

OVERVIEW of the Daf

1) Violating a transgression inadvertently that carries liability for lashes or the death penalty (cont.)

R' Yochanan replies to Reish Lakish's challenge.

A second version of this exchange is recorded.

Rava successfully challenges R' Yochanan's position.

Ravin presents a different understanding of the dispute, i.e., regarding one who inadvertently violates a prohibition that is punishable by lashes and a monetary payment. R' Yochanan maintains he must pay whereas Reish Lakish maintains that he is exempt.

Abaye and Rava offer alternative sources for Reish Lakish's ruling.

R' Pappa asks Rava to identify the context of the words he uses for his גזירה שוה.

Rava identifies the context of the words he uses for his גזירה שוה and responds to the challenges against his assertion.

2) Clarifying the Baraisa of Dvei Chizkiyah

The Gemara unsuccessfully challenges the teaching in the Baraisa of Dvei Chizkiyah.

3) Clarifying R' Meir's position (cont.)

R' Pappa asks Abaye to clarify the Mishnah according to Rabbah's understanding (from the previous daf) since the Mishnah does not seem to conform to the known opinions regarding the matter of receiving two punishments.

Abaye explains that according to Rabbah the Mishnah reflects R' Yochanan's understanding of R' Yitzchok.

Abaye, in response to an inquiry from R' Masna, explains that according to Reish Lakish the opinion that disagree with R' Nechunyah ben Hakanah is either R' Meir or R' Yitzchok.

4) Women who do not collect a fine

A Baraisa is cited that enumerates different women who do not collect a fine for being violated or seduced.

The Gemara inquires about the terms עריות and שניות לעריות. ■

Distinctive INSIGHT

Lashes to one and money to another

לא צריכא דבהדי דמחייא קרע שיראים דיליה

In the Gemara, Ravin taught that Reish Lakish holds that in a case which features lashes (מלקות) and payment simultaneously, no financial restitution has to be made, even if the lashes are technically not applied. An example of this is where the infraction was done בשוגג (the witnesses did not issue a proper warning). The Gemara searches for the source of this halacha.

Rava states that the source from where we learn this is the association of the word מכה which appears both in a case of lashes (Vayikra 24:18) as well as in a case of payment for damages (ibid., v.19). Just as payment for damages is due whether the infraction was intentional or unintentional, so, too is the exemption from financial restitution applied in a case of lashes, whether the case is intended (and lashes are meted out) or whether it is unintentional (when the lashes are not applied).

The conclusion of the Gemara is that the case of lashes is speaking about where one person struck another and caused a bodily injury which was evaluated at less than a peruta (for which lashes are due), and at the same time he tore the fellow's clothing. In this case, the payment for damaging the clothing is suspended due to the lashes.

We can note that both in the case where a person causes monetary damage while committing a capital crime, as well as in the case where he is liable for lashes, the exemption is only stated in reference to not having to pay the victim his claim while being penalized with death or lashes. The Rishonim deal with whether the sinner is exempt from damages he might cause to others, simultaneous to his violating the capital or lashes infraction. Rambam holds that the exemption applies even when the money is owed to someone other than the one to whom the lashes or death infraction was perpetrated. He writes (Hilchos Sanhedrin 16:12) that if Reuven injures a non-Jewish slave of his friend, and the injury causes less than a peruta of value of damage, Reuven will receive lashes. A non-Jewish slave is obligated in some mitzvos, and striking him is punishable with lashes. In this case, the payment is to the slave's owner, while the lashes are administered due to the infraction against the slave. Yet, Rambam explains that the case is where the injury is less than a peruta, and he adds that had the monetary loss been more, Reuven would pay and not have to receive lashes. Yet, this case is where the lashes are due to having hit the slave, and the payment is due to the owner of the slave, and Rambam still rules that the payment would eclipse and cancel the lashes. ■

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HALACHAH Highlight

Reparations for committing murder

חייבי מיתות שוגגין כולי עלמא לא פליגי דפטורין

One who inadvertently violates a prohibition that carries the death penalty, all opinions agree that he is exempt from monetary payment.

