

OVERVIEW of the Daf

1) The dispute between R' Yehudah and R' Shimon (cont.)

The Gemara presents an unsuccessful challenge to both R' Yehudah's and R' Shimon's position.

It is noted that the Mishnah does not follow the view of R' Eliezer ben Yaakov as recorded in the Mishnah.

The Gemara inquires about the exact point of dispute between R' Eliezer ben Yaakov and the Mishnah.

R' Yosef proves that R' Eliezer ben Yaakov disagrees about the number of members of Sanhedrin that must attend the עגלה ערופה ceremony.

Abaye rejects this proof.

A Baraisa is cited that supports R' Yosef's explanation.

2) Understanding the term באדמה

It is suggested that our Mishnah follows R' Yehudah's understanding of the term באדמה rather than Rabanan's.

Rav rejects this assertion and explains how the Mishnah could even be consistent with Rabanan.

The exchange between R' Yehudah and Rabanan is recorded.

R' Yirmiyah presents an inquiry related to the dispute between R' Yehudah and Rabanan related to שכחה.

Two unsuccessful attempts are made to resolve this inquiry and the question is left unresolved.

3) Two bodies on top of one another

A rabbi asked Abaye how to measure for עגלה ערופה when two bodies are discovered, one on top of the other.

Abaye responds that the inquiry could be explained from a Baraisa, and after the Baraisa is cited the Gemara analyzes its meaning.

4) עגלה ערופה exclusions

A Baraisa presents a number of exclusions to עגלה ערופה, but R' Elazar maintains that the עגלה ערופה ceremony is performed in those cases where the person was killed with a metal instrument.

A Baraisa is cited as an unsuccessful challenge to R' Elazar.

5) Clarifying the Mishnah

The Gemara identifies the sources for some rulings in the Mishnah and explains one of its halachos.

6) MISHNAH: Additional rules related to עגלה ערופה are recorded.

7) Clarifying the Mishnah

The rationale behind R' Eliezer's ruling is explained.

The reason Yerushalayim does not bring an עגלה ערופה is explained.

R' Yitzchok explains the case that is disputed by R' Eliezer and R' Akiva regarding a case where the head was found in one place and the body in another.

The dispute between R' Eliezer and R' Akiva concerning the place on the body where they measure for עגלה ערופה is explained.

It is suggested that this dispute parallels a dispute concerning the place from which a fetus is formed.

The Gemara rejects this parallel.

The rationale behind R' Eliezer ben Yaakov's opinion is explained.

8) MISHNAH: The Mishnah continues to describe the עגלה ערופה ceremony. ■

Gemara GEM

The responsibilities of the leadership of Klal Yisroel

וכי על דעתינו עלתה שזקני בית דין שופכי דמים הן?

The mitzvah of the עגלה ערופה is a case of an unwitnessed murder when the body of the victim is found between two cities. The elders must declare: "our hands did not spill this blood." Here (Devarim 21:1-9) the word שפכה is spelled with a ה at the end rather than a ו which is typically the last letter for a verb in the third person plural form. A similar construction is found in only one other place in the Torah. The word יקרחה in Vayikra 21:5 is spelled peculiarly - with a ה at the end rather than a ו. Without vowels, therefore, the subject of the verb is ambiguous. Only vowels specified by the mesorah – tradition – clarify who is the subject. Why in these two instances is there a peculiar spelling, and is there a connection between them?

HaRav Shimshon Raphael Hirsch answers that there is indeed a connection. Both verses specify an unexpected obligation on the part of the leadership of Klal Yisrael. With regard to the עגלה ערופה, the Torah commands the elders to declare that they had no role in murdering the victim. This is a seemingly bizarre command, because no one would suspect them of having committed the crime. Our Gemara (Sotah 45b) explains, however, that the elders are actually accepting upon themselves a higher level of responsibility by declaring that they played no role whatsoever in the murder by perhaps failing to provide the victim with the food or shelter that he needed in their city. Had they failed in their obligation, they might have set in motion a series of events which would have led to the murder. The elders declare that they are not accountable even for this higher level of culpability.

