

## OVERVIEW of the Daf

### 1) Unusual readings

The Gemara concludes presenting unusual language and readings found in Scripture.

### 2) Making verses

R' Acha bar Ada cites a verse that according to different traditions is broken down in different ways.

### 3) "Carve for yourself – פסל לך"

Different expositions of the phrase, "Carve for yourself" are presented.

The exposition that teaches that the Torah was given to Moshe Rabbeinu who generously shared it with Klal Yisroel is successfully challenged, and the Gemara explains that the laws were given to the nation and it was פלפור that was given exclusively to Moshe Rabbeinu.

### 4) Prophets and wealth

R' Yochanan enumerates the different traits necessary to have the Divine Presence rest upon a person.

R' Yochanan teaches that all the prophets were wealthy.

R' Yochanan teaches that Moshe Rabbeinu would forget the Torah he was taught and Hashem had to give it to him as a gift.

**5) MISHNAH:** The Mishnah begins with a discussion of supporting the family of one who may not benefit from your property. Related to that discussion the Mishnah presents an exchange between Chachamim and R' Eliezer that relates to clean and unclean animals.

### 6) Marrying the daughter of one from whom one may not benefit

R' Yitzchok bar Chanayah said in the name of R' Huna that one is permitted to marry the daughter of one from whom he may not benefit.

The Gemara, upon R' Zeira's inquiry, clarifies the circumstances in which this ruling will apply.

A Baraisa that supports this ruling is cited.

Other examples of minor benefit that do not constitute a violation of one's vow are presented.

### 7) Feeding his animals

A Baraisa is cited that supports the position of Chachamim in the Mishnah that feeding another's animals is a violation of the vow against benefit.

**8) MISHNAH:** The Mishnah discusses the mitzvah of visiting the ill when there is an existing vow prohibiting benefit. ■

## Distinctive INSIGHT

*A prophet must be strong, rich, wise and humble*

אמר רבי יוחנן אין הקב"ה משרה שכינתו אלא על גבור ועשיר וחכם וענוו

**M**oshe Rabbeinu had ten names. The name "Moshe" was given to him by the daughter of Pharaoh. The Midrash (Vayikra Rabba I:3) tells us that G-d loved this name more than the other nine. Why does the Torah specifically use this name that was given to him by the daughter of Pharaoh, and why was it so special to Hashem? There are two ways to interpret this. The Midrash in Shemos Raba explains that when Moshe was found by Pharaoh's daughter, she was in the middle of immersing herself in the Nile, as a mikvah (technically a מעיין), to become Jewish. Since she risked her life to become a Jew out of total love and devotion, G-d rewarded her by having the leader of the Jewish people be known by the name that she had chosen.

Another unique aspect of the name "Moshe" is highlighted by the Ksav Sofer. He cites our Gemara in Nedarim 38a, which tells us that for one to have prophecy, he must be a strong, wealthy, wise, and modest person. These were all qualities which Moshe possessed. Although prophecy is appropriate for one who is wise and modest, why does the person need to be strong or wealthy as well? The Maharsha explains that when one is poor or weak, he is naturally modest, for there apparently is no reason for him to be haughty. However, when a person is wealthy or mighty, he may be inclined to become haughty. This is a person who has the all important job of overcoming his Yetzer Hara. His Yetzer Hara is telling him how great he is, yet he should realize how low he is compared to G-d. When one accomplishes this, then he merits that the Shechina should rest upon him. The name of "Moshe" represented the fact that Moshe grew up in the house of Pharaoh and was surrounded with wealth and strength. Yet, as we know, Moshe was the most modest person to ever live. This name best represents the deserving nature of Moshe, and is why Hakadosh Baruch Hu preferred to use this name over the other nine. ■

## REVIEW and Remember

1. Which part of the Torah was given to Moshe and his descendants?  
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2. What trait is necessary for prophecy and why?  
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3. What are some examples of benefit that do not violate a vow against benefiting from a friend?  
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4. Why is it permitted to feed the slaves of someone who is not permitted to benefit from your property?  
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## HALACHAH Highlight

