

OVERVIEW of the Daf

1) Erech valuations (cont.)

The Gemara explains the rationale behind R' Gidal's ruling that one who pledges to give an object's erch value must give its monetary worth.

This explanation is unsuccessfully challenged.

R' Chisda in the name of Avimi suggests that the Mishnah discusses one who pledges movable objects to fulfill his standard erch pledge.

This explanation is unsuccessfully challenged.

R' Avahu asserts that the Mishnah refers to a case where a kohen comes to collect a person's assets for a standard erch pledge.

R' Avahu's explanation is unsuccessfully challenged.

Rabanan's opinion that a kohen need not be one of the appraisers is successfully challenged.

Shmuel identifies the source for the Mishnah's ruling that nine people plus a kohen are needed to appraise land.

The Gemara successfully questions this source.

R' Avahu explains the Mishnah's ruling that ten people must appraise a person's value.

2) Items that are ready to be removed

R' Avin inquires whether hair is like a movable object since it is ready to be cut or like the person since it is still on his body.

The Gemara demonstrates that this is an issue disputed by Tannaim.

It is suggested that another dispute revolves around the same issue.

This suggestion is rejected.

3) An animal that sodomizes

It is noted that the Mishnah doesn't differentiate between an animal that sodomizes a woman or a man.

The source that an animal that sodomizes a man is killed is identified.

4) Stoning an ox

The source that a panel of twenty-three judges is needed to stone an ox is cited.

Abaye and Rava have an exchange regarding this exposition.

The Gemara inquires whether an animal that approaches Har Sinai would require a panel of twenty-three judges to be stoned.

A Baraisa is cited that proves that twenty-three judges would be required.

5) Wild animals

Reish Lakish and R' Yochanan disagree whether wild animals can be tamed.

Reish Lakish's position that wild animals cannot be tamed is unsuccessfully challenged.

A Baraisa is cited that supports Reish Lakish's position.

The Gemara explains the difference between Tanna Kamma and R' Akiva.

6) Judging a tribe

The Gemara explains that the Mishnah's case of judging a

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Distinctive INSIGHT

How many judges to preside over the case of an animal at Sinai?

איבעיא להו שור סיני בכמה

Hashem commanded Moshe to warn the Jewish people not to approach Har Sinai while the Shechina was present during the giving of the Torah. Hashem warned that anyone who would approach at this time would be liable for stoning (Shemos 19:13). This was true whether the breach was perpetrated by a person or if it was violated by an animal which would wander into the cordoned-off area.

The Gemara asks how many judges would have been necessary to judge an ox which would have approached Har Sinai and thus been liable to be put to death. On the one hand, we could say that twenty-three judges would have been required to officiate over this proceeding, just as we find is needed when discussing the death of a שור הנסקל in later generations. On the other hand, the situation at Sinai was unique, and we cannot infer any conclusions from the general halacha of שור הנסקל.

The question of the Gemara is only expressed in terms of an animal which approached Har Sinai at this auspicious time. This suggests that the Gemara had no doubt regarding the law of a man who would approach the mountain at this time, and that his judgment would be with twenty-three judges. And, in fact, the Baraisa which is cited as a proof regarding the law of an animal does state that a man would be judged with a court of twenty-three judges. The question for us is why is this fact itself so obvious? What is the source from which we know this halacha?

The Rishonim explain that the system of courts was already established from when Yisro had arrived, and all capital cases for man were known to require twenty-three judges. The rules regarding the death of animals in court was not established at

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REVIEW and Remember

1. What is the source that ten people including one Kohen is needed to appraise land?

2. What is derived from the verse כל שוכב עם בהמה מות ימות?

3. Explain the point of dispute between Reish Lakish and R' Yochanan?

4. Does a snake deserve due process before execution?

HALACHAH Highlight

Taking the four species while still attached to the ground

יש דברים שהן כקרקע ואינן כקרקע

There are things that are attached to the ground but are not treated like land

The Gemara presents a disagreement between R' Meir and Chachamim about whether there are things that are attached to the ground but for halachic purposes are not considered to be attached to the ground. The example given involves a disagreement about the number of vines with ripe grapes that were delivered. R' Meir, who treats these items as movable objects, would mandate that the defendant take an oath whereas Chachamim who consider these items attached to the ground would not mandate an oath since an oath is not made on claims of land. Tosafos¹ writes that this issue applies to other areas of halacha as well with the one exception of a creditor collecting land for an outstanding debt. The halacha that authorizes a lender to collect land is based on the lender's reliability concerning these items since they can not be concealed. A lender would not loan money on the reliability of fruit that is attached to the ground since it could be easily picked and concealed.

