

OVERVIEW of the Daf

1) Violating a relative and lashes and payment (cont.)

The Gemara continues to explain why R' Yochanan does not accept Ulla's position that one who is liable to lashes and payment must pay.

Ulla's response to R' Yochanan's criticism is presented.

2) The punishment of עדים זוממין

R' Elazar offers an alternative explanation for the Gemara's declaration that עדים זוממין pay rather than receive lashes.

Abaye initially challenged this position but then retracted his challenge.

R' Sama the son of R' Yirmiyah presents an unsuccessful challenge to this explanation.

3) The punishment for striking another person

R' Shisha the son of R' Idi offers an explanation why one who strikes another must pay rather than receive lashes.

R' Ashi unsuccessfully challenges this explanation.

R' Yaakov from Nahar Pekod successfully challenged this explanation and offers an alternative explanation of his own.

R' Ashi unsuccessfully challenges this explanation.

R' Mari successfully challenges this explanation.

4) Violating a relative (cont.)

Concerning the earlier question of whether one who violates a relative must pay or receive lashes Reish Lakish suggests that the Mishnah follows R' Meir who maintains that one receives both punishments.

This explanation is unsuccessfully challenged.

5) A thief's liability for his agent's slaughter of a stolen animal

Related to this discussion the Gemara mentions that a thief is liable the four or five-fold payment for his agent that slaughters a stolen animal.

Rava suggests one source for this ruling.

Dvei R' Yishmael offers another source for this ruling.

6) Clarifying R' Meir's position

The earlier conclusion, that one is liable if his agent slaughters a stolen animal but not if he himself slaughtered the stolen animal, is unsuccessfully challenged. ■

Distinctive INSIGHT

Why did Chananya, Mishael and Azarya not bow to the idol?
אלמלא נגדו לחנניה מישאל ועזריה פלחו לצלמא

The Gemara entertains the possibility that the punishment of lashes is more severe than that of death. As a proof, the Gemara cites a statement of Rav. We know that the evil Nevuchadnezzar built a statue and issued a command that everyone had to bow to it. Anyone who would resist would be subject to the penalty of death. When confronted with the dilemma of either prostrating themselves before an idol or being put to death, Chananel, Mishael and Azarya chose to sanctify the name of Hashem, and they resisted. Miraculously, Hashem saved them as they survived the ordeal of being thrown into a fiery pit. In our Gemara, Rav reports that had Chananel, Mishael and Azarya been threatened with lashes, rather than death, they would have succumbed and bowed to the idol.

Rashba understands, according to Rashi (brought in Shitta Mikubetzes) that Rav did not mean to question the devotion of these three disciples of Daniel, but rather that the statement should be read interrogatively. "[Is it thinkable that] had Chananya, etc., been subject to lashes, that they would have succumbed? Certainly not!" The proof of the Gemara that lashes are more harsh than death is, nevertheless, derived from the mere assumption of Rav. He asked, "Is it possible that lashes would have been too much to bear, even worse than death?" This question alone allows our considering that the

torture of extended pain is worse than death.

Tosafos here (ד"ה אילמלי) explains that the statue of Nevuchadnezzar was not an idolatrous one. Rather, it was a statue built for the honor of the King. The people were threatened that they had to bow to the statue and show tribute to the King. Accordingly, the entire episode has to be explained differently than we first did. Chananya, Mishael and Azarya were told to bow or to die. They could have, and apparently should have, bowed down to save their lives, as this was not a question of idolatry. However, they realized that observers might mistakenly think that they were participating in idolatry, so these three men were willing to resist bowing as a form of Kiddush Hashem. The Gemara in Pesachim (53a-53b) actually explains that this act of resistance was not due to idolatry, but rather a strategy they learned from the frogs in Egypt who were willing to jump into a burning furnace during the plague of frogs. They realized that they, too, should be prepared to create a Kiddush Hashem, and this is why they were willing to be tossed into a burning furnace to sanctify the name of God. ■

REVIEW and Remember

1. What are עדים זוממין not subject to a prior warning?

2. Explain מותרת לדבר חמור מותרת לדבר קל.

3. What would have caused Chananyah, Mishael and Azarya to worship idolatry?

4. Is someone who steals and slaughters an animal on Shabbos liable to pay a four or five-fold payment?

HALACHAH Highlight

A woman who threw down the ring after the kiddushin

ונייתרי בהו בתוך כדי דיבור

Why not warn them within the amount of time it takes to say...