Rambam¹ writes that Beis Din is warned against taking redemption money (כופר) from a murderer to release him from punishment. Even if he were to give all the money in the world or if the blood redeemer (גואל הדם) was willing to forgive the murderer he may not be exempted from punishment. The reason is that the spilled blood of the deceased is not someone else's possession that grants him the authority to forgive the murderer or release him from punishment. Minchas Chinuch² writes that despite Rambam's reference to the prohibition on Beis Din, the prohibition applies to anyone. Evidence to this assertion can be found in the writing of Sefer Chinuch³ who writes that this prohibition also applies to women, who may not serve on Beis Din. A scenario in which a woman could violate this prohibition is if she were, for example, to approach the government to absolve a murderer of his crime. The only reason Rambam mentioned Beis Din, concludes Minchas Chinuch, is that that would be the most common application of the prohibition.

Rav Yosef Engel⁴ cites the position of Mahari Weil who writes that the prohibition is violated when, for instance, the blood redeemer takes money specifically in order to forgive the murderer of his crime. On the other hand, since the murderer must make an effort to achieve atonement a payment towards achieving that goal is permitted. Accordingly, Sefer Pischei Choshen⁵ inquires whether it is permitted for the family of the victim

REVIEW and Remember

1. What is derived from the juxtaposition between striking a person and striking an animal?
2. When does a person receive lashes for striking another person.
3. How did Dvei Chizkiyah know that the pasuk regarding striking an animal referred to striking the animal during the week?
4. What are שניות לעריות?

to sue the murderer for reparations. In an effort to resolve this matter he cites a teshuvah of Noda B'Yehudah who writes that one of the paths of repentance for one who kills another, even if it was indirect, is to pay the heirs of the victim. Rav Akiva Eiger also addressed a case of someone who killed a young man who did not have his own offspring. An elaborate and interesting list of donations and payments was drawn up to help the murderer achieve atonement. These sources suggest that payment to the family of the deceased is necessary for the murderer to achieve atonement. ■

1. רמב"ם פ"א מהל' רוצח הי"ד, ופי"ה הי"א.
2. מנחת חינוך מצוה תי"ב אות א'.
3. ספר החינוך שם.
4. ספר גליוני השי"ס ד"ה לא תשקול.
5. פתחי חושן ח"ה פי"ב הע"נ. ■

STORIES Off the Daf

"And You Shall Live By Them..."

ר"בין אמר חייבי מיתות שוגגין כולי עלמא לא פליגי דפטורין..."

When the Communists seized control of the Russian government, the new regime made the lives of many observant Jews miserable. Anti-religious persecution created many unusual and challenging halachic questions.

Since violating Shabbos was mandatory and people who refused were often killed for refusing, many unfortunate Jews had to violate Shabbos week after week. It was only a very select group who merited to keep Shabbos in the Soviet Union during the worst periods of anti-

religious fervor who lived to tell about it.

One religious Jew who was making great efforts to observe the laws of Shabbos was accosted by a bunch of Communists. They told him in no uncertain terms that they would not tolerate his being a parasite by refraining from halachic work on Shabbos. "If you don't drive this vehicle to where we tell you, you're dead!" They were armed and clearly meant to carry out their threat. The man had no choice but to comply.

As the distressed man was driving, he crashed into a fellow Jew's parked car. No one was hurt, but his friend's car was totaled.

After this happened, the first man wondered if he was obligated to pay for the damage he had done to his friend's

car. On today's daf we find that all agree that even if one unintentionally transgressed a capital sin he does not pay. As everyone knows, driving on Shabbos is a capital crime and so perhaps he was not obligated to pay. On the other hand, perhaps this was different since it was actually a forced violation and was not entirely unintentional.

When this man asked his Rav the halachah, he was told that he must pay. As proof, he was shown the Minchas Chinuch 296:26, whose reasoning is quite clear. The man's violation of Shabbos was not a capital offense at all! By driving on Shabbos, he fulfilled the mitzvah of v'chai bahem, 'and you shall live by them.' The act of driving literally had saved his life! ■