In Parashas Emor, the Torah contains a parallel admonition to the religious leadership of the nation, the Kohanim. The Torah (Devarim 14:1) commands that a Jew may not make a bald spot on his head as a reaction to someone's death. The nations of the world did just that as "a sign of atonement brought as homage to the dread power of the gods who are hostile to human life" and as an indication of "the loss of the value of one's bodily existence by the loss of the departed one." The Torah forbids Jews to engage in these practices, for we celebrate the value of life and the free will G-d allows us to exercise while alive. It is possible, Rav Hirsch continues, that one might think that a sign of death might be something which pertains and is relevant to the religious obligations and responsibilities of the Kohen. The Torah clearly responds here that it is not, and that the Kohen's entire responsibility is celebrating the G-d of life unambiguously in every way possible. ■

Today's Daf Digest is dedicated
 By Mrs. Rivka Wiznitzer in memory of her husband
 Mr. Abraham Wiznitzer
 ר' אברהם בן ר' שמואל ע"ה

HALACHAH Highlight

How to determine whether someone is dead

אבל לענין חיותא דכולי עלמא באפיה הוא

But when it comes to life all opinions agree that it is his nose

Teshuvos Maharil¹ retells the incident of the time Mahari Segal was ill with a particular ailment and was discovered unconscious. He remained in that state for three days during which time he didn't eat or drink and only moved when a pin was used to scratch one toe. The only hope the community retained was that he continued to breathe on his own. Eventually he regained consciousness and went on to live for another thirty years.

The Gemara Yoma (85a) records a dispute whether a person should be checked by his nostrils or his heart to determine whether he is alive or dead. The Gemara there suggests that the dispute is related to the dispute in our Gemara concerning the point on the body from which the body grows. The Gemara rejects that association and asserts that the issue of where the body develops from and where the source of life resides is not the same. All opinions agree, however, that life resides in the nostrils and the only issue under dispute is whether the heart is also a valid measure of determining whether a person is alive. This ruling is codified in Shulchan Aruch². This position is echoed by Rav Moshe Feinstein³ when he rules that the way to determine whether a person is alive or dead is to place a feather or small piece of paper by the nostril of the patient and see whether the feather moves. He cautions that this test must be run a number

REVIEW and Remember

1. According to R' Elizezer ben Yaakov who is needed for the עגלה ערופה ceremony?

2. What does it mean "to feel like Ben Azzai"?

3. What happens if a corpse is found closest to a city without a Beis Din?

4. Where is the primary source of life found in a person?

of times since people have the tendency to lose focus as they stare at the feather and they may miss the moment in which the patient took a breath and caused the feather to move. If, however, the test is run a number of times and one does not detect movement of the feather one can assume that the patient is dead. Another warning he adds is that if the patient suffered a head trauma, e.g. a car accident or a fall, it is not uncommon for the patient to be put onto a ventilator because he is incapable of breathing on his own but after some time he may regain the ability to breath independently and one should not prematurely rule the patient dead because of his initial inability to sustain independent respiration. ■

1. שו"ת מהרי"ל ליקוטים אות פ"ו
2. שו"ע אר"ח סי' שכ"ט סע' ד'
3. שו"ת אג"מ יו"ד ח"ג סי' קל"ב ■

STORIES Off the Daf

The danger of pride

הריני כבן עזאי בשוקי טבריא

On today's daf we find that Abaye claimed in public: "Behold, I am like Ben Azai [Rashi: I am ready to answer anyone's question] in the marketplace of Teverya. [Rashi: I can answer anyone on the spot here in Pumbedisa.]" Even if a person is as erudite as Abaye, kaviyachol, he should never allow his exalted status to harm his own flesh and blood!

There was a certain prominent Torah scholar who was well known to be able to answer any question posed to him. Unfortunately, his daughter was still without a shidduch at a comparatively advanced age. Someone broached the idea of a certain match, but the illustrious father absolutely

opposed the match.

The shadchan contacted the Steipler, zt"l, and explained the man's reservations. "I admit that her father is right, this young man is not worthy of him as a father-in-law. But does he really think that she should remain single because of his or her kavod?"

The Steipler agreed that this was a terrible tragedy and consented to contact the father. He wrote: "I will make this letter short. Your daughter is afraid that she will remain single her entire life, חס ושלום. Even if someone else comes along, it will also likely not be according to your honor's eminence.

"If she remains single as a result of this there will be very serious repercussions. Man does not live forever. In the end you will be required to give an accounting for her state— she will surely be depressed

since no one has nerves of steel. They will ask you why you spilled your own daughter's blood. In that court, excuses such as the ones your honor has given will not be accepted. You can say that you intended for your daughter's own good but that won't help you there. In the heavenly court, all character traits are quite apparent. There they will see when one is motivated by self-serving desire for honor. You will no longer be able to ignore the midas hadin then.

"Your honor would be better off removing your objection from this match so as not to spill the blood of your daughter who is the progeny of a truly great talmid chacham..."

The Steipler concluded, "If you follow this advice, your honor will merit much nachas from her and her children, may they live long..." ■

