

# Daf Notes

Insights into the Daily Daf

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Bava Basra Daf 4

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## Daily Daf

### *King Herod*

Hurdus said: Who are they, who teach: *From the midst of your brothers shall you set up a king over you (stressing the word 'brothers' to exclude slaves)?* The Rabbis! He therefore arose and killed all the Rabbis, sparing, however, Bava ben Buta, that he might take advice from him. He, nevertheless, placed on his head a crown of porcupine hide and put out his eyes.

One day Hurdus came and sat before him and said, "See, master, what this wicked slave (*Hurdus*) is doing." Bava replied, "What do you want me to do to him?" He said, "I want you to curse him." Bava replied with the verse: *Even in your thoughts you should not curse a king.* Hurdus said to him, "But this is no king (*for he seized the throne by force!*)" He replied, "Even if he would be only a rich man, it is written: *And even in your bedroom do not curse the rich.* And even if he would be no more than a prince, it is written: *A prince among your people you shall not curse.*" Hurdus asked him, "does this not apply only to one who acts as one of 'your people,' but this man does not act as one of 'your people'?" Bava answered him, "I am, nevertheless, afraid of him." Hurdus persisted, "But there is no one who will go and tell him, since it is only you and I that are sitting here." Bava replied with the verse: *For a bird of the heaven shall carry the sound, and that which has wings shall tell the matter.*

Hurdus then said, "I am Hurdus. Had I known that the Rabbis were so circumspect, I would never have killed them. Now tell me what amends can I make?" Bava replied: As you have extinguished the light of the world (by killing the Rabbis who studied Torah), as it is written: *For the commandments are a candle and the Torah is light,* go now and occupy yourself with the light of the world (*referring to the Beis Hamikdash*), as it is written: *And all the nations will be drawn to it.* Another version stated that Bava ben Buta answered him as follows: As you have blinded the eye of the world (*the Rabbis*), as it is written: *and if it will be done by the eyes of the congregation,* go now and occupy yourself with the eye of the world (*referring to the Beis Hamikdash*), as it is written: *I will destroy My Temple, the pride of your power, and the desire of your eyes.* Hurdus replied, "I am afraid of the Roman Government." Bava told him, "Send an agent to Rome (*asking for permission*), and let him take a year on the way and stay in Rome a year and take a year coming back, and in the meantime, you can destroy the Temple and rebuild it." He did so, and he received the following message from Rome: If you have not yet destroyed it, do not do so; if you have destroyed it, do not rebuild it; if you have destroyed it and already rebuilt it, you are one of those wicked slaves who do first and ask permission afterwards. Though you are haughty on account of your weaponry, your genealogy is here before us. We know that you are neither a *reicha* nor the son of a *reicha*, but Hurdus the slave who has set himself free.

## Markers on the Partition

The *Gemora* asks: What is the meaning of *reicha*? It means royalty, as it is written: *I am this day a tender (rach) and anointed king*. Alternatively, I can derive the meaning from this verse: *And they called before him (Yosef), Avreich*.

It was said: He who has not seen the Temple of Hurdus has never seen a beautiful building. Of what did he build it? Rabbah said: Of green and white marble. Some say, of blue, green and white marble. One row of the stones projected and the other was recessed, so as to leave a place for cement. He originally intended to cover it with gold, but the Rabbis advised him not to, since it was more beautiful as it was, looking like the waves of the sea

The *Gemora* asks: How could Bava ben Buta give advice to Hurdus, seeing that Rav Yehudah has said in the name of Rav, or alternatively, Rabbi Yehoshua ben Levi, that Daniel was punished only because he gave advice to Nevuchadnezzar, as it is written: *Nevertheless, O king, let my counsel be acceptable to you; redeem your sins through charity and your iniquities by showing mercy to the poor; if there may be a lengthening of your tranquility etc.* And later on it is written: *All this came upon the King Nevuchadnezzar*, and afterwards it is written: *At the end of twelve months etc.?*

The *Gemora* answers: Either you can say that this does not apply to a slave, who is under obligation to keep the Torah's commandments, or you can say that an exception had to be made in the case of the Temple which could not have been built without the assistance of Royalty.

The *Gemora* asks: How do we know that Daniel was punished? Shall I say that it is from the verse: *And Esther called to Hasach*, who, as Rav has told us, was the same as Daniel? This is a sufficient answer if we accept the view of those who say that he was called Hasach because he was "cut down" (*chatach*) from his greatness. But according to the view of those who say that he was called Hasach because all affairs of state were "decided" according to his counsel, what answer can we give?

The *Gemora* answers that he was thrown into the den of lions. (3b – 4a)

The *Mishna* had stated: Therefore, if the wall fell down, its place and the stones belong to both of them.

The *Gemora* asks: Is this not obvious (*even without the halachah that it was built by both of them, it would still be split between them, for the stones are found in both courtyards*)?

