

OVERVIEW of the Daf

1) Clarifying R' Elazar's position (cont.)

The Gemara identifies a practical difference between the two different ways to understand R' Elazar's position in the Mishnah.

Two unsuccessful attempts are made to clarify R' Elazar's position in the Mishnah.

The circumstances are clarified for when a woman's marriage subsequent to her claim that her husband died allows her co-wife to remarry.

2) **MISHNAH:** The guidelines for identifying a man that died are presented.

3) Recognizing a face

A Baraisa clarifies the requirement for identifying a person's face.

The verse that is the source for this rule is cited.

A related incident is cited.

4) Identifying marks

The implication that identifying marks are not Biblically recognized is challenged.

Abaye resolved the contradiction by distinguishing between the opinions of R' Eliezer ben Mahavai and Rabanan, who argue this point.

Rava rejects Abaye's understanding of the dispute and offers an alternative explanation.

Two additional versions of Rava's explanation of the dispute are presented.

The Gemara explains why, according to the version in which Rava maintains that all opinions agree that identifying marks are Biblically valid, the Mishnah rules that identifying marks on the deceased's body or clothing are not admissible.

This explanation is unsuccessfully challenged.

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REVIEW and Remember

1. How much of the face of the deceased must be seen to testify about his death?

2. Is a mole considered an identifying mark on the body?

3. Does a person who suffered a deadly wound necessarily die from that wound?

4. What conditions aggravate a wound?

Distinctive INSIGHT

What type of mortal wound renders a person a tereifa?

מן הארכובה ולמעלה תנשא

The Gemara noted a contradiction between our Mishnah and a Mishnah in Ohalos (1:6). Our Mishnah rules that witnesses cannot attest to the death of a man even if they saw him suffer a deadly wound (מגוייד). The Mishnah holds that a person can recover from such a wound. The Mishnah in Ohalos states that a person who is suffering from a mortal wound is not yet tamei. This suggests that although the person is not yet dead, he cannot possibly survive such a physical trauma.

Abaye resolves this inconsistency by explaining that our Mishnah reflects the opinion of R' Shimon ben Elazar, while the Mishnah in Ohalos is the opinion of Rabanan. The Gemara clarifies that R' Shimon ben Elazar would agree with the later statement in the Mishnah 121a that if a person's leg was severed above the knee he will not survive, because that case is speaking about a person who was lost at sea, and the water serves to irritate the severity of a serious wound.

The Rishonim write that the physical deformities and deficiencies that are listed in regard to animals (Chullin, Ch. 3) do not automatically apply to humans. Nevertheless, having a leg severed above the knee which is listed in our Gemara is a tereifa, and a woman may get remarried twelve months after testimony has been registered that her husband suffered this injury. Even if he will survive, the fact is that he is a tereifa, and he will live no longer than twelve more months. Tosafos, however, in Chullin (42b, ואמר ד"ה) writes that any physical defect in a limb of a person is a tereifa if it is in a limb which humans share in common with animals. A defect found in a limb of a person which is a limb unlike that of an animal cannot be assumed to be a tereifa.

Kesef Mishnah (Hilchos Gerushin 13:16) discusses whether a tereifa in a human is limited to twelve months of survival as we find regarding animals. Chazon Ish (27:3) writes that in our times when doctors can treat even mortal wounds, a leg being severed above the knee no longer makes a person a tereifa. ■

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HALACHAH Highlight

Testifying that someone who was shot is dead

דתניא מעידין על המגוייד וכו' רשב"א אומר אף על המגוייד אין מעידין מפני שיכול לכוות ולחיות

As was taught in a Baraisa: One may testify about a person who suffered a deathly wound... R' Shimon ben Elazar says that one may not testify about a person who suffered a deathly wound since the wound can be cauterized, and then heal.

