

OVERVIEW of the Daf

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

R' Pappa the son of Shmuel challenged whether R' Yehudah maintains that a girl taken into captivity is not assumed to have been violated.

R' Yosef dismisses the challenge by noting that the Baraisa that was cited does not discuss the case of a captive.

R' Pappa the son of Shmuel presents another challenge.

R' Yosef was silenced by the challenge but R' Pappa the son of Shmuel offered an explanation of the Baraisa in the name of R' Shishes.

This explanation is challenged since it leaves R' Yosi's position in the Baraisa difficult to understand.

Rabbah offers an explanation of R' Yosi's position.

This explanation is rejected and Rabbah offers another explanation that is accepted.

2) Receiving one punishment

The Gemara cites another source than the one cited in the Mishnah for the principle that a person is given only one punishment for a multi-dimensional transgression.

The necessity for two alternative sources is cited and explained.

The reason for two sources, according to R' Meir who maintains that a person could be subject to lashes and payment, is explained.

On a related note the Gemara explains the necessity of two verses. One verse teaches that one may not take money to pardon someone from execution and the other teaches that one may not take money to pardon someone from exile.

The necessity for both expositions is explained.

Additional related verses are cited and explained.

The necessity for two verses that teach that one may not take money to exempt a murderer from punishment is questioned. ■

REVIEW and Remember

1. What is the reason that a woman who converts must wait three months before marrying?

2. Why are two expositions needed to teach that one only receives one punishment for a transgression?

3. Is a murderer permitted to pay money to receive a pardon for any of his punishments?

4. What verse teaches that a person is beheaded from the front of his neck?

Distinctive INSIGHT

When a sinner should get only one punishment

חדא במיתה וממון, וחדא במלקות וממון

The halacha in the Mishnah is that when a person commits an act for which two penalties apply, he cannot be liable for his life and also have to pay monetary restitution. Two verses are cited, each of which indicates this law. In the Mishnah, the verse from Shemos 21:22 is brought, which describes a situation where two men are fighting and one strikes a pregnant woman. "If there is no fatality, he shall be penalized." This means that if there is no death penalty, the aggressor shall pay monetary compensation for causing the woman to lose her fetus. If the woman dies (v. 23), there will be no monetary restitution.

The second source for this halacha is a verse in Devarim (25:2). Regarding administering lashes, the Torah instructs that the offender be struck "כדי רשעתו" – according to his crime." The lesson is "the beis din shall punish him for one crime, but not two." The Gemara here asks what the reason is to require two verses which apparently teach the same lesson.

The Gemara explains that one verse teaches that we cannot administer the punishments of death and financial restitution, and the other verse teaches that the Beis din cannot assess monetary payments in a case where lashes are given. The Gemara then continues to show that both lessons are essential in establishing the procedures of the court, and that we could not have learned one from the other.

The second verse, the one from Devarim, is the one that teaches that the court cannot apply both lashes and monetary payments. Although the Amoraim dispute whether the one punishment to be meted out would be the lashes or the money (earlier 32a), there are two cases which the Torah explicitly rules that lashes are to be administered. These are where one person injures another, and the other case is conspiring witnesses (עדים זוממים). Everyone agrees that in these cases the perpetrators do not have to pay in addition to their receiving lashes.

R' Chaim Brisker notes that the first verse, כדי רשעתו, is a restriction upon the court not to administer two punishments. Therefore, if, for example, in addition to being liable for lashes, a person is also obligated to bring an offering, he would not be exempted from bringing the offering. The court is only administering one punishment, that of lashes, and the financial burden of bringing an offering is between the person and God. Similarly, if in addition to lashes a person must pay back the Beis Hamikdash for having used its property (מעילה), both responses can be applied. However, the other verse of ולא יהיה אסון teaches that if the person receives the death penalty, he would be exempt from payments to the Beis Hamikdash for מעילה. ■

HALACHAH Highlight

Waiting three months before remarrying

וצריכה להמתין שלשה חדשים

And she [a female convert] must wait three months [before marrying.]

