

OVERVIEW of the Daf

1) Identifying the author of the Mishnah (cont.)

The Gemara concludes recording the exchange between the Tanna of our Mishnah and the two Tannaim of the Baraisa.

2) Demanding one's wages

A Baraisa elaborates on the precondition that an employee must ask for his salary for the employer to violate the prohibition of delaying payment of his salary.

3) Salary paid by a third party

R' Sheishes and Rabbah disagree whether an employee who agreed to receive his salary from a third party can demand payment from his employer if the third party does not pay.

Rabbah cites a source for his position but it is refuted by R' Sheishes.

4) Contractual work

R' Sheishes was asked whether the prohibition against delaying payment of a salary applies to contractual work or not.

R' Sheishes asserted that the prohibition applies.

This ruling is unsuccessfully challenged.

An unsuccessful attempt to prove R' Sheishes correct is presented.

5) Taking an oath to collect one's wages

The Gemara questions the rationale behind the enactment that allows an employee to take an oath to collect his salary.

After struggling with the correct wording the Gemara finally reaches an acceptable explanation why the employee takes an oath to collect his salary.

An alternative to taking an oath to collect is suggested but rejected.

The Gemara questions and answers why this same rationale does not allow the employee to swear how much he claims to have been promised for his salary.

The Gemara questions why this rationale does not allow the employee to swear and collect even after the time for payment passed.

An explanation is suggested and the Gemara begins to analyze the merits of the explanation. ■

Distinctive INSIGHT

Entering into situations of danger in order to make a living

מפני מה עלה זה בכבש ונתלה באילן ומסר את עצמו למיתה? לא על שכרו?

R' Yose b. R' Yehuda understands that the verse dramatically emphasizes how a worker puts himself in danger and is prepared to suspend himself from trees in order to earn his wages. The lesson of the Torah in wording the verse in this manner it to teach us that the requirement to pay a worker on time is very significant, and withholding wages is tantamount to "stealing the life of the worker." The commentators note that although it is generally prohibited for a person to put himself in danger, this verse seems to suggest that it is allowed for a worker to do so in order for him to earn a living.

Based upon this Gemara, Noda B'Yehuda (II, Y.D. 10) rules that a person who is needy may enter into a situation of danger if it is necessary as part of his efforts to earn a living. However, anyone who acts irresponsibly and suspends himself from trees or engages in risky behavior needlessly is in violation of the Torah's directive (Devarim 4:15) "Be exceedingly careful to guard your lives."

Chazon Ish writes that it does not seem that this Gemara is offering any extension to permit entering into danger. Rather, the Gemara is dealing with a case of climbing on a tree or crossing a ramp. These behaviors are potentially dangerous, but when a person does them he usually does so cautiously and with protecting himself with taking proper safety measures. This is true whether the person is involved in earning a living or not. The reason this is permitted is that when a person proceeds carefully, the risk of danger is limited. This is permitted for anyone who acts in this manner, but outright placing oneself in dangerous conditions remain prohibited.

Chazon Ish then deals with the halacha of building a parapet (מעקה) around a roof. The halacha is that if a roof is not accessed, and it is not used for any utility, there is no requirement to build any such railing. Why should there be this exemption from the law of "do not allow danger in your house" (Devarim 22:8)? He answers that a roof is not inherently dangerous, and anyone who goes up on a roof naturally exhibits care. In fact, he cites our Gemara as a proof for this, as the Gemara notes that workers are allowed to build a roof in the first place, before it is secured with a fence. ■

HALACHAH Highlight

Dangerous professions

”ואליו הוא נושא את נפשו” מפני מה עלה זה בכבש ונתלה באילן וכו’
 “And for it he risks his life,” why does a worker climb a ramp or suspend himself from a tree etc.

Noda B’yehudah¹ writes that one is prohibited from hunting animals if it is not for the purpose of providing financial support since hunting by nature is cruel. Another reason to prohibit the sport of hunting is that often hunters enter a forest, a dangerous place and the Torah warns a person against putting himself in danger. Those who hunt for a living, however, are permitted to engage in that profession similar to merchants who oftentimes travel by boat to different places to sell their wares. Even though it is dangerous, when a person does not have an alternative profession it is permitted. The basis for allowing a person to put his life at risk to earn a living is derived from the verse that states (Devarim 24:15), **ואליו הוא נושא את נפשו** – “And for it he risks his life,” which Chazal, in our Gemra, understand to mean that a worker may put his life in danger in order to earn a living.

Rav Moshe Feinstein² was asked whether it is permitted for a person to play professional football. The basis for the question is that people some times become injured or injure others and perhaps it should be prohibited for a person to engage in this dangerous activity. Rav Feinstein answered that it is permitted and based his response on the pasuk cited earlier that permits a person to engage in dangerous activities if it is done for the sake of earning a livelihood. Furthermore, one

REVIEW and Remember

1. Whose life is at stake if an employee does not pay his employee on time?

2. Is contractual work subject to the prohibition against delayed payment of a salary?

3. Why did Chazal institute that an employee can take an oath to collect his salary?

4. What is the halacha if there is a dispute regarding the sum of an employee’s salary?

does not have to be concerned with the possibility that one may injure or kill another person. One is not permitted to commit suicide but nevertheless one is permitted to put his life at risk to earn a living, so too one is permitted to engage in activities that may endanger others in order to earn a livelihood. Another rationale to permit this is that if one would be required to exercise greater caution regarding the well-being of others how could it be permitted for the employer to employ someone to climb a tree and put his life at risk? It must be, concludes Rav Feinstein, that not only is it permitted to accept employment that is dangerous but it is also permitted to employ others even though it puts their lives at risk. ■

1. שו"ת נודע ביהודה מהדו"ת יו"ד סי' י"י.

2. שו"ת אג"מ חו"מ ח"א סי' ק"ד. ■

STORIES Off the Daf

Risking one's life

”ואליו הוא נושא את נפשו...”

As the Jewish people entered the latter part of the twentieth century, many new questions presented themselves that were never addressed in the works of earlier authorities. A certain religious young man, influenced by the general infatuation with “America’s favorite pastime,” wished with all his might to become a professional baseball player. He spent every instant he could in practice and was working on getting a scholarship to a good college when his

father burst his bubble.

His father said, “I don’t believe that ball playing is a halachically viable profession since there is an element of physical danger involved. Surely this violates the prohibition of **ונשמרתם מאד** — **לנפשתיכם** — that we must take great care to protect our lives.” As a religious Jew it seemed that the young man would just have to find a more pedestrian Jewish occupation.

But when this young man expressed his great dissatisfaction at being stymied from at least giving his best shot at fulfilling his dream, someone suggested that he consult a genuine posek. “After all,” his friend said, “Who knows if your father is correct?”

He decided to ask Rav Moshe Feinstein, zt”l, on behalf of this distressed young man. When Rav Moshe heard the question he immediately ruled that the young man was permitted to become a ball player to make a livelihood. “This is a clear Gemara in Bava Metizia 112. There we find that on the verse, **ואליו הוא נושא את נפשו** — ‘He bears his life to it’— the sages commented, ‘Why does a worker climb to high places to do his work and literally risk his life? Is this not for his pay?’ We see from here that one may take a slight risk to his life in order to make a living if the people who put themselves slightly at risk do so willingly!”¹ ■

1. אגרות משה, חו"מ א', סי' ק"ד. ■