

OVERVIEW of the Daf

1) Freeing half a slave (cont.)

Ravina explains how the Mishnah could be explained in accordance with R' Yosef's understanding of the dispute between Rabbi and Chachamim concerning someone who freed half his slave.

Rabbah asserts that the dispute relates to where the slave was partially free but if half the slave was sold or given away as a gift when the slave was partially freed, the slave goes free.

Abaye unsuccessfully challenges this explanation.

A proof to the alternative explanation of the Beraisa is suggested but rejected.

Another resolution to Abaye's challenge is presented.

A third resolution to Abaye's challenge is presented and rejected.

R' Ashi offers another explanation but this explanation is refuted.

2) An ox that gores a half-freed slave

The Gemara rules that if an ox gores a half-freed slave on the day he works for the master the money goes to the master and if it happens on the day he works for himself the half-freed slave collects the money.

An unsuccessful challenge to this ruling is recorded.

Another unsuccessful attempt is made to this ruling.

3) A slave in need of an emancipation document

The Gemara inquires whether the owner of the ox that kills a slave in need of an emancipation document pays the fine for killing a slave.

Two unsuccessful attempts are made to resolve this issue.

The topic digresses to a discussion in a Beraisa whether a slave whose owner knocked out a limb needs an emancipation document to go free.

The Gemara inquires whether a slave in need of an emancipation document may eat terumah.

An unsuccessful attempt is made to resolve this inquiry.

4) Selling the slave for rights to collect if the slave is killed

The Gemara inquires whether a slave sold by his master for the right to collect the penalty if the slave is killed is considered sold.

The Gemara elaborates on the question. ■

Distinctive INSIGHT

Dealing with doubts in the financial realm

הכחי השתא התם אם יבא אליהו ויאמר בחד מינייהו דעבד הוא קנין כספו קרינא ביה, הכא לאו קנין כספו הוא כלל

The Gemara analyzes details regarding the halacha of a gentile slave who was released by his owner, but he has not yet received his document of emancipation (שטר שחרור). One of the questions proposed involves a case his owner was a kohen. As a slave, he was able to eat teruma, being that he was קנין כספו, material property, of the kohen. Does this situation cease, now that the slave has been released from his servitude, or does it continue until the moment he receives his official documentation?

A proof is brought from a case of two baby boys who were mixed up at birth. One was the child of a wife of a kohen, and the other was the son of their maidservant. As they grow up, they may both eat teruma, as one is certainly a kohen, while the other is certainly the slave of a kohen, both of which are entitled to eat teruma. Due to the doubt, when they become of age, each should declare that the other is freed, and they are both bona-fide Jews (although the doubt regarding which is a kohen remains). We see from here that even without the ability to demand servitude from him, a slave is able to continue to eat teruma, and even without having received his official release.

The Gemara rejects this proof by noting that in the case of the mixed babies, if Eliyahu would come he could tell us which one is the slave, we could say that he is owned by the kohen and he could also be enslaved. The fact that he is not working is due to our doubt, and not due to his being partially freed. In the case of our inquiry, the slave is actually partially freed.

In שער יושר (ה:ו), Rabbi Shimon Shkop asks that the rule is ספק ממון להקל - whenever we have a doubt regarding financial dealings, we must be lenient. This means that we must leave things where they are until we have certain knowledge to exchange hands. Here, too, neither one of the children who were mixed at birth has any control as a master over the other. Each one has control over himself, and due to the doubt neither one can assert any ownership over the other. Therefore, the one who is really the slave is functionally unable to be enslaved, and the case does match the one in the inquiry. How, therefore, can the Gemara say that this case is potentially able to be clarified by Eliyahu? We always use the rule to be lenient by doubt regarding money, and we do not say that it can be solved by Eliyahu.

R' Shimon Shkop answers that we use the rule to be lenient on money matters when the case depends upon a subjective situation regarding the owner. However, the status of the slave is an objective doubt dealing with קנין כספו, which enables the real slave to eat teruma without his being forced to work. ■

HALACHAH Highlight

Collecting for an animal's lost income

ר"יח אומר דלא שייך שבת אלא באדם וכי (תוס' ד"ה ויור אינו משלם)
 Rabbeinu Chananel states that collection for lost income is limited to damage to a person

