

This month's Daf Digest is dedicated
 לעילוי נשמת צבי בן יחזקאל יוסף גרין, מחסידי דעעש
 From the Grin family, Sao Paulo, Brazil

OVERVIEW of the Daf

1) Striking a parent

R' Sheishes was asked whether a child may serve as an agent of Beis Din to strike or curse a parent.

R' Sheishes demonstrates that it should be permitted.

Two unsuccessful attempts to challenge R' Sheishes's position are presented.

The Gemara's final decision is that a son should not be an agent of Beis Din to strike or curse his father except for one who instigates others to worship idolatry.

2) **MISHNAH:** The Mishnah teaches that one is not liable for striking a parent unless he wounds the parent. A difference between striking and cursing a parent is noted.

3) Cursing a parent that died

A Baraisa presents the source for the prohibition against cursing a parent that died.

It is noted that this exposition is consistent with R' Yonason but not with R' Yoshiyah.

The Baraisa that records the dispute between R' Yonason and R' Yoshiyah is presented.

The related exchange between R' Yonason and R' Yoshiyah is recorded.

4) Cursing and striking

The Gemara wonders why the Mishnah did not mention that striking a parent is more severe than cursing a parent since one is liable for striking even a parent that is wicked.

The Gemara answers that our Tanna maintains that one is not liable for striking a wicked parent.

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REVIEW and Remember

1. Is the son permitted to strike his father in the capacity of an agent of Beis Din?

2. What is derived from the word בעמך?

3. In what way is the prohibition against cursing a parent more severe than striking a parent?

4. What are the components of kidnapping that make a person liable to the death penalty?

Distinctive INSIGHT

Can a son serve as a court-appointed messenger to strike his father?

אי הכי בנו נמי

We learn from the discussion in this Gemara that if a father is a sinner, and he does not conduct himself according to the guidelines of our people (אינו עושה מעשה עמך), the prohibitions regarding striking him and cursing him do not apply. The Rishonim discuss whether one's son could serve as the court-appointed messenger to implement מלקות against his father, in a case where the father did not repent from his evil ways.

רי"ף (to Yevamos 22b) and Rambam (Hilchos Mamrim 5:12-13) rule that it is prohibited for a son to strike his father, even if he has not done teshuva, even if the son is only doing so as a messenger of the court. Although our Gemara rules that this prohibition is only in effect when the father conducts himself in accordance with halacha, this limitation is only true in regard to exempting the son from the death penalty if the father has not done teshuva. However, the prohibition against a son's striking his father is still in effect.

לחם משנה explains the view of Rambam. Our Gemara knows that if a father who had sinned has now repented, the son may certainly not serve as the court's messenger to strike the father for his past sins. The question of the Gemara is whether a son may strike his father who is still unrepentant. When the Gemara concludes that this is prohibited, we see that a son is still warned not to strike his father who has chosen to remain evil. The rule which excludes a father who is not עושה מעשה עמך is therefore only said in reference to the death penalty.

Tosafos in Yevamos (22b) comments in reference to the halacha that a mamzer is only liable for striking his father if the father has done teshuva for the sinful union which brought the mamzer into the world. If the father has not done teshuva, the mamzer is exempt if he strikes his father. Accordingly, Tosafos understands that the doubt in our Gemara regarding the son serving as a messenger of the court is dealing with a case where the father did teshuva. If he did not do teshuva, Tosafos understands that the son is not only exempt if he does so, but a son would also be permitted to strike him on behalf of the court.

The יראים (#59) writes that a son may not strike his father, even if the father is evil. This is determined from our Gemara which concludes that a son may not be a messenger of the court even to strike his father who is a sinner. Birkei Yosef (Y.D. 241:#5) points out that the view of the יראים is difficult, based upon the Gemara in Yevamos which concludes that a mamzer may strike his father who has not done teshuva, and that he is only liable for striking his father if he has done teshuva. ■

HALACHAH Highlight

Caring for a parent who is insane

בן מהו שיעשה שליח לאביו להכותו

Is a son permitted to be an agent to strike his father?

