

This month's Daf Digest is dedicated in memory of
Mr. Israel Gotlib of Antwerp and Petach Tikva and Yisrael Tzvi ben Zev.
By Mr. and Mrs. Manny Weiss

OVERVIEW of the Daf

1) Injuring a female minor (cont.)

R' Yosi bar Chanina explains R' Yochanan's ruling.

2) Humiliation for slaves

R' Yehudah's ruling that there is no humiliation payment for a slave is explained as well as Rabanan's response to that ruling.

R' Yehudah's ruling is unsuccessfully challenged.

Two unsuccessful challenges are presented against Rabanan's position.

3) A slave's disqualification for testimony

Mar the son of Ravina offers a source for a slave's disqualification for testimony.

This interpretation of the pasuk is unsuccessfully challenged.

4) A wife who gave her property to her son

The Gemara retells an incident of a woman who gave her property to her son and a disagreement arose between Amoraim (R' Yirmiyah bar Abba and R' Yehudah in the name of Shmuel) whether the son keeps the property or it is inherited by her husband.

R' Yirmiyah bar Abba defends his position that the property goes to the son.

In the course of his explanation it is necessary for the Gemara to cite a dispute between R' Yochanan and Reish Lakish regarding a case of a father who wrote that his property will go to his son after his death and the son sold the property during the father's lifetime.

R' Yochanan explains his position that the buyer does not keep the property.

Reish Lakish explains his position that the buyer does keep the property.

It is noted that both R' Yirmiyah bar Abba and R' Yehudah follow the position of Reish Lakish on this matter.

R' Yirmiyah bar Abba concluded the defense of his position and when this was reported to R' Yehudah he responded that Shmuel rejected that argument.

R' Yosef explains why Shmuel rejected R' Yirmiyah bar Abba's proof.

Abaye rejects this explanation and another explanation is offered.

R' Idi bar Avin cites proof to this explanation. ■

Distinctive INSIGHT

A slave is not a "brother"

יצא עבד שאין לו אחוה

The Mishnah cited a dispute between Rabbi Yehuda and the sages regarding payment for embarrassment for a slave owned by another Jew. Rabbi Yehuda states that no payment for embarrassment is to be paid, while the sages argue and say that this payment is applicable for slaves. The Gemara explains that this difference of opinion hinges upon how to understand the verse which teaches the law of embarrassment. The verse states (Devarim 25:11): "When men fight with one another, a man and his brother..." The episode continues to describe an encounter where one man suffered embarrassment, and that he must be compensated for his ordeal. Rabbi Yehuda says that the word "אחי—brother" comes to exclude a slave from this law. Rashi here explains that a slave is not our brother, because he cannot marry among the Jewish people (אין בא) (בקהל). Toras Chaim questions this definition, because this would mean that anyone who is prohibited to marry among the Jewish nation (i.e. ממזר, פצוץ דכא, ממוזר) would similarly be excluded from receiving payment for embarrassment. Pnei Yehoshua answers that Rashi did not intend to say that a slave is not a "brother" because he cannot marry among the Jewish people, but rather that the consequence of his being excluded from marrying a Jewish woman is that his descendants will not be Jewish, and they will never have Jewish roots. All other categories of individuals who cannot marry a Jewish woman do have "brothers" who are members of the Jewish nation, and they are eligible to receive payment for embarrassment.

The sages understand that in order to qualify to be a "brother" in this context, it is enough that a slave be "our brother" in mitzvos. In other words, because a slave is obligated in the mitzvos which a woman is obligated to perform, the slave is "our brother" and is included in the law of embarrassment.

In addition to the comment of Rashi on our daf, Rashi in Sanhedrin (86a, עבד ד"ה עבד) explains that a slave in general lacks the relationship of brotherhood in that he may marry his sister, or his brother's wife (after the brother is no longer married to her). Tosafos also notes that the descendants of a slave are not referred to as each other's brothers. ■

HALACHAH Highlight

A husband's rights to his wife's melog property

באושא התקינו האשה שמכרה בנכסי מלוג בחיי בעלה וכו'

In Usha they enacted that a woman who sells her melog property during the lifetime of her husband etc.

