

OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah concludes with a discussion of who collects the value of offspring.

2) A goring animal

The Gemara infers from the Mishnah's language that if an animal intended to gore a pregnant woman the owner would be liable to pay for the value of offspring. This is inconsistent with R' Ada bar Ahavah who ruled that there is no value of offspring payment when an animal causes a miscarriage.

It is explained how R' Ada bar Ahavah would refute this inference.

R' Pappa asserts that when an animal causes a gentile maid-servant to miscarry there is no payment to make for the value of offspring.

3) Clarifying the Mishnah

The Gemara clarifies the intent of the phrase **דמי ולדות**.

Rabbah offers an explanation for R' Shimon ben Gamliel's position.

A Baraisa is cited that supports this explanation.

Rava suggests an alternative explanation of R' Shimon ben Gamliel's position.

A Baraisa is cited that supports this explanation.

The Gemara explains why these two Beraisos are not contradictory.

The exchange between Rabanan and R' Shimon ben Gamliel is recorded.

R' Pappa explains the Baraisa that is cited.

Rabbah qualifies the Mishnah's ruling related to the gentile maidservant and the convert.

R' Chisda challenges this ruling and offers an alternative explanation.

Rabbah's position is unsuccessfully challenged.

It is suggested that the dispute between Rabbah and R' Chisda is a dispute between Tannaim.

The Gemara responds that Rabbah will have to agree there is a dispute amongst Tannaim about the matter but R' Chisda can explain how both Beraisos are compatible with his position.

This explanation is unsuccessfully challenged.

An alternative resolution for the Beraisos is cited.

4) Property of a convert

R' Yaiva asked R' Nachman whether one who takes possession of documents of a convert who died acquires those documents.

R' Nachman asked for clarification of the question but it was never resolved.

Rabbah issues two rulings concerning one's right to take the property of a deceased convert, one involving collateral that a Jew gave to a convert and the other involving collateral a convert gave to a Jew.

The second ruling is unsuccessfully challenged.

(Overview...Continued on page 2)

Distinctive INSIGHT

The nation which is like the donkey

שבו לכם פה עם החמור - עם הדומה לחמור

As Avraham was about to embark upon the final leg of his journey to Har HaMoriah with his son, Yitzchok, he told his two attendants, identified in the Midrash as Yishmael and Eliezer, to remain behind and wait for him. The wording of his instructions to them was that they "wait together with the donkey." (Bereshis 22:5) Based upon this, the Gemara declares "the nation [of Eliezer] is similar to a donkey." In our Gemara, this means that the child of a non-Jewish slave is not legally considered the slave's son, and no payment is given to a slave if an ox gores the maid-servant who is pregnant with his child if she miscarries.

If we understand this verse in its context, it seems a bit harsh for Avraham to tell his trusted and capable servant Eliezer and his son Yishmael such degrading news. And particularly at the moment Avraham was about to offer Yitzchok on the alter of the Akeida - was this the best time for Avraham, the pillar of kindness and sensitivity, to inform the others that they were as lowly as the donkey with which they stayed?

We must realize that Avraham was very discreet and caring in all his ways. He certainly avoided any aspect of insult or hurt when dealing with people. However, part of the test of the Akeida was specifically to underscore the very identity of who Yitzchok was, and in what manner he stood out among all other descendants and disciples of Avraham. Although Yitzchok was his only son from his wife, Sarah, Avraham did not falter when he was instructed to take him up on to the altar. Even as Avraham continued on this last leg of his mission, he declared that there was no replacement for Yitzchok, his only beloved son from his wife. With this declaration, Avraham proclaimed that Yishmael was his son from Hagar, and Eliezer was merely his slave, yet both were as the donkey. And with this conviction, Avraham still persevered, ready to offer Yitzchok due to the command from Hashem.