### Returning a lost item to a dayan

וזן את אשתו ואת בניו אע"פ שהוא חייב במזונותיהן

And the vower may support his [the subject of the vow] wife and children even though he has an obligation to support them

There were once two litigants who came to Beis Din for their hearing and before the proceedings began one of the litigants returned a lost object to one of the dayanim to fulfill the mitzvah of **השבת אבידה**—returning a lost object. The question then arose whether that dayan is now disqualified from presiding over the case. Rav Elchonon Tikochinski<sup>1</sup> asserted that the dayan is still qualified to preside over the case and based his position on a ruling of Rav Yonason Eibishitz<sup>2</sup>, the Tumim. Tumim ruled that any activity that is permitted for two parties, who are prohibited by virtue of a vow from benefiting from one another, is certainly not prohibited as a bribe since bribes are treated more leniently. Consequently, since the Gemara Nedarim (33) ruled that it is permitted, despite a vow prohibiting benefit, to return lost objects it must certainly not be considered a bribe to return a lost object to a dayan.

Rav Mordechai Yaakov Breisch<sup>3</sup>, the Chelkas Yaakov, disagreed with this conclusion and presented his argument in two steps. First of all out of piety and stringency the

dayan should recuse himself from the case. The reason is that the Gemara in Kesubos (105b) gives numerous examples of rabbis who recused themselves from cases when one of the litigants did something for them, even when it was nothing more than giving the dayan property that was rightfully his anyways.

Secondly, it could be argued that even halacha mandates that the judge recuse himself. One reason is that Rav Tikochinski's understanding of Tumim is faulty since Tumim's comment that bribes are more lenient than vows is only true for a bribe that is given after the trial (**שוחד מאוחר**) since it is only Rabbinically prohibited but a bribe given before the trial that violates the Biblical prohibition certainly demands that the dayan recuse himself. Additionally, Chelkas Yaakov argues that it is inconceivable that all the activities that people prohibited by a vow may do for one another should not constitute a bribe. Our Gemara rules that a person prohibited from benefiting from his friend is still permitted to financially support his children. Is it possible that if one of the litigants would financially support the judge's children that the judge would remain impartial? In conclusion, Chelkas Yaakov rules that the judge should not preside over this case. ■

1. מובא דעתו בשו"ת חלקת יעקב חו"מ סי' א'
2. תומים סי' ל"ד ס"ק י"ח
3. שו"ת חלקת יעקב הנ"ל ■

## STORIES Off the Daf

### The gift of Torah

עד שנתנו לו במתנה

There was a certain well-known Rav who passed away, leaving behind a wealth of Torah writings. When they read the will, the children were taken aback. Their father ordered them not to print his responsa since people can easily err in the proper application of shailos and teshuvos. The father's will concluded, "This may be why we follow the decisions of the Rosh found appended to the Gemara if they contradict his teshuvos."

Since the father had been well known for his halachic acumen, the

teshuvos could help many people. On the other hand, how could they disobey their father's explicit instructions? The heirs consulted with the Netziv, zt"l.

The Gadol responded, "Firstly, we prefer the psakim of the Rosh only because of a mesorah from his son Rav Yehudah. The Maharanach writes that the reasoning behind this is most likely that the decisions were written after the teshuvos and are the final conclusions of the Rosh. On the contrary, I believe that halachic writings are more likely to be correct usually, since one receives a special siyata d'Shmaya when one paskens.

The Netziv explained, "In Nedarim 38 it says that at first Moshe would learn Torah and forget it until Hashem

gave it to him as a gift. Torah is a gift to everyone. It is certain that your father's portion is his. Perhaps he can also choose to withhold his writings? That is an incorrect analysis, however. It is only his to give it to whoever he wants, but it is not his to withhold. This is surely no better than terumah which one has the right to give to the kohen of his choice, but not to withhold from any kohen altogether. So too, Torah is given to the mechadesh to give over in his name. Not to withhold."

The Netziv concluded, "In my opinion, you and your brothers should take upon yourselves the burden of printing your father's teshuvos, and Hashem will surely help you in this holy endeavor!" ■