It is clear that when a woman remarries she is obligated to wait three months before the wedding and the reason is to distinguish between the offspring of the first husband and the offspring of the second husband. Additionally, if a non-Jewish couple converts they are obligated to wait three months before “remarrying” to distinguish between children who are conceived in sanctity and those who were not conceived in sanctity¹. Dayan Yitzchok Yaakov Weiss², the Minchas Yitzchok, was asked concerning an interesting application of this halacha. There was a non-Jewish man who “married” a Jewish woman and they had a son and a daughter. The father expressed an interest in converting to Judaism and after determining that he could be accepted as a convert if a number of conditions were met, the question arose whether it is necessary to wait three months after the conversion before the couple could “remarry.” It was argued that since according to the majority of Poskim a child born to a

non-Jewish father and Jewish mother is not a convert and is therefore fit (כשר) for marriage³ there is no reason to wait the requisite three months. Since the purpose of the waiting period is to distinguish between children conceived in sanctity and those who were not conceived in sanctity there is no need for waiting in this case since the children conceived before the father converted are also fit for marriage.

Minchas Yitzchok responded that he finds it difficult to issue a lenient ruling in this case. The reason is that although it is true that according to the majority of Poskim a daughter born to a non-Jewish father and a Jewish mother does not need to undergo a conversion, nevertheless there is a consequence to that daughter. Shulchan Aruch⁴ rules that a girl born to a non-Jewish father is unfit to marry a kohen. In contrast, a daughter born to a convert and a Jewish woman is permitted to marry a kohen. Consequently, since there is a different halachic status for the daughter born before her father converted and the status of a daughter that may be born after the father converts it is difficult to issue a lenient ruling to allow the couple to “remarry” without waiting the requisite three months. ■

1. שוייע אהייע סיי ייג סעי ה' וו'.

2. שויית מנחת יצחק ח"ז סיי צ"א.

3. עי שוייע אהייע סיי ז' סעי כ"א.

4. עי שוייע אהייע סיי ד' סעי י"ט. ■

STORIES Off the Daf

The Atonement of Tzedakah

”למומתים בידי שמים שנותנין ממון ומתכפר להן...”

On today's daf we find that giving charity can atone for sins that incur the punishment of **מיתה בידי שמים**. Presumably, such charity is given with genuine mesirus nefesh.

Once, Rav Chaim Brisker, zt”l, traveled to Minsk to raise money for Yeshivas Volozhin. Two gabba'ei tzedakah who lived there worked tirelessly for the good of the yeshiva: Rav Baruch Zladowitz, z”l, and Rav Dov Ber Pines, z”l—two partners in matters material and spiritual. Rav Chaim first went to the house of Rav Zladowitz and explained the situation. Although the amount was daunting, Reb Boruch promised to do

his utmost. Rav Chaim stayed in his house and spent his time immersed in his studies, as always.

After a few days, Rav Chaim Brisker asked Reb Boruch if he had succeeded to raise the funds, and Reb Boruch responded that he had already raised half. Rav Chaim was very pleased to hear this and immediately returned to his learning.

After a full month had passed, Rav Chaim again asked Rav Boruch if he had yet managed to scrape together the entire sum.

“Boruch Hashem, with great mesirus nefesh I finally managed it!” was his elated reply. Rav Chaim took the money and went home.

Shortly thereafter, two people appeared before Rav Chaim for a din Torah—none other than the two gabba'ei tzedakah from Minsk.

The plaintiff, Rav Pines, said, “Reb

Boruch and I are partners and we share equally in all our ventures, whether they involve business or mitzvos. And I say that he had no right to pay the entire sum that the yeshiva required out of his own pocket! I demand my fair share of the reward for being a full partner in paying off the yeshiva's debts and enabling it to function for the benefit of the Jewish people!”

Rav Chaim was stunned, “Rav Boruch! Why did you have me stay a whole month in your house if you donated the entire sum yourself?”

Reb Boruch answered, “I couldn't bring myself to pay it all out at once. It took a lot of toil to overcome my ta'avas mammon so that I was able to commit to giving the first half. Practically a month of struggling to really appreciate the greatness of the mitzvah enabled me to do the rest!” ■