When Avraham and Yitzchok returned from the Akeida, they found Yishmael and Eliezer waiting. As the group reunited, the verse (ibid. 22:19) tells us that they travelled together - **ויקמו וילכו יחדו**. This verse accentuates the greatness of Avraham, in that after the Akeida, he respected and honored his close followers equally, including Yishmael and Eliezer, even after having recognized the eminence of Yitzchok and what he had accomplished. ■

HALACHAH Highlight

Giving a daughter the same name as her grandmother

והלא אשה משובחת לאחר שתלד יותר מקודם שתלד

A woman is more valuable after giving birth than before giving birth

It is clear from the Gemara that a woman loses value when she is pregnant since there is a concern that she may die in childbirth. Interestingly, Divrei Yechezkel¹ writes that the custom that the mother has the right to name a couple's first child is in consideration of the fact that the mother put her life at risk to have the baby.

Chelkas Yaakov² was once asked a question related to naming a baby. A couple married and the choson's deceased mother and the kallah's mother shared the same name. When a daughter was born the father wanted to name the baby after his deceased mother but his wife and in-laws protested using that name since the baby and her maternal grandmother, who was still alive, would share the same name. Chelkas Yaakov wrote that at first glance it is logical to assume that it is the father who has the right to name a child. This is based on the fact that it is the father's obligation to give his son a bris³ and it is at the time of the bris that the child is given a name. This points to the fact that it is the father's right to name a child. Therefore, since the father wants to name the baby after his mother he should have that right. Moreover, there is an ancient custom to name children after deceased relatives so how is it possible for anyone to prevent the father from choosing the name that he wants?

He then notes that we find many instances in which it is the

REVIEW and Remember

1. When is a woman more valuable: before or after childbirth?
2. What is the point of dispute between Rabbah and R' Chisda?
3. Is taking hold of the deed to land a valid acquisition of that land?
4. What is the dispute between R' Yishmael and R' Akiva concerning בור?

mother who chooses the name⁴. Additionally, when couples marry it is assumed that they will conduct themselves in accordance with all of the local customs and it is well known that people oppose giving a child a name if there is a grandparent who already has that name. Consequently, the mother has the right to protest naming her daughter with the same name as her living mother but adds a fascinating point. In the event that the daughter will be referred to, primarily, by her secular name and her Jewish name is only used for religious matters (e.g. מי שברך, kesubah, etc.) there is no reason for the couple to refrain from giving a Jewish name to their daughter that would be the same as one of their mothers. ■

1. ספר דברי יחזקאל החדש כתבי קודש תשובה ח'
2. שו"ת חלקת יעקב יו"ד סי' קל"ו
3. ע' שו"ע יו"ד סי' רס"א
4. בראשית ל"ח: ה: ■

STORIES Off the Daf

The pit in the public domain

בבור ברה"ר כ"ע לא פליגי דמחייב

On today's daf we find that all are obligated for damage done in the public domain.

The Alter of Slobodka, ז"ל¹, was once walking behind a bochur in the street when he noticed the young man go to the side of the sidewalk, stoop to the ground, and pick up a paper. After he gazed at the paper for no more than an instant he replaced it on the ground.

The Alter approached and requested that he explain his strange behavior.

"I noticed that the paper was printed in Hebrew and I figured it was sheimos from a holy sefer and required genizah.

But it only took a moment to realize that the paper was not sheimos at all—far from it—and I put it back on the side. After all, it is very much to the side and no one will be damaged by it."

The Alter looked at him gravely and gently said, "Tell me, what is the halachah for someone who causes his friend to fall to the ground?"

"He is responsible for all damage incurred to the person," the young man replied.

"How did you fail to realize that another person may very well walk by and also mistakenly think this page is sheimos and bend over for nothing to lift up this paper? By throwing it back down—despite the fact that no one will physically trip over it—you have fashioned a bor b'reshus harabim. This is a stumbling block for your friend since what difference does it make if the

bor makes a person fall to the ground or bend over for naught? The moment you picked up the paper and noticed that it was not sheimos, you should have kept it to throw in the garbage to save another some trouble!"¹ ■

1. לולי תורתך שמות כ"א ל"ג

(Overview...Continued from page 1)

The Gemara limits the application of Rabbah's ruling.

5) **MISHNAH:** The Mishnah presents circumstances where one is liable for damages caused by a בור.

6) **The case of בור mentioned in the Torah**

A Baraisa presents a dispute between R' Yishmael and R' Akiva regarding the case of בור mentioned in the Torah.

Rabbah begins to explain the exact point under dispute in the Baraisa. ■