Rambam¹ writes that a child must continue to treat with honor and respect a parent who has gone insane. In the event that it is impossible for the child to continue to treat the parent with respect due to the extreme mental condition that disables the parent the child should move away and leave someone else to treat the ailing parent. Ra'avad² challenges this ruling out of the practical consideration, if a child does not treat his parent, who will take on that responsibility? Kesef Mishnah³ asserts that the source for Rambam's ruling is the Gemara Kiddushin (31b) that relates that R' Assi picked up and moved to Eretz Yisroel when his mother become too difficult to handle.

Shulchan Aruch⁴ ruled leniently in accordance with Rambam's position whereas Bach⁵ ruled in accordance with the strict position of Ra'avad. He explains that R' Assi moved to Eretz Yisroel because his mother continued to make unreasonable demands and he was concerned that he would violate her wishes, which is prohibited. To avoid that prospect he moved to Eretz Yisroel. However, if a child only faces the challenge of protecting the parent due to his or her condition there is no reason the child should abandon his parent's care in the hands of others.

Aruch Hashulchan⁶ writes that all the Poskim who disagree with Rambam understood that he was stating that the child has the option to abandon the parent. Based on this understanding they question Rambam's ruling why it should be permitted

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It is suggested that the dispute between the Mishnah and earlier-cited Baraisa whether we equate cursing and striking a parent parallels a dispute recorded in a Baraisa.

This suggestion is rejected.

The rejection is refuted and thus it is assumed that the disputes are parallel.

5) **MISHNAH:** The Mishnah discusses halachos related to kidnapping.

6) Making use of the one who was kidnapped

R' Acha the son of Rava explains the point of dispute in the Mishnah whether the kidnapper must make use of his victim to be liable.

R' Yirmiyah asks two related questions.

After clarifying the questions the Gemara leaves them unresolved.

Two related Beraisos are cited. ■

for a child to abandon his parent in need. A more reasonable explanation of Rambam is that he is addressing a circumstance in which the care of the parent requires the use of force. As taught in our Gemara, a child should not administer treatment to a parent that could possibly wound the parent if someone else is available. So, too, a child should not use force to care for a parent if someone else is available. ■

1. רמב"ם פ"ו מהל' ממרים ה"י.
2. ראב"ד שם.
3. כסף משנה שם.
4. שו"ע יו"ד סי' ר"מ סעי' יז.
5. בי"ח יו"ד שם אות י"ב.
6. ערוה"ש שם סעי' ל"ב. ■

STORIES Off the Daf

Sincere repentance

"בשעשה תשובה..."

A certain man who lived in a small town near a large city was known to be a G-dfearing, if average Jew. He was certainly no ben Torah. The man worked as a purveyor of meats for the non-Jewish residents of the nearby city. After many years of behaving as a Jew should, he suddenly went off the derech, spending much time with the non-Jews and a priest and claiming to believe in their religion. But this stage lasted only a few days until the man reverted back to his

old dependable self. After ten years, this man was hired to work in a butcher shop, and one of his jobs was to remove the forbidden fats from the animals.

Although at first everyone had forgotten his failing of years before, eventually this was recalled and people wondered if they were permitted to rely on him to remove the prohibited fats (חלב) from the animals. After all, this requires yiras shamayim and what evidence do we really have that he truly fears heaven?

When this question was put before the Chasam Sofer, zt"l, he replied that this person was permitted to remove the forbidden fats. "The moment he cast aside his sins and repented, he became

like any Jew who is believed even regarding the very sin he fell into. We can bring a proof to this from Sanhedrin 85. There we find that a son may not serve as the messenger of beis din to strike his father, even if the father is chayav misah and refuses to leave his cell. The gemara asks why the son may not strike him since he is a very wicked person who has done a sin which deserves capital punishment? The answer given is that the father did teshuvah. It seems clear that if his father removed himself from the sin and did teshuvah, he is restored to his former status and the son must honor him. The same is true in our case."¹ ■

1. שו"ת חת"ס, קובץ תשובות, סי' כ"א. ■