

OVERVIEW of the Daf

1) Marrying the victim (cont.)

The Gemara cites a pasuk to explain why the seducer is not compelled to marry his victim.

2) Marrying the victim who is prohibited

R' Kahana inquired why the mitzvah to marry the victim cannot override a prohibition against a prohibited marriage.

R' Zevid explained why the suggestion is rejected.

3) **MISHNAH:** The Mishnah discusses R' Elazar's position of whether payments are made to an orphan who was betrothed and divorced.

4) Clarifying R' Elazar's position

R' Yochanan is cited as asserting that R' Elazar follows R' Akiva's position that a girl that was betrothed and divorced collects the fine herself.

Proof to this assertion is cited.

Rav is cited as ruling in accordance with R' Elazar and referred to him as the most fortunate of the rabbis.

5) **MISHNAH:** The Mishnah explains how humiliation payments, depreciation payments, and the fine are calculated. The Mishnah concludes with a general statement regarding fixed payments.

6) Payments

The Gemara suggests that perhaps the fifty shekel payment represents the total amount the אונס has to pay, including humiliation, depreciation etc.

R' Zeira suggests an explanation for this halacha.

Abaye successfully challenges this explanation.

R' Zeira offers another explanation that is rejected by Abaye.

Abaye and Rava offer alternative explanations.

It is suggested that she should collect the other payments.

An exposition is cited that demonstrates that the money goes to the father.

This exposition is rejected.

The Gemara concludes that logic dictates that the payments go to the father.

7) Calculating depreciation

Shmuel's father suggests how depreciation is calculated.

After a couple of revisions his explanation is accepted.

8) **MISHNAH:** The Mishnah spells out the rights a father has when his daughter is a minor, a naarah and a bogeres.

9) A dissenting view

R' Yehudah in the name of Rav states that the Mishnah

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Distinctive INSIGHT

The assessment for embarrassment

איזהו בושת? הכל לפי המבייש והמתבייש

The amount assessed to pay for embarrassment in a case of אונס and מפתה is a function of who the perpetrator is, and of who the victim is. From the words of Rashi, it seems that it is understood that it is more embarrassing to be shamed by an average person than it is to be humiliated by a drunken vagrant or to be disgraced by a dignitary. Similarly, the degree of perceived embarrassment varies based upon the status of the girl who was attacked and her family. The court must assess all of these factors and determine how much it was worth for this situation to have been avoided, had money been a factor in preventing it.

Rambam (Hilchos Na'ara 2:4) presents the contrast differently than does Rashi, and he suggests that being embarrassed by an important person is not as bad as being disgraced by a lowly individual. The less a person's status, according to Rambam, the greater is the humiliation of being the object of his ridicule.

שיטה מקובצת cites Geonim who describe the evaluation of בושת in terms of both the one who does the embarrassment as well as the one who is embarrassed, as did the Mishnah. Rambam also speaks about evaluating בושת in terms of the victim, her family, and the one causing the embarrassment.

Furthermore, Rambam adds that we consider the family in the calculation of the בושת, as he holds that the payment is given to the father of the girl. שיטה מקובצת in רמ"ה seems to hold that the payment is evaluated completely in terms of the girl herself, although the money goes to the father. Therefore, the amount is evaluated in terms of the girl's ordeal. ■

REVIEW and Remember

1. When does the principle that "a positive command overrides a prohibition" not apply?

2. How is the humiliation payment calculated?

3. How do we know that the humiliation and depreciation payments are given to the father?

4. Is there a difference in meaning whether the word na'arah is spelled with or without a "ה"?

HALACHAH Highlight

"Now that's embarrassing!"

איזהו בושת הכל לפי המבייש והמתבייש

How is the humiliation payment calculated? It all depends on the one causing the humiliation and the humiliated.

The Mishnah does not detail how to calculate the humiliation payment; it simply states that it depends on who is causing the humiliation and the humiliated. Tur¹, however, provides more detail for calculating this payment. When discussing the נערה who is violated or seduced, he writes that there is no comparison between the humiliation this incident will cause a girl who is upright and the humiliation this incident will cause a girl of loose morals. Furthermore, there is a difference in the degree of humiliation between an offender who is known to behave despicably and one who was thought to be respectable. Therefore, Beis Din must take both factors into account and determine how much the girl's father or family would pay for this incident to not occur and that is the amount the offender must pay towards his humiliation payment.

There was once an incident in which Reuven told Shimon that "your friend" is at the door for you. When Shimon went to the door there was a non-Jew at the door and Shimon was angered that Reuven identified the non-Jew as his friend. Shimon claimed that he was humiliated by the reference that the non-Jew was his "friend" and claimed that he should be paid for the humiliation. The Mahari Bruna² responded that

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reflects the view of R' Meir, but Chachamim maintain that a father's right to sell his daughter can coexist with his right to collect her fine.

A Baraisa that contains this dispute is presented.

R' Chisda explains the rationale behind R' Meir's position.

Reish Lakish explains the rationale behind Rabanan's position; an alternative context of Reish Lakish's teaching is presented.

The second teaching of Reish Lakish is revised. ■

according to the Gemara³ Shimon has no claim because the Gemara states, "One may not say to his friend, 'Go and hire for me workers' etc." and R' Pappa interprets the reference to "his friend" to refer to a non-Jew. This clearly indicates that if a Jew has a relationship with a non-Jew he can be described as a friend. Thus, Reuven can claim that he did not intend to disparage or humiliate Shimon when he referred to the non-Jew as Shimon's "friend." If, however, there was ill-will between Reuven and Shimon at the time that Reuven referred to the non-Jew as Shimon's "friend" it is evident that his intention was to humiliate Shimon and he would be obligated to pay for the humiliation he caused. Consequently, it is up to the presiding judges to assess the circumstances and make a determination whether payment is appropriate and how much that payment should be. ■

1. טור אה"ע סי' קע"ז
2. מהר"י ברונא סי' נ"ב
3. גמ' שבת ק"נ ■

STORIES Off the Daf

The Alter and his Talmid

הכל לפי המבייש והמתבייש

The Torah prescribes a fine for a person who embarrasses another. Our Mishnah teaches us how to evaluate the amount that needs to be paid, "Embarrassment is evaluated according to the social status of the one who caused the shame, and the one who felt the shame." The gedolei Yisrael went to great lengths to allay even the unintentional embarrassment of another Jew.

Some time after the Alter of Slobodka, ז"ל, moved to Yerushalayim, he fell very ill. He had to be confined to bed

and all of his needs were provided for him by his devoted students. On one occasion, he needed to be given a spoonful of water to help him wash down his medicine. One of the talmidim attending him brought him a spoon filled from a bottle of clear liquid on the kitchen table. Although he thought it was water, it was actually rubbing alcohol left there by mistake.

When the Alter took this spoon of "water" into his mouth, he nearly choked. As he was gagging in great pain, he noticed that the student responsible for the blunder was slinking out the door, obviously deeply embarrassed to have been the cause of the great Rav's distress.

The moment the Alter could speak, despite the fact that he was still unwell as

a result of the alcohol, he requested that this student be brought before him as soon as possible. As it turned out, the student only came the next day when the Alter was completely recovered from the experience. As the student entered the room in a downcast manner, the Alter received him with a glowing countenance and said, "Don't feel bad about yesterday. You actually caused me great happiness. Although at first I was very afraid, when I realized that there would be no adverse effects I was filled with joy. The error brought me a gain, that feeling of elation, not a loss at all!"

With these comforting words, the student's discomfort dissolved completely and he again felt at ease in his Rebbe's presence. ■