This issue gives rise to an interesting question. If, on Sukkos, one were to take one or all of the four species (ד' מינים) while still attached to the ground was the mitzvah fulfilled? Tzlach² wrote that he doesn't see any reason why one should not fulfill the mitzvah if the species are attached to the ground. The Torah instructs a person to take the four species (ולקחתם) and he has fulfilled this requirement even if they are still attached. Minchas Pitim³ quotes

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the time of the giving of the Torah, thus leaving the issue unresolved.

Maharsha explains that Moshe told Yisro (Shemos 18:16), "I judge between man and his fellow man." Accordingly, the advice of Yisro only covered a system of courts to deal with issues between one man and another, and the arrangements regarding judging animals had not been established.

חידושי הר"ן explains that it was obvious that putting a man to death was a serious matter, and that a court of twenty-three judges was appropriate. However, the need for twenty-three judges for putting an animal to death is a חידוש, a novel law which is only determined through the Torah's associating the law of judging man and judging animals. Without the verse, we would not have assumed this to be the case. ■

Tzlach's position and disagrees. He maintains that the term לקיחה –to take – implies taking something that is no longer attached to the ground. Teshuvos Mishnah Halachos⁴ also discusses this question and writes that our Gemara's discussion seemingly indicates that one can not fulfill the mitzvah if the species are attached to the ground. According to Chachamim in our Gemara, something which stands to be detached is still considered part of the ground and the mitzvah of ד' מינים is not fulfilled since taking something attached to the ground does not fulfill the Torah's instruction to take something. ■

1. תוס' ד"ה בענבים.

2. צלי"ח שבת קל"א. ד"ה ואמרתי לתרץ.

3. מנחת פתים ס"י תרנ"ב.

4. שו"ת משנה הלכות ח"א ס"י תקכ"ב. ■

STORIES Off the Daf

A Jewish hunter?

"הארז והזאב..."

A certain wealthy man wondered if he was permitted to hunt in his forests. They were resplendent with game and various wild animals that would ensure that he would have a pleasant time. Although he had the equipment at hand he wondered if this was permitted to a Jew. He had heard it was forbidden, either because of צער בעלי בל תשחית or חיים.

The man was stunned by the Nodah B'Yehudah's sharp reply. "I do not even understand this question. In Chumash we don't find anyone righteous who hunted. The only hunters are Nimrod and Eisav, since this is not the way of the children of Avraham, Yitzchak, and Yaakov. The

Ramah even brings the מהרי"ו who writes that one should not say תבלה ותתחדש for something made of an animal's skin or other body parts because this shows a marked lack of sensitivity, since an animal was killed to fashion the garment. Although the Ramah writes that this reason is weak, that is only because it is not necessary to kill an animal to fashion a garment. Perhaps the animal died on its own or the garment was made from furs already cured and prepared to fashion the garment? Nevertheless the Ramah concludes that most people are careful in this regard."

"How can a Jew kill animals for no reason at all—just to squander what he thinks is an overabundance of spare time? Even dangerous animals like bears and wolves may not be killed on a whim! Although we find in Sanhedrin 15 that only animals which have owners and are trained may not be killed out of hand, this is irrelevant here.

The Gemara only means that if they are in a place inhabited by other human beings they may be killed without other cause unless they have owners and are trained. But you wish to go into the wild and hunt down animals that are not a danger to humans for the pleasure of killing these hapless beasts! Although animals were given to be used for our needs, this does not include hunting unless one is required to do this to make a living. If one's main thought is not his livelihood, this practice is nothing less than cruelty."¹ ■

1. שו"ת נוי"ב, מ"ת, ח' יו"ד, ס' י' ■

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tribe applies when the tribe turned to idolatry.

This indicates that the Mishnah maintains that a tribe is judged like the רבים. This is inconsistent with the opinion of R' Yoshia and R' Yonason who debate this matter. ■