Shulchan Aruch¹ rules that a husband has the right to the produce from his wife's melog property even if she sells the land to others. He may not, however, take possession of the land since he has no share in the land. If, however, she were to die during his lifetime the husband would then be authorized to repossess the land from the buyers. Avnei Miluim² notes that this issue, namely, whether the husband has the right to repossess melog property from buyers during his wife's lifetime, is subject to a debate between Rambam and Rosh regarding the exact parameters of the enactment of Usha. Rosh³ maintains that the enactment of Usha was that a husband's rights to the produce of his wife's melog property are as strong as if he did have rights to the land. Consequently, even though the husband has no claim to the land during his wife's lifetime, he has the right to prevent her from selling the land to others. Rambam, with whom the Shulchan Aruch agrees, holds that the husband does not have the right to prevent her sale of the property to others and his rights are limited to being able to repossess the land after his wife dies.

Later authorities note that there are a number of practical differences between the approach of Rambam and the approach of Rosh. Bach⁴ suggests that one difference between their approaches relates to who has the right to use the land to

REVIEW and Remember

1. What is the issue that is disputed by R' Yehudah and Rabanan concerning humiliation of a slave?
2. What is the source that slaves cannot testify?
3. Explain the case that is disputed by R' Yochanan and Reish Lakish?
4. What was the enactment of Usha concerning a woman who sells her melog property?

acquire property. According to Rosh the buyer has no legal claim to the land and thus he may not use the land to acquire property whereas according to Rambam since the property belongs to the buyer until the woman dies he has the right to make acquisitions using that land. A second practical difference is mentioned by Chelkas Mechokeik⁵. In order to write a prozbol it is necessary for the borrower to own land. According to Rosh the buyer would not be able to write a prozbol since he does not legally own any land whereas according to Rambam the buyer is the legal owner of the land and can thus write a legal prozbol. ■

1. שו"ע אה"ע סי' צ'
2. אבני מילואים שם ס"ק י"ב
3. רא"ש כתובות פ"ד סי' י"ז
4. ב"ח שם ד"ה כיון
5. חלקת מחוקק שם ס"ק כ"ז ■

STORIES Off the Daf

The greatness of converts

ומה גר דלמעלה הוא דאין לו חיים

On today's daf we find that converts have no halachic family tie to their non-Jewish relatives.

The verse informs us that it is incumbent upon us to love converts. The Midrash states that Hashem has an exceedingly great love for converts and explains why with the following parable:

This can be compared to a king who had a large flock of various domesticated livestock that would go out of the city to graze each day. Once a deer joined the

heard of goats and sheep and began to graze with them. Instead of running about in an unbridled fashion, the deer entered the pen with the herd. Each day, the deer would go out and return with rest of the herd.

When the shepherds told the king about this unusual phenomenon, the king felt a great love for this most unusual deer. Each day, when the herd started out, the king commanded the shepherds to take care that no person strike or annoy his domesticated deer. When the animals returned to their pens, the king ordered them to ensure that the deer had sufficient food and drink. The shepherds were very surprised at the unusual attention the king was paying the deer, said to

him, 'Your majesty has so many other animals of various species, yet he only admonishes us regarding this one deer?'

'Correct,' the king replied. 'You need not pay special attention to the sheep since this is the natural way of their species. But although deer usually dwell in uninhabited areas, this deer has joined us. Is it not incumbent upon us to have a special degree of gratitude for this?'

Similarly, Hashem tells the Jewish people, 'A convert leaves his family and his parents' house and comes to Me. Should I not be express special gratitude for this distinction?' For this reason we are enjoined to love converts. As the verse says: 'Hashem protects converts.'¹ ■

1. מדרש תהילים קמ"ז ח'