

OVERVIEW of the Daf

1) The clothing worn during the execution

A Baraisa presents a dispute about the clothing worn by the condemned prisoner for the execution.

The position of Rabanan is explained.

It is noted that in another context R' Yehudah and Rabanan seem to adopt the opposite positions whether we are concerned for generating improper thoughts.

Rabbah resolves the contradiction between the two statements of R' Yehudah.

Rava resolves the contradiction between the two rulings of Rabanan.

It is suggested that R' Nachman's exposition that one should choose a favorable death is subject to dispute between Tannaim.

This suggestion is rejected.

2) MISHNAH: The Mishnah describes how stoning was carried out.

3) The height of the platform used for stoning

A Baraisa notes that when we add the condemned prisoner's height to the platform upon which he stood it turns out that he fell three times the height of a person.

The reason this is the height that is used as opposed to something lower or higher is explained.

4) Pushing and stoning

A Baraisa presents the sources that the condemned prisoner was pushed and stoned if he survived the fall.

The Gemara elaborates on the size of the stone that was thrown by the second witness.

A Baraisa teaches that it was never necessary for the people to throw stones and the Mishnah which made reference to this procedure was theoretical.

The implication of the earlier Baraisa that there was a designated stone used for stoning is challenged.

The Gemara answers that for each stoning a new stone was prepared.

Whether the instruments used for execution are buried with the deceased is discussed.

5) A witness whose hand becomes severed

Shmuel rules that if the hand of the witness becomes severed before the execution the defendant is not killed since the witness must place his hand on the condemned prisoner.

Shmuel's ruling as well as the underlying assumption of his position is unsuccessfully challenged.

Two attempts are made to provide support for Shmuel's ruling and on the second attempt the Gemara admits that the issue is subject to a dispute between Tannaim.

6) MISHNAH: The Mishnah discusses what was done with the corpse after the stoning.

7) Hanging those who were stoned

A Baraisa elaborates on the dispute between R' Eliezer and Chachamim whether all those who were hung were stoned or only those who committed idolatry and blasphemy.

The Gemara begins to explain the point of dispute between them. ■

Distinctive INSIGHT

Choose a pleasant death for your fellow Jew

אמר רב נחמן אמר רבה בר אבובי אמר קרא ואהבת לרעך כמוך, ברור לו מיתה יפה

The Gemara notes that when a person is executed we may not embarrass him unnecessarily. According to the conclusion of the Gemara, both R' Yehuda and Chachamim of the Mishnah agree that the Torah mandates that in carrying out capital punishment by stoning, we use the dictum "ואהבת לרעך כמוך"—Love your fellow Jew as yourself," which teaches that we must choose a "pleasant" death for our fellow man. All opinions agree wearing clothing would shield one's body from the deadly blows of stones, and that a person dies more quickly and ostensibly with less pain if he is unclothed. Chachamim hold that when a woman is to be executed, she cares more about the disgrace of being unclothed than she does about the extra physical pain she will suffer by being clothed. A man, however, does not suffer too much disgrace by being unclothed, so he prefers to suffer less physical pain and to not be clothed while being executed. Rabbi Yehuda contends that both men and women prefer to have less clothing in order to minimize the suffering at their death. This is *ואהבת לרעך כמוך*.

In his *קובץ שיעורים*, R' Elchonon writes that we see that even one who is a *רשע* due to his sins, and when he is condemned and about to be put to death, he is still considered to be a member of the nation, and categorized as *רעך*. *יד רמה* also notes that wherever the Torah uses the term "*רעך*," the reference is to all Jews, even to one who is a *רשע*.

Shitta Mikubetzes (to Kesubos 57b) cites *יד רמה*, but he then disagrees with him and says that a person who sins and is a *רשע* is not a *רעך*, and that it is only after he has been punished and has achieved atonement that he is once again a full member of the nation. The verse states that after having lashes administered against him, the verse (Devarim 25:3) declares, "*ונקלה אחיך לעיניך*—Your brother has been degraded in front of your eyes." The Gemara observes, "Once he has been punished, he is your brother." Similarly, once he is sentenced and has been put to death, this man is your brother and should not be given an undesirable death.

According to Shitta Mikubetzes, even though he has not yet received his punishment, we already refer to the evil one as a full member of our community. One approach to explain this is that we say that if he is disrobed before being killed, he will end up being disgraced once he is executed, at which time he will be our brother. Another approach to understand the Shitta who deals with the person before he is killed is to say that since he will be atoned and become *רעך* with being killed, we see the entire process of being killed and dying as one event, during which he should be treated as *רעך*. ■

HALACHAH Highlight

Which is worse – humiliation or physical pain?

