

OVERVIEW of the Daf

1) Clarifying the dispute between R' Meir and Rabanan (cont.)

The Gemara clarifies the Baraisa and demonstrates that their positions in this Baraisa are the opposite of their positions in the Mishnah.

Abaye suggests the names in the Baraisa should be reversed.

Rava offers another resolution that does not require switching the names in the Baraisa.

2) Going free when the master causes the loss of a limb

A Baraisa states that a slave goes free if his master knocks out his tooth, eye or end of a limb that does not regenerate.

The Gemara inquires after the source that a slave goes free when the end of a limb is knocked off.

The Gemara answers that the principle of **מה מצינו** teaches that losing the end of a limb is reason for the slave to go free.

This derivation is unsuccessfully challenged.

It is suggested that the verse contains a **כלל ופרט** and thus the slave should go free only when his tooth and eye are knocked out to the exclusion of other limbs.

The Gemara identifies an additional **כלל** which will lead the Gemara to the same conclusion, namely, that a slave goes free even when the ends of other limbs are knocked off.

A Baraisa presents many opinions as to whether a slave who goes free due to the loss of a limb requires an emancipation document. Those that decide these types of matters conclude that an emancipation document is not necessary for the loss of a tooth or an eye but for other limbs it is necessary.

R' Shimon's opinion that a document is needed is explained.

The rationale behind R' Meir's position that an emancipation document is not needed is explained.

A Baraisa draws a distinction whether a slave goes free between being hit on the eye or tooth or opposite the eye or tooth.

The Baraisa's ruling that the slave does not go free is challenged.

R' Ashi answers the challenge by making a distinction between the two cases and cites a Baraisa that supports this distinction.

Two related Baraisos are cited.

The novelties of the two Baraisos are explained.

A Baraisa cites a disagreement regarding the consequence of the master, who is a doctor, who accidentally blinds his slave while performing a medical procedure.

The exchange between the two opinions regarding the related expositions is recorded.

R' Sheishes asserts that if the master knocked a blinded eye the slave goes free.

He cites a Baraisa that supports this assertion. ■

Distinctive INSIGHT

Indirect damage

המבעית את חברו פטור מדיני אדם וחייב בדיני שמים

A Baraisa taught that if a master strikes the eye of his slave and causes it to be blinded, or if he strikes the ear of his slave and causes it become deaf, the slave is released and goes free. If, however, the master causes a loud noise next to the eye of the slave and as a result the eye becomes blinded, or if the master hits the wall next to the ear of the slave making a loud noise which deafens the ear, the slave does not go free. The reasoning behind the law in these later cases is that the noise is only an indirect cause of the eye's blindness and the ear's deafness.

In the Gemara's ensuing discussion, Rav Ashi explains to Rav Shemen that a person is responsible to pay if he causes damage to a utensil by using loud noises. If, however, the damage is to another person, this is considered indirect and the one causing the noise is exempt. Technically, the injured party has allowed himself to be hurt (**איהו מיבעית נפשיה**).

In order to prove his point, Rav Ashi cites another Baraisa which teaches that if Reuven frightens Shimon, i.e., Reuven makes a loud noise and causes Shimon's ear to become deaf, Reuven is exempt from paying in **בית דין**, but he is liable in the scales of heaven. **Sefer Eitzot Yosef** asks why Rav Ashi had to bring this second Baraisa to prove his point that indirect damage by causing noises is exempt, when this was already illustrated in the Baraisa regarding a slave's release. He suggests that perhaps this second Baraisa was better known, and it was therefore brought as an additional reference. Essentially, though, there is nothing indicated in this Baraisa which was not taught earlier.

שער המלך notes that the Baraisa rules that although there is no payment which can be exacted from a person who causes damage by making loud noises, there is liability **בדיני שמים**. He asks, accordingly, that perhaps a master should have a responsibility "from the heavens" to release his slave if the master causes his slave to become blind or deaf by making noise.

רש"ט answers this question by suggesting that liability on a heavenly scale is only applicable to compensatory damages (**ממון**), but this level of liability does not apply to punitive damages (**קנס**), such as we find here with having to release one's slave.

קהילת יעקב explains that when a person causes damage indirectly (**גרמא**), he is exempt from paying because we do not consider this event as being done by him. Rather, he created a situation where the outcome was that damage occurred. Release of a slave only is warranted when the master injures the slave, but not when the injury happens due to indirect causes. ■

HALACHAH Highlight

Collecting a Sefer Torah purchased with "ma'aser money" for an unpaid debt

אלא בזווי דידה ובמעשר דידיה

Rather it refers to her money and his ma'aser

There was once a creditor who was looking to collect a loan that was past due. He discovered that there was a Sefer Torah in the local Beis Midrash that the borrower had bought with "ma'aser money." He asked Rav Naftali Tzvi Yehudah Berlin¹, the Netziv, whether he is allowed to take the Sefer Torah in lieu of payment of the loan.