There was once a person who rented a horse. He was negligent with the care of the horse during the time that it was in his possession and as a result the animal developed a wound that required medical attention. The owner was forced to pay a veterinarian to heal the horse and continued to provide food to his animal even though the animal could not work during that time. Teshuvus Shvus Yaakov¹ began his analysis of this question by citing the discussion of whether one is obligated to make any of the four payments (i.e. pain, doctor's fees, humiliation and lost income – צער, ריפוי, בושת ושבת) for damaging an animal. The conflicting opinions on this matter are recorded in Shulchan Aruch². The first opinion writes that if the animal develops a wound due to the negligence of the renter he is not obligated to pay. The reason is that since the wound will heal on its own the only consequence of the wound is that the animal is unable to work while it continues to suffer from the wound. Payment for this is categorized as שבת – lost income – which is not a payment that the owner of an animal collects when his animal is damaged as recorded in our Tosafos³. The second opinion writes that he is obligated to pay and Sma⁴ explains that it is only regarding humans that we say that a wound that will heal on its own is categorized as lost income because people are generally not for sale. An animal, in contrast, is always available to be sold. Therefore, a wound that prevents it from working is categorized as נזק – damage – in the sense that the animal's value decreases as a result of its temporary inability to work. As such, the

REVIEW and Remember

1. What is the status of two slaves whose owner writes a gift document giving his property to those slaves?
2. Who collects payment when a half-freed slave is damaged by another's ox?
3. What is שבת קטנה and שבת גדולה?
4. What happens when a Kohen's child gets intermingled with a slave's child?

renter should be obligated to pay for causing a loss of the animal's value.

Shvus Yaakov⁵ then writes that although it is not possible to make the renter pay for the lost income that he caused to the animal since the issue is a matter of debate, nonetheless, he could be held liable to pay for the food the owner had to provide during the time the animal could not work. His reasoning is that when the animal works the animal earns its own food but now that it is incapable of working the owner is forced to pay for the animal to eat even though he does not receive any benefit from the animal. This is considered נזק – damage – which according to all opinions is a payment that one pays for damaging another's animal. ■

1. שו"ת שבות יעקב ח"ג סי' קע"ח.
2. שו"ת חו"מ סי' שי"ז סעי' ו'.
3. תוס' ד"ה ויור אינו משלם.
4. סמ"ע שם סק"ט.
5. מובא דבריו בחידושי רעק"א ופתי"ש שם. ■

STORIES Off the Daf

The Arrival of Eliyahu Hanavi

"אם יבא אליהו ויאמר בחד...דעבד הוא"

On today's daf we find that there is a practical application in anticipating Eliyahu coming to settle a particular halachic issue that is in doubt. Although we find many agadata that matter-of-factly discuss the appearance of Eliyahu HaNavi, many people wonder if it is still possible for anyone to merit gilui Eliyahu in later generations.

There was a certain man who was puzzled with precisely this question years ago, and he decided to refer it to a great authority. He heard it said that the famous Rav Shalom Sharabi, ז"ל, also known as the Rashash, a Kabbalist of very great caliber, had merited gilui Eliyahu. And he wondered how this

could possibly be. Did this really mean that Eliyahu Hanavi had come in the flesh to teach him?

He knew that the Ben Ish Chai, ז"ל, had been in contact with the famous Rashash by mail during his younger years and was still in contact with the Rashash's students. Who better to give an educated opinion on the matter than the illustrious Ben Ish Chai?

When the man asked the Ben Ish Chai what his thoughts were on this matter, the great Rav replied, "First of all, the verse 'do not touch my anointed ones, and do not disturb my prophets,' teaches that one should not discuss the very great since our understanding is far too insignificant to grasp the matter in question."

He continued, "But I can tell you one essential aspect regarding gilui Eliyahu: It is certain that speaking face-to-face with him like our teacher the Arizal did is a very diffi-

cult feat, and it would have been so even in earlier times. This is all the more true in our day and age. There are many levels of gilui Eliyahu, however. It is definitely correct that the tzaddik has a gului Eliyahu in his intellect. This means that a ניצוץ, a spark of Eliyahu, garbs itself in the tzaddik's mind's eye and shows him the proper path to the truth. The tzaddik believes that he grasped this truth on his own, but in truth he only got it in the merit of a spark of Eliyahu that entered into him."

The Ben Ish Chai concluded, "This differentiation is made by Rav Chaim Vital himself in Sha'ar Hahakdamos: 'It is mentioned in the Tikunim that Eliyahu will be revealed in the end of days. For some this revelation will be face-to-face, and for others this revelation will be in their mind's eye...'"¹

¹שו"ת רב פעלים, ח"ג, סי' ד'