

This month's Daf Digest is dedicated
לכבוד the Wedding of Yosef and Shoshana Sokolin
And לעלוי נשמת Israel Isser Ben Tzion ben Yaakov whose yahrtzeit is on 19 Iyar

OVERVIEW of the Daf

1) Oil (cont.)

The discussion of liability for transporting oil concludes.

2) Determining the minimum amount of a substance that creates liability

Abaye rules that if a substance has a common and uncommon use, the minimum is determined by its common use. If a substance has two common uses, the minimum follows the stricter of the two.

Although support for these rules can be deduced from the Mishnah the case of water does not because we seemingly follow its less common use as a medicine to determine its minimum quantity.

Abaye and Rava suggest answers that would account for this seeming inconsistency.

3) Blood

A Beraisa presents differing opinions regarding the minimum amount of blood that causes liability.

The Beraisa distinguished between one who transports an item and one who stores that item. Abaye explains that items that are significant to everyone cause liability automatically but items that are not significant to all cause liability only if they were stored.

The last ruling of the Beraisa stated that the minimum quantity of waste water is a reviis, and R' Yirmiyah explains that the waste water could be used to knead clay.

There is, however, another Beraisa that rules the minimum quantity of waste water is the amount necessary to make clay for the opening of a crucible.

The Gemara distinguishes between clay which has been kneaded (the smaller quantity referred to in the second Beraisa) and clay which has not (the larger quantity in the first Beraisa).

4) MISHNAH: The Mishnah lists the minimum amounts for various items.

5) Rope

The Gemara explains why the minimum size of a rope is determined by the size used for a basket as opposed to a smaller utensil.

A Beraisa lists the minimum amounts for various items.

6) Paper

A Beraisa explains that the size paper used for a tax collectors receipt is the size necessary to write two Greek letters which are larger than Hebrew letters.

This, however, is difficult from a second Beraisa that seemingly rules that the size is measured by two regular sized letters.

R' Sheishes answers that the two letters referred to in the second Beraisa also refer to large Greek letters. Rava answers that the second Beraisa refers to our smaller letters but also includes blank space for a margin which in total equals the same size as paper large enough for two Greek letters.

The Gemara successfully challenges Rava's answer.

7) Tax collectors receipt

A Beraisa teaches regarding a tax collectors receipt that has not been shown to the tax collector that all opinions agree that one would be liable for transporting it. Regarding a tax collectors receipt that has

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Distinctive INSIGHT

Water is the best; or—the side effects of eye patches

אלא מים שתייתו שכיחא רפואתו לא שכיחא, מאי טעמא אזלו רבנן בתי רפואתו לחומרא

Most liquids have multiple uses. In order to establish the amount of any particular liquid which must be transported from one domain to another, we must determine which usage of the liquid is important. Abaye had established a rule that whenever a liquid is used for one purpose more commonly, but for another function less frequently, we use the amount of the liquid necessary for the more frequent usage, even if this will result in a leniency. For example, wine is most commonly used as a beverage, but only rarely as a medicine. Therefore, as far as Shabbos is concerned, we will use the amount of wine usually consumed (a רביעית, meaning the amount of wine concentrate needed to blend to make a רביעית), even though this is more than the few drops which are used when preparing a medication. This is the case by milk, as well.

The question arises in regard to water. The consumption of water is more common than its application as a medicinal ingredient. As Rashi explains, this is because other liquids are also used to prepare salves, other than water. Why, then, asks the Gemara, do we use the smaller volume of the few drops used in an eye-wash, rather than use the more lenient amount of a full רביעית?

Rava provides an answer based upon the advise of Shmuel, who was an expert doctor. Although other liquids can be used to treat an ailing eye, the only one which does not diminish eyesight is water. The others all cause a side effect of diminishing the vision of the eye.

Ramban asks, however, how does this answer the original question? After all, water is still used as a beverage more than it is used as a relief for a sore eye. Even though it may be a superior healer, this aspect of water is still not its most common usage.