Tosafos¹ asks how Abaye could suggest that the עדים זוממין should be warned within תוך כדי דיבור of their false testimony when the warning itself is longer than תוך כדי דיבור. Tosafos answers that all conversations are part of תוך כדי דיבור as long as the people are involved in the same activity. He cites the Gemara Makos² as proof to this principle. The Gemara there relates that even one-hundred witnesses could be considered one group of witnesses as long as they submit their testimony within תוך כדי דיבור of the previous witness.

There was once a man who gave a ring to a woman and declared, "You are to be my wife." A man standing nearby asked the woman, "What are you going to do?" The woman's reaction was to throw the ring on the floor. Rav Tzvi Ashkenazi³, the Chacham Tzvi was asked whether the kiddushin was valid. He ruled that the kiddushin is valid since she did not protest the kiddushin until after תוך כדי דיבור and the case is not similar to the Gemara in Makos. In Makos the reason the testimonies of the different witnesses could be

strung together to form one group is that they are all testifying to the same effect. In contrast, her protest was not consistent with the direction of the conversation since the man was trying to perform kiddushin and she was protesting against the kiddushin. Therefore, she is limited to a strict תוך כדי דיבור to protest and since she missed that time the kiddushin is valid. Rav Moshe Sofer⁴, the Chasam Sofer also wrote that once she was silent for תוך כדי דיבור when she had ample time to protest the kiddushin there is a concern that she accepted the kiddushin and now decided to recant.

Rav Sholom Mordechai Schwadron⁵, the Maharsham disagreed with this conclusion citing Tosafos as support for his position. Tosafos discusses a case of extending תוך כדי דיבור concerning the people who are warning the עדים זוממין from testifying falsely. Clearly, the two pairs of people are not making statements to the same effect and nonetheless, Tosafos writes that תוך כדי דיבור is extended, so too in our case as long as the topic has not changed anything that is said or done is considered within תוך כדי דיבור. ■

1. תוס' לג ד"ה ונייתרי בהו בתוך כדי דיבור
2. גמ' מכות ו
3. שו"ת חכם צבי סי' קט"ו
4. שו"ת חת"ס אה"ע סי' פ"ד
5. שו"ת מהרש"ם ח"ג סי' ד'
6. שו"ת מהרש"ם ח"ג סי' ד' ■

STORIES Off the Daf

The mistaken messenger

אילמלי נגדוה לחנניה מישאל ועזריה פלחו לצלמא

Once, a fairly wealthy man was davening with the minyan of the Kotzker Rebbe, ז"ל, when a breathless messenger burst into the shul. He pounced upon the wealthy man and said, "I am sorry to have to tell you this, but there was a fire on the edge of town and your factory was burned to the ground!"

The factory was the wealthy man's sole source of livelihood. Apparently, the blaze had dragged him down from riches to rags. Completely overwhelmed by grief, he fainted dead away. After a few minutes, his fellow worshipers managed to revive him. As soon as he re-

gained consciousness and he realized that all his wealth was lost, he fainted yet again. When he woke up for the second time, he again recalled his loss and seemed on the verge of losing consciousness once again. At that moment, the Rebbe, ז"ל, intervened. He reassured the prostrate man, "Don't worry, your factory is intact."

The wealthy man felt bolstered by the Rebbe's words and slowly seemed to come back to himself. Just then, a second messenger arrived. He burst into the shul and trumpeted, "What the first messenger reported was a mistake! Your factory is safe."

The relieved man was astounded that the Rebbe had known the truth and asked him whether this was ruach hakodesh.

The Kotzker Rebbe replied, "No, it

was nothing like that. I could see that the challenge was far too much for you to handle, so it wasn't possible that the first messenger had told the truth."

The Chidushei HaRim, ז"ל, explained this concept further, "In Kesuvos 33b, we find that if Chananiah, Mishael, and Azarya had actually been subject to torture they would have indeed bowed to Nevuchadnezzar's idol. Why does the Gemara record this apparently insulting hypothesis? Clearly the object is not to denigrate these great tzaddikim! Chazal shared this with us so that we would understand that these three were not subject to torture because Hashem knew they couldn't overcome the trial of torture! We learn a very important lesson from our Gemara: Hashem doesn't give us more than we can handle!" ■