The *Gemora* answers: It is referring to a case where the wall has fallen entirely into the property of one of them, or where one of them has cleared all the stones into his own courtyard. You might think that in that case, the burden of proof should fall on the one who is trying to take it away from the one who currently possesses it. The *Mishna* teaches us that this is not so (*for we presume that the wall was built by both of them*).

The *Mishna* had stated: So too with a vegetable garden: Where the custom is to put up a fence, they obligate him to do so; but in the valley (*by a field of grain*), where the custom is not to put up a fence, they do not obligate him to do so.

Rava explains the *Mishna* as follows: Similarly with an ordinary garden, which is regarded as a place where it is customary to make a fence, and we obligate one partner to assist the other. However, an ordinary valley is regarded as a place where it is not customary to make a fence, and therefore we do not obligate one partner to assist the other.

The *Mishna* had stated: If, however, one wishes to, he enters into his own field and builds it (*the partition is built using his own resources, and it is located entirely on his portion of the field*), and he makes a sign on the outside (*of the fence to show that it was built by him*).

The *Gemora* asks: What is this sign?

Rav Huna said: He bends the edge of the wall (*with stones and cement*) over towards the outer side.

The *Gemora* asks: Why doesn't he make it on the inner side?

The *Gemora* answers: Because then his neighbor may make another one on the outer side (*which is his*

*neighbor's inner side*) and say that the wall belongs to both of them. [But now that it was made on his neighbor's side, the neighbor does not have an option to make one on the other side, for the one who built the wall will prevent him from doing anything on his side of the property.]

The *Gemora* asks: Even if the sign is on the outer side, his neighbor can cut it off and say that the wall belongs to both of them?

The *Gemora* answers: Cutting it off would be noticeable.

The *Gemora* cites another version of the previous discussion: Rav Huna said: He bends the edge of the wall (*with stones and cement*) over towards the outer side.

The *Gemora* asks: Why doesn't he make it on the outer side?

The *Gemora* answers: If the sign is on the outer side, his neighbor can cut it off and say that the wall belongs to both of them!

The *Gemora* asks: Even if the sign is on the inner side, his neighbor can make another sign on his side and say that the wall belongs to both of them?

The *Gemora* answers: Attaching this type of sign afterwards would be noticeable.

The *Gemora* asks: but the *Mishna* clearly states that the sign is placed on the outer side?

The *Gemora* remains with this difficulty.

Rabbi Yochanan said: The man who builds the wall should merely smear it with lime on the outer side (*without and protrusions*) to the extent of a cubit.

The *Gemora* asks: Why not on the inner side?

The *Gemora* answers: His neighbor will do the same on the outer side and claim that the wall belongs to both of them.

The *Gemora* asks: If he can do that, he can also peel off the mark on the outer side and claim that the wall belongs to both of them?

The *Gemora* answers: Peeling is noticeable.

The *Gemora* asks: Suppose the partition is made of palm fronds (*palm leaves woven between laurel branches*), how is the make made?

Rav Nachman said: He should attach the points of the branches on the outer side.

The *Gemora* asks: Why doesn't he make it on the inner side?

The *Gemora* answers: Because then his neighbor may do the same on the outer side (*which is his neighbor's inner side*) and say that the wall belongs to both of them.

The *Gemora* asks: Even if the sign is on the outer side, his neighbor can cut it off and throw the points away and say that the wall belongs to both of them?

The *Gemora* answers: He should initially smear mud over them (*so that they cannot be cut off*).

The *Gemora* asks: But even so, the neighbor can come and scrape it away (*and then cut the points*)?

The *Gemora* answers: Scraping would be noticeable.

Abaye said that for a partition made of palm fronds there is no remedy except by a written document.

The *Mishna* had stated: If they built it by consent, they build the wall in the middle and they make a sign on each side.

Rava from Prazika asked Rav Ashi: For what purpose do they both place signs there? Let neither of them make a sign (*and we will know that it was built by both of them*)!?

The *Gemora* answers: the *Mishna* is referring to a case where one made a sign first, so that if the other does not do likewise, the first one may claim the whole wall as his own.

The *Gemora* asks: Is the *Mishna's* ruling taught just as a remedy against a cheater?

Ravina answers: The *Mishna* is dealing with a partition made from palm fronds, and it is refuting Abaye's assertion that there is no remedy for such a fence. The *Mishna* teaches us that a sign would be enough (*to prove ownership even on this type of partition*). (4a - 4b)

## ***Mishna***

If someone (*owned fields surrounding the field of his friend and*) put up fences around three sides (*separating their fields*), we do not make the owner of the inner field pay (*for the cost of building the fence, for it does not really help him, since his field is left opened on one side*). Rabbi Yosi says: If the one being surrounded makes the fourth wall, he is obligated to pay his share in all of the walls (*for he has demonstrated that he approves of the building of the other three sides*). (4b)

### ***Providing Benefit for the One Inside***

Rav Yehudah said in the name of Shmuel: The *halachah* follows Rabbi Yosi, who said: If the one being surrounded makes the fourth wall, he is obligated to pay his share in all of the walls. This is true whether the one being surrounded rose and built the wall or whether the one surrounding the other built the fourth wall (*in both cases, the inside one must pay his share in all of the walls after he receives pleasure from them*).

