

## OVERVIEW of the Daf

### 1) טובת הנאה (cont.)

A third explanation of the dispute is presented that does not relate to the issue of טובת הנאה.

Another dispute is related whether ownership of produce is the same as ownership of a property's essence is cited.

Rava explains the final opinion in the Baraisa.

A statement of Ameimar and a Baraisa is cited that the Gemara explains follows the position of R' Eliezer.

2) **MISHNAH:** The Mishnah puts a value on the humiliation payment for various acts. A related incident is recorded.

### 3) The currency of the Mishnah

The Gemara inquires whether the Mishnah refers to צורי currency or מדינה currency.

An incident is cited that demonstrates that the Mishnah refers to צורי currency.

R' Yehudah Nesiah's statement in the incident is clarified.

An alternative explanation is offered.

### 4) A witness becoming a judge

The Gemara challenges the assumption that R' Akiva maintains that a witness can become a judge.

The Gemara answers that R' Akiva in the Baraisa just cited was not expressing his own opinion; rather he was responding to Shimon Hateimani's statement.

### 5) An animal that kills and damages

Baraisa discusses the liability of an animal that kills and damages.

The ruling related to a מועד animal is challenged.

Rava begins to present an explanation. ■

## REVIEW and Remember

1. What is the halacha of יום או יומיים?

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2. Why does a half-slave half-free man not go free when a limb is knocked off?

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3. What is the penalty for exposing a woman's hair?

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4. What is the point of dispute between Shimon HaTeimani and R' Akiva?

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## Distinctive INSIGHT

### תוקע לחבירו

התוקע לחבירו נותן לו סלע

Rashi explains that the case of תוקע לחבירו is where a person strikes another on his ear, causing him to become deaf. In his alternative explanation in the name of his teachers, Rashi explains that the case is where a person causes a loud noise near the ear of another person, again resulting in deafness.

Rambam (Commentary to Mishnah, 8:6) explains that the case is where a person curls his fingers on the palm of his hand and uses his fist to strike the next person (anywhere on his body). Although our text in Rambam says that the strike was "בערפו - on the back of his neck," it seems from authentic texts in Rambam that these words are not precise, and the intention is that the person was struck anywhere on his body. Furthermore, in Hilchos Chovel u'Mazik (3:9) Rambam records this halacha in terms of the blow being struck with the hand (בכפו).

The penalty for תוקע לחבירו is that the victim is paid a סלע. Rabeinu Chananel (earlier, 36b) explains that this flat payment of a סלע is because the case is where the aggressor grabbed the victim and was תוקע, but no actual damage was done. Rashba also explains that the case must be where no damage was done, because if the victim was made deaf due to this encounter, the attacker would not simply pay a סלע, but he would have to pay the person's full value, which is the assessed damage for having ruined the victim's life.

Rashi writes that the payment of a sela is due to embarrassment. If there are other aspects to the encounter, an assessment of the other damages would have to be made in addition to that. Ri"f explains that there are those who say that the sela includes both embarrassment and pain. Rosh writes that the Ri"f included these two payments into a flat fee because these are common outcomes of making a loud noise near someone else's ear. In any particular case, additional calculations would have to be made to account for medical bills and lost wages, as necessary.

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 In loving memory of the yahrzeit of  
 הינדא בת מאיר  
 ע"ה Mrs. Harriet Abramchik  
 by Helene and Alan Jay Gerber & Family

# HALACHAH Highlight

## Humiliating others is tantamount to humiliating Hashem

לאחר ידו נותן לו ד' מאות זוז

If he used the back of his hand he must pay four hundred zuz

Toras Chaim<sup>1</sup> questions why the penalty for humiliating a person is so great that one could possibly pay four hundred zuz, twice the value of a kesubah. Furthermore, the Gemara Sanhedrin (58b) states that striking a Jew in the mouth is tantamount to striking the “Mouth” of Hashem. Why did Chazal perceive humiliation as a more serious matter than even physically striking others? He explained that when a person strikes his friend the pain is experienced in the victim’s body. In contrast, when one humiliates another Jew the pain the victim experiences is felt in his neshama that emanates from Hakadosh Baruch Hu. Since a person’s honor and dignity are derivatives of the fact that one’s soul comes from Hashem it is his soul that feels the pain of humiliation and embarrassment.

