus to permit someone to take wood from a neighbor's field a special enactment was necessary. ■

1. שו"ע חו"מ סי' קע"ד סע' א'
2. רמ"א שם
3. נוב"י תנינא חו"מ סי' כ"ד ■

STORIES Off the Daf

For the sake of Heaven

וכל מעשיו לשם שמים

On today's daf we find that every action of Rav Yehudah bar Kenusa was for the sake of heaven.

Rav Chaim Kanievsky, zt"l, recounted that when his former Mashgiach, Rav Eliyahu Dushnitzer, zt"l, was in Minsk there was a seemingly simple man who was a pharmacist by trade. Interestingly, every holy endeavor in the town was invariably brought to the fore by this pharmacist, who was the driving force for them all.

Rav Dushnitzer asked the pharma-

cist how he had merited this unusual distinction.

The pharmacist recounted the following fascinating story:

"One time, the Chofetz Chaim was in Minsk and needed to purchase some medicine. Naturally, he found his way to my pharmacy and asked me for what he needed. After he paid for the medication he exclaimed, 'I am jealous of you; every instant of the day you are involved in saving lives!'

"I was a bit embarrassed by this accolade and told him the truth. 'This is just my way of supporting my family.'

But the Chofetz Chaim rejected this attitude out of hand. 'You must be mechavein l'shem shamayim and

l'shem mitzvah. Although it is true that you are forced to take money to support your family, you must always remember the greatness of what you are doing and focus on this."

The pharmacist concluded, "Ever since then I have made this my avodah, and now I can honestly say that I live for devarim she'b'kedushah. Over the years I have slowly gotten involved in different projects to raise the spiritual level of the community until I am as you see me here today."

With just a little focus and spiritual awareness one can easily become a person who is rosh v'rishon lichol davar she'bikedushah!¹ ■

1. דרך שיחה ח"א ע' כ"ו