Netziv wrote that there are two different sources for the custom of separating ma'aser from one's earnings. Rema² writes that "ma'aser money" should be given specifically to the poor. The source for this perspective is a Yerushalmi (Peah Ch. 1) that equates separating "ma'aser money" with the obligation to separate ma'aser ani from one's produce to give to the poor. Accordingly, once the money was separated it is not permitted for the donor to redirect the funds away from the poor. A second source for the custom is the Midrash cited by Tosafos in Taanis (9a) which equates "ma'aser money" with ma'aser sheni. Interestingly, the Midrash writes that "ma'aser money" should be given to those who toil in Torah. The reason, explains Netziv, is that the purpose of the mitzvah of ma'aser sheni is, as explained by Tosafos³ in our Gemara, to enhance a person's learning and to develop his fear of Heaven (מעשר שני מביא לדין) (תלמוד ויראה). Since a person who brings his ma'aser sheni produce to Yerushalayim is obligated to remain there until he consumes all of the produce he will have time to learn and increase his fear of Heaven. If the parameters of "ma'aser money" follow the second approach it would be permitted to use "ma'aser money" to purchase sefarim to study from and lend to others since they will be used for

REVIEW and Remember

1. Does a wife add an extra fifth when she redeems her husband's ma'aser sheni?

2. What is the source that a slave goes free when one of his limbs is severed by his master?

3. When a slave goes free due to the severing of a limb, is an emancipation document necessary?

4. Is masculinity significant when it comes to birds?

learning and to enhance fear of Heaven. Furthermore, sources indicate that the sefarim purchased with "ma'aser money" remain the property of the donor and thus a creditor would be permitted to take possession of sefarim purchased with "ma'aser money" as long as he also continues to make them available to those who wish to use the sefer when it is available. He is not allowed to take those sefarim for himself so that he would not have to lend them to others.

This use of "ma'aser money" to purchase a Sefer Torah is not permitted since one is not permitted to use "ma'aser money" to purchase a mitzvah object one is obligated to purchase, e.g. an esrog. Therefore, even if "ma'aser money" was used, the Sefer Torah belongs to the borrower. Accordingly, the creditor would be permitted to take it in lieu of payment for the loan. ■

1. שו"ת משיב דבר ח"ב סי' ע"ה.
2. רמ"א יו"ד סי' רמ"ט.
3. תוס' ד"ה אלא בזווי דידה ובמעשר דידיה. ■

STORIES Off the Daf

"He Goes Free..."

"יוצא בשן ועין וראשי אברים שאינן חוזרים..."

On today's daf we find that a slave goes free if a master knocks out his slave's eye or tooth or severs any peripheral limb that will not regenerate.

In the Mechilta, Rabbi Yishmael explains the application of this halachah in everyday life: just as suffering can free a slave, it also has the power to free us from punishment for our sins.¹ After recovering from suffering we are less self-absorbed and more open to Torah and kedushah. A certain Rosh Yeshivah recounted, "When I was a boy of eleven, I sustained a wound and became very ill. First, I went to our family doctor who ordered that I lie down in the

hope that everything would work out on its own. After two weeks, I was still sick and the doctor came to our house. The moment he checked my lungs he immediately sent me to the hospital. I was there for sixteen days but subsequently went home. Unfortunately, I again felt sick and went to the hospital for a check up and x-rays. The doctor removed three cups of fluid from my lungs. Afterward, the doctors found that there was an abscess on the lungs and I required an immediate operation. A second professor claimed that the abscess was not actually in my lungs and after several tests I was discharged for the final time. After two months, I recovered.

He continued, "After the first time I was discharged from the hospital, the doctor gave me a certain medication which made me violently ill. I turned completely red for three days and when the doctor checked me

he pointed out that I must stop the medication immediately since I was clearly allergic to it. On the Shabbos before Rosh Chodesh Nisan תשי"ו I was surprised by a visit from the Chazon Ish, ז"ל. The gadol was very close to my father, and he came to visit and to check on my progress. The Chazon Ish entered the room—my mother cried to Hashem and my father was filled with worry for my wellbeing—and the gadol soothed me in a very loving manner. While he stroked me gently, he said, "Suffering is good, suffering is good. Don't cry at all. You will merit much Torah because of your present difficulty!"

The Rosh Yeshivah modestly concluded, "...But the Chazon Ish's blessing never really panned out in that respect!"² ■

1. מכילתא, כ"א, כ"ז
2. מעשה איש, חלק ב', עמוד ק"צ-קצב