

OVERVIEW of the Daf

1) The ox of a deaf-mute, an insane person or a minor (cont.)

R' Acha bar Abaye concludes his challenge to Rava's explanation. Ravina defends Rava's explanation.

Ravina offers another explanation for the dispute between R' Yaakov and R' Yehudah.

2) Liability of a guardian

A Baraisa states that a guardian is liable for damages but does not pay כופר.

Assuming that the guardian does not pay כופר because the orphans are not in need of atonement, R' Chisda asserts that the author of the Baraisa is R' Yishmael the son of R' Yochanan ben Berokah who seemingly disagrees with Rabanan about this point.

R' Pappa rejects this interpretation of the dispute and offers another interpretation of the dispute between R' Yishmael the son of R' Yochanan ben Berokah and Rabanan.

3) Kofer

R' Acha bar Yaakov asked R' Nachman how partners would pay כופר.

As R' Nachman was considering that question R' Acha bar Yaakov asked another unrelated perplexing question and R' Nachman did not answer either question.

4) An animal's muad status

A Baraisa discusses two scenarios of what happens when an animal changes from תם to מועד when it is deposited by another person.

The Gemara searches for an explanation for the Baraisa's first ruling related to the case of one who borrowed a cow thinking it was a תם.

It is noted that the Baraisa is contradictory whether a change of jurisdiction changes the status of the animal.

R' Yochanan asserts that the two clauses do not represent the same author.

Rabbah explains how the Baraisa follows the opinion that a change in jurisdiction does not change the animal's status.

R' Pappa explains how the Baraisa could be explained according to the opinion who maintains that a change of jurisdiction changes the animal's status.

5) A stadium ox

Rav and Shmuel disagree whether a stadium ox could be brought as a korban.

Each Amora presents the logic of his respective position.

Shmuel's position is challenged from a Baraisa.

The challenge is refuted by offering an alternative explanation of the Baraisa.

Support for this explanation is cited.

The Gemara seeks clarification of the Baraisa's contrast concerning

כופר between an animal that gores and a רובע.

Abaye offers an explanation. ■

Distinctive INSIGHT

A proper כופר—not double and not half

שור של שני שותפין כיצד משלמין כופר... כופר שלם אמר רחמנא ולא חצי כופר

An owner of an animal which is מועד which kills a person is obligated to pay כופר—a death payment to the family of the victim. The Torah states that “כופר” must be paid, which the Gemara understands to mean that payment must be made once, and not twice, and also that a full כופר must be paid, not a half-כופר. The question of the Gemara is how are we to rule in a case where the animal which killed was owned by two partners? On the one hand, if both pay, this would be inconsistent with the directive to pay once and not twice. On the other hand, if each pays half, this also would not be in agreement with the Torah's instruction to pay a full כופר and not half. Rashba (to Gittin 42a) explains that our Gemara does not mean to suggest that one of the alternatives should be that the payment not be made at all. Chazon Ish proves from the Gemara's wording of the question that there is certainly not a consideration to exempt the partners in this case. The Gemara struggles to suggest that on the one hand each should pay כופר, although this would result in a double payment. On the other hand, the Gemara wonders if each should pay half, although this is a violation of the Torah's rule to pay כופר, and not a half payment. We see that the only two possibilities the Gemara entertains are where the partners pay something, but the Gemara does not suggest the third possibility of the partners being exempt, and this is just as Ritva explained.

Tosafos and Tosafos Rabeinu Peretz note that the Torah often requires that an act be done, but even a partial performance is better than nothing. For example, a thief stole an ox belonging to partners, and he sold it (see 71a). He then admitted his crime to one of the partners. The thief is exempt from the portion of the fine he would have had to pay that partner, but he still must pay five times for the remaining half of the stolen ox. We see that partial payment is allowed. Also, Rabbi Yehuda (Chullin 88a) allows the mitzvah of “covering the blood” to be fulfilled with the covering of part of the blood. Tosafos also brings other examples where the Torah does not demand “all-or-nothing” for fulfillment of a law. Why, then, regarding כופר does our Gemara feel that half-payment is inconsistent with the word “כופר”?