It was stated: Rav Huna said: The contribution of his share in the walls must be according to the actual cost of erecting the fence (*and he must pay that amount even if the outside fellow used expensive materials*). Chiya bar Rav, however, said: He is only required to pay according to the cost of a cheap fence of reeds (*for he is only paying for the benefit received; he has no reason to have a stone wall*).

The *Gemora* asks on Chiya's opinion from our *Mishna*: We have learnt: If someone put up fences around three sides, we do not make the owner of the inner field pay. This would imply that if the other fences the fourth side also, he must contribute to the

cost of the entire fence. Now let us consider the next clause: Rabbi Yosi says: If the one being surrounded makes the fourth wall, he is obligated to pay his share in all of the walls. This is understandable according to the opinion of Rav Huna, who said that the contribution of his share in the walls must be according to the actual cost of erecting the fence, for there is a genuine difference of opinion between the *Tanna Kamma* and Rabbi Yosi - the former holding that he is only required to pay according to the cost of a cheap fence of reeds, but not to the actual cost, and Rabbi Yosi maintains that the contribution of his share in the walls must be according to the actual cost of erecting the fence. But if we accept the view of Chiya bar Rav, who said that he is only required to pay according to the cost of a cheap fence of reeds, what difference is there between the *Tanna Kamma* and Rabbi Yosi? If (*according to the Tanna Kamma*) he is not required to give him even the cost of a cheap fence of reeds, what else can he give?

The *Gemora* suggests four interpretations of their dispute.

1. They differ as regards to paying for the hire of a watchman (*between the crop's growth and the harvesting*). The *Tanna Kamma* holds that he must pay the cost of a watchman, but not of a cheap fence of reeds, and Rabbi Yosi maintains that he must pay the cost of a cheap fence.
2. They differ as to the first, second and third sides. The *Tanna Kamma* holds that he has to contribute only to the cost of fencing the fourth side, but not for the first, second and third (*for at the time they were built, they provided him with no benefit whatsoever*), and Rabbi Yosi maintains that he has to contribute to the cost of the first, second and third sides as well (*for he does derive benefit from them now*).
3. They differ as to whether the fourth fence must be built by the owner of the surrounding fields or of the enclosed field (*in order to make him liable*). The *Tanna Kamma* holds that the reason why the owner of the enclosed field has to contribute is only because he took the initiative in building the fourth side, and that is why the cost of the entire fence devolves on him, but if the owner of the surrounding fields took the initiative, the enclosed person is only required to pay him his share to the fourth

fence. Rabbi Yosi, on the other hand, holds that it makes no difference whether the owner of the enclosed or of the surrounding fields took the initiative in building the fourth fence. In either case the enclosed person has to pay the owner of the surrounding fields his share of the entire fence.

4. According to another version of this last explanation, they differ as to whether the fourth fence must be built by the owner of the surrounding fields or of the enclosed field (*in order to make him liable*). The *Tanna Kamma* holds that even if the owner of the surrounding fields makes the fourth fence, the enclosed person has to contribute to the cost (*for he is deriving benefit from them*), whereas Rabbi Yosi maintains that if the owner of the enclosed field takes it upon himself to build the fourth fence, then he has to contribute to the cost of the entire fence because he reveals that he is indeed satisfied with it, but if the owner of the surrounding fields builds it, the other does not pay him anything (*for he has not demonstrated that he is pleased with the fence*). (4b)

## INSIGHTS TO THE DAF

### *Counseling an Idolater to Avoid Divine Retribution*

The *Gemora* asks: How could Bava ben Buta give advice to Hurdus, seeing that Rav Yehudah has said in the name of Rav, or alternatively, Rabbi Yehoshua ben Levi, that Daniel was punished only because he gave advice to Nevuchadnezzar, as it is written: *Nevertheless, O king, let my counsel be acceptable to you; redeem your sins through charity and your iniquities by showing mercy to the poor; if there may be a lengthening of your tranquility* etc. And later on it is written: *All this came upon the King Nevuchadnezzar*, and afterwards it is written: *At the end of twelve months* etc.?

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which could not have been built without the assistance of Royalty.

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The *Gemora* answers that he was thrown into the den of lions.

The Meiri writes that one who constantly sins, his iniquities are so great that the ability to repent is removed from him. This is why one should not divulge to them the appropriate ways of penance, for these people are not supposed to escape the Divine punishment. This is why Daniel was punished, for without solicitation, he proffered advice to Nevuchadnezzar, as to how to escape Hashem's anger.

The Yad Ramah adds that this prohibition applies only to an idolater who is oppressing a Jew – one is forbidden from counseling him to perform *mitzvos* or dispense charity to the poor in order to evade retribution for their sins. It emerges that it would be permitted to offer such advice to an ordinary idolater.

However, it is evident from the Rambam that he maintains that it is forbidden to give any positive counsel to an idolater, as long as he remains steadfast in his evil ways.