Ramban explains that the original premise of the Gemara was not in evaluating the statistical functions of water. Rather, when we said that the medicinal value of water was "uncommon", it was while recognizing that many other liquids can be used to moisten a salve, other

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REVIEW and Remember

1. If a substance has multiple uses, how do we determine the minimum measure necessary for liability?
2. If one transports an item not usually stored, is he liable?
3. Which letters are larger; Hebrew or Greek?
4. What function does a tax collector's receipt have after it's been shown to the tax collector?

HALACHAH Highlight

Is a non-verbalized decision to forego a loan binding?

אמר רב יוסף אסור לשהות שטר פרוע איכא בינייהו . . . אביי אמר דכולי עלמא אסור לשהות שטר פרוע.

Rav Yosef said: [Whether] it is forbidden to keep a bill of loan that has been paid is the [matter of contention] between them . . . Abaye said: Everyone agrees that it is forbidden to keep a bill of loan that has been paid.

In accordance with Abaye's statement, Shulchan Aruch¹ rules that it is forbidden for a lender to keep a bill of loan that is no longer in effect because the borrower has repaid the loan.

Teshuvos Yabia Omer² discusses a very interesting situation where this ruling is applied. The case under discussion there concerns a lender who decided to forego collection of the debt owed by him by a borrower (mechilah), but never verbalized that decision (balev). Subsequently, the borrower came to repay the loan. May the lender accept the money, or must he abide by his internal decision?

In a different context, Ketzos HaChoshen³ writes that decisions that are rendered internally but never verbalized are null and void. His position is at variance with the position of Maharshah⁴, who maintains that a mechilah balev is binding upon the person who has come to that decision.

Aderes⁵ questions the position of Ketzos HaChoshen. Ketzos HaChoshen bases his position on the principle that "statements in the heart are not statements" (Devarim SheBalev Einam Devarim). But that principle only applies to cases where a decision reached in thought is in apparent contradiction to deeds done in practice.⁶ In the case of mechilah balev, however, the decision to forego collection contradicts no deed that has been done in practice. Why, then, should the decision to forego the loan not be binding on the lender?

Aderes suggests an answer on the basis of our Abaye's statement in our Gemara: Shulchan Aruch (see above, note #1) rules that just as it is forbidden for a lender to keep a bill of loan that has been repaid, so too it is forbidden for a lender to keep a bill of loan if he has decided to forego its repayment. Hence, in the case of a loan that has been docu-

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been shown to the tax collector there is a dispute, Tanna Kamma maintains that he is exempt whereas R' Yehudah maintains he is liable.

The Gemara records three opinions that explain the point of disagreement.

8) Loan document

A Beraisa teaches that if one transports a loan document that has not been paid he is liable. If the loan has been paid Tanna Kamma maintains he is exempt and R' Yehudah maintains he is liable. Two explanations are presented to explain the point of disagreement. ■

mented in a bill of loan, the retention of the bill of loan is a deed, done in practice, that is in apparent contradiction to a decision reached in thought to forego the loan. Therefore, the principle "statements in the heart are not statements" is, in fact, applicable, and the decision to forego repayment of the loan is overridden by the lender's retention of its bill.⁷

Hence, the strict letter of the law is that the lender may accept the borrower's repayment of the loan, as his internal decision to forego the repayment is not binding.⁸ ■