מר סבר בזיוני דאיניש עדיפא ליה טפי מניחא דגופיה

This master holds that humiliation is more significant than personal comfort

The Gemara teaches that the dispute between R' Yehudah and Rabanan whether a woman is stoned with clothing revolves around the question of whether personal degradation is more significant than their personal comfort or their personal comfort is more significant than their personal degradation. Rambam¹ rules that a woman is stoned wearing clothing thus establishing the principle that humiliation is more significant than personal comfort. Later authorities challenge this from a Gemara in Bava Basra. The Gemara there (9a) presents a dispute between R' Huna and R' Yehudah regarding an unknown person seeking to receive tzedaka. R' Huna maintains that we research his background if he is looking to collect money for food but not if he wants clothing since one without clothing is humiliated. R' Yehudah holds that we research his background if he is looking for clothing but not if he is seeking food since food involves pain to his body. Since this dispute revolves around the same issue of whether humiliation or personal comfort is more significant we would expect the halacha to follow R' Huna who gives greater importance to humiliation and yet the halacha in that case follows R' Yehudah who gives greater significance to personal comfort. A number of resolutions to this contradiction have been suggested.

Teshuvos Chavos Yair² answers that it is impossible to paint in broad strokes what is more or less significant being that there are so many different variables. As such, the question does not begin since there are varying degrees of humiliation and some

REVIEW and Remember

1. What is the point of dispute between R' Yehudah and Rabanan?
2. Why was the stoning house twice the height of a man?
3. Why is the condemned person exempt from execution if the witness loses his hand?
4. What was done with the corpse after one was stoned to death?

may be more significant than personal comfort whereas others may be less significant. Mitzpah Eisan³ suggests that the difference lies in the source of the humiliation. Humiliation that comes from others is more severe than the humiliation that one brings upon himself. Accordingly, in the case of stoning the humiliation is caused by others and is considered more severe than personal comfort. Regarding the poor person the humiliation of not having clothing that the charlatan brings upon himself is less severe than the discomfort of hunger. Or Sameach⁴ answers that humiliation is more significant than personal comfort and the reason we are not concerned about the person's humiliation in Bava Basra is that the faker obviously is not concerned with his own dignity as is evidenced by the fact that he didn't mind showing up without clothing. Therefore, we are not required to be more sensitive to his humiliation than he is. ■

1. רמב"ם פט"ו מהלי סנהדרין ה"א.
2. שו"ת חות יאיר סי' קצ"א.
3. מצפה איתן ד"ה בזיוני.
4. אור שמח על הרמב"ם הנ"ל. ■

STORIES Off the Daf

"All are buried with him..."

"כולן נקברין עמו..."

The Ramak, zt"l, explains that every Jew is a part of the same organic whole. If a person's finger hurts or is blemished he would never think to hurt it further since this is harming himself. So too, one must realize that when another harms him, it is because of a failing within that also extends to himself. If he retaliates instead of trying to understand and reconcile, he is just hurting himself.¹

Rav Yehudah Wertheimer, zt"l, learned a similar lesson from today's daf.

"In Sanhedrin 45 we find that one must bury a sword or garment that was used to carry out capital punishment. Even though we were obligated to use the sword or the garment in this manner, nevertheless, it may never be used again. We can learn a remez from this Gemara as to why we burn the candle used to search out the chometz on leil bedikas chametz. After we used it to search out the chometz, which represents the evil within all of us as the Rishonim explain, it is somewhat similar to an implement used to punish. From here we learn a very important lesson: one who tries to bury his fellow Jew should understand that he is really burying himself..."²

Interestingly, the Ramak himself

learns a very inspiring message from this same gemara. "Since Hashem brings punishment to Yisrael through various instruments, it would perhaps have been fitting for those who made us trouble to merely stop when the time comes. But this is not His way. We find that a weapon used for capital punishment is buried, even though it was merely an instrument to do Hashem's will. Similarly, all those who were used to punish us, like Pharaoh in Egypt and Sancheriv, are utterly ruined due to the part they chose to play in Hashem's plan."³ ■

1. תומר דבורה, פרק א'
2. במדבר יהודה, ח"א, ע' שמ"ה
3. תומר דבורה, שם ■