

OVERVIEW of the Daf

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

R' Pappa offers another resolution to the contradictory citations of R' Yehudah's position regarding the question of whether it is necessary for the defamer to have relations with his wife in order to be subject to lashes.

This resolution is unsuccessfully challenged.

2) The punishment of the defamer

A Baraisa cites the relevant verses that teach that the defamer must pay a fine and receive lashes. The expositions are clarified.

3) Warning the defamer

R' Elazar and R' Nosson offer alternative sources for the Torah's warning against defamation.

Each Amora explains why he does not use the other's source.

A Baraisa is cited that relates to conditions necessary for the defamer to be punished for his transgression.

It is noted that the author of the Baraisa holds the husband liable for merely speaking to the lying witnesses, in contrast with R' Yehudah who maintains that he is not liable unless he hires the false witnesses.

R' Avahu offers an explanation for R' Yehudah's position.

R' Nachman bar Yitzchok cites a Baraisa that supports this exposition.

R' Yirmiyah and R' Ashi submit a number of questions related to R' Yehudah's position and only one of the inquiries is resolved.

4) The dispute between Rabanan and R' Elazar ben Yaakov

A Baraisa is brought that presents the earlier-cited dispute (:מה) between Rabanan and R' Elazar ben Yaakov as to whether the punishments for the defamer apply even if the couple did not have relations.

The relevant verse is explained by both Tannaim.

5) Punishing the defamer

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REVIEW and Remember

1. Where does the Torah warn the defamer?

2. What is the dispute between R' Eliezer ben Yaakov and Rabanan?

3. What are the obligations that a man has to his wife?

4. What is the source that allows a father to accept the kid-dushin contract for his daughter?

Distinctive INSIGHT

The case of רע שם מוציא שם רע according to Rebbe Eliezer ben Yaakov

נמצא ששם רע אינו שם רע הוא לוקה ונותן מאה סלע, בין בעל בין לא בעל. רבי אליעזר בן יעקב אומר לא נאמרו דברים הללו אלא כשבעל.

The Gemara presents an argument between Rabbanan and Rebbe Eliezer ben Yaakov regarding the circumstances of the episode of רע שם מוציא in the Torah. Rabbanan hold that case of the husband accusing his new wife is where he brings witnesses to testify that she committed adultery during the engagement period. If he is guilty of purporting a false accusation, the husband may be liable whether or not he had relations with this woman. Rabbi Eliezer ben Yaakov argues and contends that the case of a false accusation where the new husband is liable for lashes and to pay a fine can only be speaking in a case where the man himself had relations with his new wife, and, as a result, he claims that she was not a בתולה.

The Gemara brings a series of indications from the verses which indicate that the understanding of Rebbe Eliezer ben Yaakov is correct. Among them is the verse "ופרשו השמלה—and they shall spread the sheet before the elders of the city." This suggests that we bring evidence to the man's claim that the woman was not a בתולה, and this supports the view that the nature of the claim must be based upon the husband's bringing direct proof of his claim. Tosafos asks that the case is one where the woman might be found guilty and be put to death. This certainly cannot be simply based upon where the husband brings a clean sheet to court to prove his assertion. Rather, the case is where there are witnesses who testify that the wife committed adultery. We might wonder, then, asks Tosafos, what is the purpose of bringing the sheet to the court? We will rely only upon the witnesses, and the sheet will therefore be unnecessary. Why should it be brought if it will be irrelevant?

Tosafos explains that the case must be where the witnesses did come, but they were proven to be liars or conspirators. The husband insisted on proving his assertion that the woman was disloyal, so he then brought the sheet to the court. He is then guilty of slandering this woman, and therefore liable for רע שם מוציא when the sheet which he brings is shown to be soiled, thus proving him a liar. ■

Today's Daf Digest is dedicated in memory of
Matilda Montefiore Massel, Mesuda bat Moshe,
on the eighth yahrzeit of her passing,
by Caroline and Morris Massel.
May her neshama go higher and higher
and be a continuing source of inspiration.

HALACHAH Highlight

The custody of sons

האב זכאי בבתו וכו'

A father has rights in his daughter etc.