1. שו"ע חושן משפט סימן נו סעיף א': אסור להשהות שטר פרוע בתוך ביתו (וה"ה שטר שנמחל שעבודו) (תשו"י הרא"ש כלל ע"א) ואם אינו רוצה להחזיר שטר פרוע ראוי לנדונו עד שיחזירנו.
2. שו"ת יביע אומר ח"ג ח"מ סי' ג'
3. קצות החושן סימן רס"ט ס"ק א': המגביה מציאה לחבירו - כתב הסמ"ע (סק"א) ז"ל פי' ראובן שאמר בשעה שהגביה המציאה מע"ג קרקע הריני מגביה מציאה זו כדי לזכות בה לשמעון קנאה שמעון ע"כ. ובש"י (סק"א) כתב ול"נ דאפילו לא אמר כלום אם מודה שהיה כוונתו לכך וכן משמע מדברי הפוסקים עכ"ל. ונראה דברי הסמ"ע דכיון דק"ל דברים שבלב אינן דברים א"כ מחשבה גרידא לא כלום היא.
4. מהרש"ל בפ"י להסמ"ע (עשין מ"ח) [בדין אלמנה ששהתה בבית אביה ולא תבעה כתובתה כ"ה שנים שמחלה כתובתה]: ונ"ל דמכאן דמחילה אפי' בלב מהני בלא דיבור. ולמאי נ"מ, להיכא שמחל בלב שאסור לו לתבוע אח"כ, והוי כגזל. וגם נ"מ אם הודה בב"ד שמחל בלב.
5. קונטרס את דבר המשפט, סי' י"ב.
6. עיין קידושין מ"ט ע"ב - נ"ע"א ובמפרשים שם, והדברים מפורסמים ואכמ"ל.
7. עיי"ש ביב"א אות י"ד שדחה את דברי האדר"ת, אלא שקיים דעתו ולאו מטעמיה, והסיק שאף במלוה ע"פ לא מהני מחילה בלב.
8. עיי"ש מסקנת היב"א: ומ"מ נראה שאם רצה המלוה לנהוג לפניו משורת הדין, ולחוש למ"ש הגאון מהר"ח פלאגי בשו"ת חיים ביד (סי' נו) הנ"ל, ולפניו את הלוח בדברים עד שיתפטר עמו, תבא עליו ברכה, אך מדינת זכה הלה במה שבדור. ■

Gemara GEM

Objective or subjective standards in carrying

שכיחא ושכיחא אזול רבנן בתר דשכיחא לחומרא

Rambam (Hilchos Shabbos 18:6) discusses the amount of bran to be carried to be liable on Shabbos. He writes that if the person wishes to eat the bran, then the amount is the size of a dried fig (כגורגרת). If he intends to feed his animal, then the amount is the volume needed to fill the mouth of a goat. And if the person wants to use it for dye, the amount is the volume necessary to have dye to color a small garment.

Mishne L'Melech asks from our Gemara, where we find that when a commodity has multiple functions, we determine the volume for the laws of Shabbos based upon the most

prevalent usage. Why, then, does Rambam treat this as a subjective issue, whereby he bases the criteria upon the individual's mind set?

In his first answer, Mishne L'Melech states that the usage of bran is overwhelmingly for eating. Therefore, this is the volume (כגורגרת) we use for the laws of Shabbos, whether the person specifically stated his intentions or not. However, if a person stated clearly that he intends to use the bran for an animal feed or for dye, we will be stringent and use the smaller measure to make him liable.

In his second approach, the Mishne L'Melech proposes a new insight into the opinion of Rambam. Even if both or all types of utility are equally common (food for people, animal feed, and for a dye), we do not use an objective measure to determine the laws of Shabbos, but we rather follow the person's stated intent, even if it results in a lenient outcome.

This explanation of the Mishne L'Melech is questionable, however, from the Tosafos (76b - חלב) which discusses milk. There, even though milk is used to drink and to process into cheese, we do not use the person's individual mind set as a guide, but we rather use an objective standard. ■

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than water. This, objectively, diminishes the significance of water specifically as a healing agent. To this, the Gemara answers that, in fact, only water can do the job well, because other liquids have a deleterious side effect. Therefore, both the consumption of water as a beverage, as well as the medicinal value of water for an eye salve are both primary usages of water. Therefore, when both utilities are primary, we use the smaller measure to gauge the laws of carrying on Shabbos. ■