Poskim disagree which opinion is authoritative in this dispute. The Taz¹ maintains that the majority of Rishonim follow the opinion of R' Shimon ben Elazar. Therefore, if it is not known what weapon was used to stab the victim we are concerned that maybe it was hot, which cauterized the wound, and the victim survived. The Yam Shel Shlomo², on the other hand, asserts that the majority of Rishonim rule in accordance with Rabanan. Consequently, unless one knows with certainty that the victim was stabbed with a burning piece of metal one can assume that it was not hot and the victim died. Yam Shel Shlomo further qualifies this halacha and writes that even those opinions who are concerned that the victim was stabbed with a hot sword would agree that the concern only applies to those who are wounded by the government. The reason is that the government has an interest in keeping the victim alive as an example to deter criminals, thus it is not unusual for them to use hot swords. Thieves and bandits, on the other hand, have no interest in making an example out of their victims; therefore, one does not have to be concerned with the possibility

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5) Deadly wounds

The implication of the Mishnah that one who suffered deadly wounds could survive is challenged from a Baraisa.

Abaye resolved the contradiction by distinguishing between the opinions of R' Shimon ben Elazar and Rabanan.

Abaye's resolution is unsuccessfully challenged.

Rava offers an alternative resolution to the contradiction.

6) A person devoured by a beast

R' Yehudah in the name of Shmuel qualifies the Mishnah's ruling related to testifying about a person who was devoured by a beast.

A related teaching is presented.

The second teaching is unsuccessfully challenged.

Two explanations are presented why one who inadvertently slit both passages of a person's throat is not exiled. ■

that a hot sword was used.

Poskim³ discuss whether or not a person wounded by a bullet, grenade or missile is considered as if the wound was cauterized and we would have to be concerned that he survived. Otzar Haposkim⁴ cites a number of earlier sources that addressed this question, and he then cites experts who noted that bullets, grenades and missiles do not become hotter than eighty degrees Celsius. Since this is not a temperature hot enough to cauterize a wound it does not have the status of a hot sword. ■

1. ט"ז אה"ע סי' י"ז ס"ק מ"ד

2. ים של שלמה יבמות פט"ז סי' ז

3. ע' אוצר הפוסקים המובה לקמן

4. אוצר הפוסקים סי' י"ז ס"ק רנ"ז אות ח' בהג"ה ■

STORIES Off the Daf

Conclusive evidence

אין מעידין אלא עד פרוצין פנים

Rav Tzadok HaKohein of Lublin, zt"l, once sent a teshuvah to the Chidushei HaRim, zt"l. In it, he explained an exception to the rules laid out in the Mishnah in Yevamos 120a. There, Chazal stated that an unidentifiable corpse wearing the same clothing that the husband of an agunah had been wearing does not permit her to remarry. The Gemara explains that we are afraid that the corpse may not be her husband's. Perhaps the deceased is someone else who had simply borrowed her husband's clothing. Rav Tzadok told the messenger, "However, if the husband

had an unusual coat (כתונת), this is a conclusive sign that the corpse is really the woman's husband; we are not concerned that perhaps he lent it to another man. The reason is that it is highly unlikely that a garment only worn by the husband would have been lent to another. The obvious proof of this is the case of Yosef HaTzadik. His father made an unusual coat for him, and when he saw it blood-stained and torn apart, he immediately concluded that Yosef was slain. Yaakov did not consider the fact that perhaps Yosef was alive and the deceased was another who had been wearing his unusual coat. The reason must be that an unusual garment constitutes conclusive evidence since virtually always it is only the owner who will wear it." Rav Tzadok then sent the messenger on his way.

During the journey, the messenger shared this interpretation with many scholars that he met along the way, but none understood the proof from Yosef HaTzadik. When the messenger finally delivered the teshuvah, he asked the obvious question to the Chidushei HaRim, "How can Yosef possibly constitute a proof—he was actually alive?"

The Rebbe explained, "It is inconceivable that Yaakov, the paradigm of truth, would have declared, 'It is my son's coat! He has surely been devoured by a predator!' if this were not the rule. Furthermore, if this was a mistake, why are these verses recorded in the Torah? It must be that a distinctive shirt like Yosef's does, in fact, constitute conclusive evidence. The fact that he survived was simply above the natural order of things!" ■