Accordingly, we can understand a strange ruling of Mordechai<sup>2</sup>. Mordechai rules that one who humiliates someone who is dead has committed a very serious transgression. He cites as proof R’ Yehoshua’s statement that he was embarrassed from Beis Shammai’s words and later when he regretted his disrespectful statement he spent the remainder of his life fasting to repent for the disrespectful way he spoke. In light of our new understanding we can understand why one who humiliates someone who is dead has committed a serious transgression. Since the soul of a person does not die, a

(Insight. Continued from page 1)

Rambam (Chovel u’Mazik 3:8) rules that the sum of a sela includes all four damages (excluding נזק, because there is no direct damage).

Tur (C.M. 420) cites the opinion of Rambam, as well as the opinions of Ri”f and Rosh. Beis Yosef writes that the text of Ri”f which we have seems to indicate that he agrees with Rambam’s view, and that this is the halacha. However, he adds that if the outcome of being תוקע causes excessive damage, even Rambam would agree that the payment should be more than a sela. ■

disrespectful remark that is made is as damaging as a remark that is made while he is alive.

He also sheds light on a difficult ruling in Shulchan Aruch. Shulchan Aruch<sup>3</sup> writes that one who humiliates a friend must ask for forgiveness and if the person who was humiliated has passed away one should bring ten people to his grave and declare, “I have sinned against Hashem the G-d of Israel and against Ploni whom I have offended.” Why is it necessary to ask forgiveness from Hashem and why since it is an interpersonal transgression does the offender address Hashem first? Toras Chaim answers that since we consider humiliating and striking a person equivalent to humiliating and striking Hashem, it is logical that one should ask forgiveness from Hashem first since He was also humiliated by the offensive remark and one should address His humiliation before the humiliation of a person. ■

1. תורת חיים ד”ה התוקע
2. מרדכי פרק שמיני סי’ ק”ו
3. שו”ע או”ח סי’ תר”ו סע’ ח ■

# STORIES Off the Daf

## Escaping bondage

מפקיעין מידי שיעבוד

When someone asked Rav Yosef Lieberman to impart some mussar from Bava Kamma 90, the Rav extemporized, “On the beginning of the daf we find that hekdesh, chometz, and freedom have the ability to uproot liens. We can learn a tremendous amount of mussar from this one statement. Firstly, one must realize that he is mostly ‘meshubad’ to his yetzer hara who always waits to ensnare him in sin. As the

verse states, צופה רשע לצדיק ומבקש - להמיתו - The wicked one scouts out for the tzaddik and seeks to kill him.’

Here, the Gemara offers hints as to how we can overcome this ‘shibud’. The first is through hekdesh. This means that one should sanctify himself even in that which is permitted to him. One must be careful not to become a menuval b’reshus Hatorah, as the Ramban explains in the beginning of parshas Kedoshim. The second way is through being careful about chometz. Based on the Zohar, the Arizal taught that one who is careful not to have any chometz for the entire duration of Pesach will not sin the entire year. Of

course this refers not only to physical chometz but also to the spiritual chometz of anger and arrogance. The third means, ‘shichrur,’ refers to learning Torah, since we find in Avos - אין לך בן חורין אלא מי שעוסק בתורה - ‘The only free person is one who occupies himself with Torah study.’ This is because the only cure for the yetzer is limud haTorah, as taught in Kiddushin.

“So here is your mussar: One who is careful in these three matters will remove the yoke of the yetzer from around his neck and will attain true holiness!”<sup>1</sup> ■

1. משנת יוסף אגדות הש”ס חלק ב’ עמ’ ט”ו