Tosafos answers that it is specifically in regard to כופר which is an atonement where the Gemara feels that if the law is not done according to the proper guidelines, its goal is not achieved. ■

HALACHAH Highlight

Atonement for minors

ויתמי לאו בני כפרה נינהו

And orphans (who are minors) are not in need of atonement

Although the Gemara mentions the principle that minors are not in need of atonement in the context of paying kofer when a מועד animal kills a person, nevertheless, the principle has application in other areas of halacha as well. Shulchan Aruch¹ mentions four people who have an obligation to recite the beracha of הגומל: one who travelled by sea, one who travelled through the desert, one who recovers from illness and someone who was released from prison. Magen Avrohom² writes that a minor does not recite the beracha of הגומל since it is not possible for him to state להיביים טובות—He who bestows good things upon the guilty. Since a child is not accountable for his actions, he cannot be considered guilty and thus the beracha is not applicable. Although Shaarei Teshuva³ cites authorities who maintain that a child is allowed to recite the beracha, Mishnah Berura⁴ writes simply that a child is not obligated to recite the beracha even for chinuch purposes. Avnei Nezer⁵ points out that although the beracha of הגומל is valid even if one omitted the word להיביים, nonetheless, there is no mitzvah of chinuch to teach a child to say the beracha differently than the ideal way Chazal enacted.

Another appearance of this principle but one that seemingly comes to an opposite conclusion appears in the context of the practice to give מחצית השקל—a half shekel before Purim. Rema⁶ writes that only men over the age of twenty give the מחצית השקל since that was the age at which people were counted as part of the census⁷. Mishnah Berura⁸ mentions

REVIEW and Remember

1. Is there a disagreement regarding the status of the כופר payment?
2. Is a borrower responsible if the animal he borrowed turns out to be a מועד rather than a תם?
3. Explain the rationale behind רשות משנה.
4. What is the point of dispute between Rav and Shmuel?

that other authorities disagree and maintain that from the time a male is thirteen he should give מחצית השקל. He then goes on to write that the custom is that fathers give מחצית השקל on behalf of their minor children and even pregnant women give מחצית השקל on behalf of their fetuses. Interestingly, the rationale given by Kaf Hachaim⁹ for this custom is that the Torah states in reference to the shekel donation לכפר על נפשותיכם—to atone for their souls. Therefore, we give a מחצית השקל even for children to provide them with atonement. ■

1. שו"ע או"ח סי' רי"ט סע' א
2. מג"א שם סק"א
3. שע"ת שם סק"א
4. מ"ב שם סק"ג
5. שו"ת אבני נזר או"ח סי' ל"ט
6. רמ"א סי' תרצ"ד סע' א
7. תוס' יו"ט פ"א שקלים מ"ג בפירושו לשיטת הרע"ב שהוא לפי המ"ב מקור דברי הרמ"א
8. מ"ב שם סק"ה
9. כף החיים שם אות כ"ז ■

STORIES Off the Daf

One to counteract the other

תברא מי ששנה זו לא שנה זו

When encouraging people to learn, Rav Michel Yehudah Lefkowitz, would say, "This world is filled with trials. A person's entire life is full of tests. A trial does not mean being forced to violate Shabbos, as many people erroneously believe. Every second of every day is filled with spiritual tests. Some of these are hard and others are relatively easy. Sometimes one feels chained in irons by

the yetzer. He is virtually compelled to sin and must work very hard to shake loose of these shackles. At these times he is a slave to the yetzer. Nothing can help him overcome its insidious ways. But there is one exception: Torah. One who toils in Torah will be aided from heaven to overcome all yetzarim. But one whose hand slackens from Torah will not be able to resist."¹

The She'eris Menachem, zt"l, learned this lesson from today's daf. "Learning Torah saves from the net of the yetzer hara. The verse says in Tehillim, מרשת זו טמנו לי. We see that the net of evil is referred to as זו. Later in

Tehillim it says, ועדותי זו אלמדם. We see that Torah is also called זו. This teaches that Torah is the best protection from the nets of the yetzer hara. This can also be learned from Bava Kamma 40 where we find, תברא, מי ששנה זו לא שנה זו. This can be read to mean: one who learns Torah which is called זו with a broken heart does not learn the other זו—the rationalizations and foolishness that leads to falling into the many nets of the yetzer."² ■

1. דרכי החיים חלק ב' עמ' קס"ג
2. שלחן מלכים ויזניץ חלק ג' עמ' קע"ז

