



OVERVIEW of the Daf

1) Informers (cont.)

R' Yosef and R' Huna bar Chiya continue to discuss R' Nachman's ruling concerning the man who showed extortionists someone else's wheat.

The Gemara presents numerous incidents involving informers and analyzes many of the rulings that emerge from those incidents.

2) MISHNAH: The Mishnah teaches that if a stolen field is flooded the robber can return the field without any accompanying payment.

3) Returning a flooded stolen field

A Baraisa presents a dispute between R' Eliezer and Chachamim whether a robber has to pay if the field he stole becomes flooded.

The Gemara identifies the point of dispute between these two positions.

A Baraisa is cited that seems to conflict with this interpretation of the Baraisa.

R' Pappa resolves the difficulty presented from the Baraisa. ■

REVIEW and Remember

1. Explain שהרי עקירה צורך הנחה היא.

2. What was the cause of R' Kahana's death?

3. When is a judge obligated to pay for an incorrect ruling?

4. Why is one who is being pursued exempt from paying for utensils he breaks while trying to escape?

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 Mr. and Mrs. Avi Goldfeder
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 ר' ירוחם פישל בן ר' משה אברהם הכהן, ז"ל

Distinctive INSIGHT

The episode of Rav Kahana escaping to Eretz Yisroel

קום סק לארעא דישראל וקביל עלך דלא תקשי לרבי יוחנן שבע שנין

The Gemara tells the fascinating story of Rav Kahana and his encounter with a person who planned to inform the government about some Jewish-owned property. The Gemara tells us that someone came to Rav and announced that he was going to show some Jewish-owned straw to the officers of the king. Knowing that these officers would certainly confiscate it, Rav told him to be silent. When the person reacted with insolence against Rav, Rav Kahana, who was watching, rose up and struck the man, killing him. As a result of this incident, Rav advised Rav Kahana to escape to Eretz Yisroel in order that he not be punished by the gentile authorities who ruled over Bavel. Rav told Rav Kahana to go and study under Rav Yochanan, but to not ask any questions for seven years.

Rashi comments that Rav felt that Rav Kahana had acted correctly by killing the informer. Rav cited a verse from Yeshayahu (51:20) from which we see that once a non-Jew forces a Jew to give him his money, they continue to persecute the Jews until they torture and even kill. Sefer שלמה ים (#50) notes that from the fact Rav told Rav Kahana to leave Bavel, it seems that Rav felt that Rav Kahana had acted improperly by killing the informer. Although killing the informer was necessary, Rav Kahana should have done so in an indirect manner, rather than striking him with his arms. Although Rav did not think that Rav Kahana was guilty of murder, he declared that he was deserving of being banished, and his atonement would come about by sitting passively in front of R' Yochanan for seven years. One of the indications של שלמה ים brings for his assertion is that Ri"ף omits this story from his halachic listings.

ש"ך (C.M. 388, #56) disagrees with the conclusion of שלמה ים, and he contends that Rav Kahana did nothing wrong by killing the informer. ש"ך also notes that Ri"ף, in fact, agrees that it is permitted to kill an informer, and this is found in the comments of Ri"ף to 119a, where Ri"ף rules that it is permitted to destroy the property of the informer, "because we should not have to treat his property any better than we do to his very life." This comment of Ri"ף seems to clearly indicate that the life of the informer may be taken, as he poses a threat to the lives of other

HALACHAH Highlight

Is there a prohibition against stealing land?

יצאו קרקעות שאין מטלטלין

This excludes lands that are not movable

Poskim disagree whether a person who steals land violates the Biblical prohibition against stealing. Does the Gemara's teaching indicate that one who steals land does not even violate the Biblical prohibition against stealing, or perhaps the limitation merely addresses the acquisition of the stolen property and the obligation to return the stolen land, but the Biblical prohibition against stealing remains in force? Rambam¹ writes clearly that one who steals land or slaves violates the Biblical prohibition against stealing, whereas Rosh² holds that one who steals land or slaves does not violate the Biblical prohibition against stealing.

Tosafos³ suggests a circumstance where one will violate the Biblical prohibition against stealing land even according to the position which maintains that land cannot be stolen. If Reuven built a home on Shimon's land and Shimon stole that house from Reuven he violated the Biblical prohibition against stealing since in this circumstance Reuven's home is on Shimon's property. Rav Akiva Eiger⁴ challenges this assertion since one who steals another person's slave also brings that slave into his domain and nevertheless it is excluded from the parshah of stealing, so too, concerning land even where Shimon takes possession of the land it should

(Insight. Continued from page 1)

Jews, as mentioned above.

Maharsha also holds that Rav Kahana did nothing wrong by killing the informer, and the reason for Rav's banishing him was only that Rav Kahana acted without asking permission from Rav before taking things into his own hands. ■

be excluded from the Biblical prohibition. Kehillas Yaakov⁵ answers that in reality, a slave does not enter the domain of the thief. Since the slave remains in his own possession (מוחזק בעצמו) and the hand of the slave is like the hand of his master, wherever he is, even if he is physically in the domain of the thief, it is considered as if he remains in the possession of the master. Land, however, does not have this characteristic and therefore given the correct conditions it could be stolen. Alternatively, Tosafos was only addressing the issue of the prohibition rather than the obligation to return the land or the thief's liability. In other words, since the reason land is not subject to the prohibition against stealing is that land does not move from its place, in a circumstance that the stolen land (Reuven's house) is on the property of the thief (Shimon's land) it is subject to the Biblical prohibition against stealing. ■

1. רמב"ם פ"ז מהל' גניבה ה"א
2. שו"ת הרא"ש כלל צ"ה אות א'
3. תוס' סוכה ל"א ד"ה אבל
4. גליון הש"ס שם
5. קהילת יעקב סי' ל"ז ■

STORIES Off the Daf

Collateral damage

פטור ולא מן הדין

One time, a certain great Rav who was publicly supportive of a political group that had both religious and non-religious elements was slandered. When the chassidim heard this, they believed the slander and went after this gadol as if he were some kind of outright maskil. They even went so far as to publicly embarrass him. Of course, publicly embarrassing a Torah scholar is a very serious offense.

Certain supporters of this gadol approached the Chofetz Chaim, zt"l,

and requested that he stand up for the insulted man's honor. After all, he was definitely innocent! When he heard their arguments, the Chofetz Chaim's face twisted in pain; his visitors were sure that he would issue a public defense of the slandered scholar. Although such a defense would have impaired the ability of the chassidim to wage war with the proponents of the haskalah in their area, the scholar's defenders figured that this was irrelevant since embarrassing an innocent person is compared to murder. This is all the more true if the person embarrassed is a Torah scholar.

To their shock, the Chofetz Chaim refused to censure those who had embarrassed this gadol. He explained his

position, "I learn this from Bava Kamma 117. There we find that if one sees someone pursuing an innocent man or woman and he breaks a third party's vessels to save the victim, he need not pay for the broken vessels. We see that the halachah accepts that sometimes a totally innocent person must sustain a monetary loss to save an innocent man or woman from his pursuer.

He continued, "The chassidim are working to save Yiddishkeit from those who pursue us. If, in their rush to defend Yiddishkeit, an innocent person is harmed, we must accept this as an unavoidable result of this difficult situation."¹ ■

1. החפץ חיים—חיינו ופעלו ח"ב ע' 622