Rambam¹ rules that when a couple divorces the children are placed in the custody of the mother until they reach the age of six. At the age of six, custody of the boys is given to the father. From that age the father has the right to demand that if the boys live in his house he will support them, but if they remain with their mother he will not continue to provide them with financial support. The rationale behind this ruling, explains Chelkas M'chokeik², is that the father has the right to say that he does not have a tzedaka obligation to support his children if they do not listen to come live with him to learn Torah and other things.

Rav Eliezer Yehudah Waldenberg³, the Tzitz Eliezer, explains further. The verse למשפחותם לבית אבותם indicates that children are associated with, and thus should be supported by, their father. This is the principle that grants the father the privileges mentioned in our Mishnah. Chazal, however, were sensitive to the fact that children benefit greatly from and need their mother. They therefore rescinded some of the father's rights and granted the mother custody of the children until the age of six. This enactment does not nullify the father's rights, and therefore during this time the father is given the opportunity to visit with his children, teach them Torah and mitzvos and develop a father/child relationship with them.

Accordingly, a dispute between Rambam and Ra'avad could be understood. Ra'avad⁴ questioned Rambam's ruling that a mother should have custody of her child until the age of six. How is the father going to fulfill his obligation to teach his son Torah if the child is living with his mother? Tzitz Eliezer explains that both authorities agree that a mother contributes to the child in essential ways that the father is unable to do, and in

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R' Yochanan is cited as ruling that the defamer is not punished unless he claims that his wife was unfaithful in the natural manner.

This statement of R' Yochanan is successfully challenged and revised accordingly.

6) **MISHNAH:** The Mishnah presents the rights a father has with regard to his daughter as well as the rights and responsibilities that a husband has with regard to his wife.

7) Rights of betrothal

R' Yehudah cites an exposition for the source that a father has the rights to his daughter's betrothal money.

This exposition is challenged and an alternative exposition is suggested.

This exposition is also refuted and the Gemara returns to the original exposition and answers the challenge presented against it.

The parallel between a daughter's betrothal and a maid-servant's freedom is unsuccessfully challenged.

The source that the father has the right to betroth his daughter with a contract or by relations is identified. ■

ways that she could not do if the child was living with his father. Consequently, physical custody is granted the mother, but that does not override the father's mitzvah to teach his sons Torah. The disagreement between them is the age at which it is necessary for the child to be raised living with his father. Ra'avad maintains that at the age of four or five the son needs his father for optimal development whereas Rambam maintains that what the father contributes to his son at this age could be done while the child is living with his mother so it is unnecessary to take the child from his mother and her contributions. ■

1. רמב"ם פכ"א מה"ל אישות ה"ז.

2. חלקת מחוקק סי' פ"ב סק"ט.

3. שו"ת ציץ אליעזר חט"ז סי' מ"ד.

4. ראב"ד בהשגות על הרמב"ם הנ"ל. ■

STORIES Off the Daf

"All the Praise of Youth Belongs to the Father"

"כל שבח נעורים לאב..."

The Beis Yisroel of Ger, zt"l, was known to be very adept at offering empathetic support to his students and followers even as he goaded them on to striving for greater heights in serving Hashem. During certain times like chol hamoed, many Chassidim of other Rebbes would also come to him for advice and inspira-

tion.

Once, when a group of Karliner Chassidim came before the Beis Yisroel, he related a personal anecdote to encourage them to expend more effort in avodas Hashem. He confided in the group, "When I was young, I saw how much I was accomplishing and I figured that if this is what I was managing when young, surely I would achieve much more as I grew older. However, now I am older and I see that I achieved all that I did then because my strength in my youth was so much greater than what it is now. So make sure to capitalize on these essential years of spiritual

growth of your youth! You won't get a second chance!"

When recounting this story, Rav Shmuel Aharon Leider, shlit"a said, "This important lesson is encapsulated in the Gemara in Kesuvos 46b which teaches that all the revenue of an unmarried girl goes to her father. In Aramaic, the phrase is: כל שבח נעורים לאב - literally, all of the praise of youth is the father's. This can be construed to mean the strength of one's younger years. One must make sure that all the strength of youth goes to the Av, our Father in Heaven!" ■