

Daf Notes

Insights into the Daily Daf

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Bava Kamma Daf 93

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Daily Daf

Various Teachings

Rav Chanan said: He who invokes the judgment of Heaven against his fellow (*by asking Hashem to punish the other person*) is himself punished first (*for Hashem decides that he is not deserving that his fellow should be punished on his account*), as it says: *And Sarai said to Abram, 'My injustice is upon you' (let Hashem judge between me and you)* and it is subsequently written: *And Avraham came to eulogize Sarah, and to weep for her (she died first – this was because she asked Hashem to judge Avraham)*. This, however, is the case only where justice could be obtained in a court on earth (*and Sarah could have gone to Shem the son of Noach's court – Tosfos*).

Rabbi Yitzchak said: Woe to him who cries out even more than to whom the outcry was about! It was taught likewise in the following *braisa*: Both the one who cries for divine intervention and the one to whom the outcry was about come under the Scriptural threat (*For if he shall cry out to me, I shall surely hear his outcry. My wrath shall blaze and I shall kill you*), but punishment is meted out to the one who cries out before the one to whom the outcry was about.

Rabbi Yitzchak again said: The curse of an ordinary person should never be considered inconsequential in your eyes, for when Avimelech uttered a curse upon Sarah, it was fulfilled in her seed, as it says: *Behold it (the gift of one thousand silver pieces that Avimelech gave Avraham upon returning Sarah to him) is for you (Sarah) a covering of the eyes*, which implies that he said to her, "Since you have covered the truth from me and

did not disclose that Avraham was your husband, and you have caused me all this trouble, let it be the will of Heaven that there shall be to you children with covered eyes," and this was actually fulfilled in her seed, as it is written: *And it came to pass that when Yitzchak was old and his eyes were dim so that he could not see*.

Rabbi Avahu said: A man should always strive to be from the pursued and not from the pursuers, as there is none among the birds more pursued than pigeons and doves, and yet the Torah made them alone eligible for the Altar. (93a)

A Nonliability Stipulation

The *Mishna* had stated: If someone says, "Blind my eye/cut off my hand/break my leg," (*and the person does so*) the one who does so must pay for all damages. If he says, "On condition that you will be exempt from paying," he is indeed exempt. Similarly, if someone says, "Tear my clothes" or "break my vessel," the one who does so must pay for all damages. If he says, "On condition that you will be exempt from paying," he is indeed exempt.

Rav Assi bar Chama said to Rabbah: Why is the rule different in the former case (*where his stipulation exempting the damager from damaging his property is effective*) and in the latter case (*where his stipulation exempting the damager from damaging his body is not effective*)?

He replied: There is liability in the former case because a person cannot pardon the wounding of his principal limbs.

Rav Assi rejoined: Does a man then pardon the inflicting of pain? [*Obviously not!*] Yet, we have learned in a *braisa*: If a person had said, “Smite me and wound me on the condition that you will be exempt,” the defendant would be exempt!?

He was quiet and then he said: Have you heard anything on this matter?

Rav Assi thereupon said to him: This is what Rav Sheishes has said: The liability is because the victim had no right to pardon the discredit to his family (*by being blind; he may, however, pardon the liability for the pain*).

It was stated: Rabbi Oshaya said: It is because of the discredit to the family, whereas Rava said that it is because no man could truly pardon the injury done to his principal limbs. Rabbi Yochanan, however, said: Sometimes the word “Yes” means “No” and the word “No” can mean “Yes” (*as when spoken ironically*). It was also taught likewise in a *braisa*: If one said, “Smite me and wound me,” and when the defendant asked, “Will it be on the condition of being exempt?” the plaintiff replied, “Yes” (*sarcastically*). That is a case of a “Yes” which means “No.” If one said, “Tear my garment,” and when the defendant asked, “Will it be on the condition of being exempt?” the plaintiff replied, “No.” That is a case of a “No” which means “Yes.” (93a)

When is he a Custodian?

The *Mishna* had stated: If someone says, “Tear my clothes” or “break my vessel,” the one who does so must pay for all damages.

The *Gemora* asks a contradiction from the following *braisa*: It is written: *To watch*. We derive from there that the laws pertaining to a custodian only apply if he was given the object to watch, but not if he was given it to lose, to tear or to distribute to the poor!? [*We see that if someone gives an object to someone else to tear, he will not be liable!?*]

Rabbah answered: The case of our *Mishna* is where the article originally came into his hands for the purpose of being watched (*and only afterwards did he tell him to tear it; in this case, he will be liable*), whereas there, it came to his hands for the purpose of being torn (*and therefore he is exempt from any liability*).

A purse of money for charity was brought to Pumbedisa. Rav Yosef deposited it with a certain person who was negligent with it and thieves came and stole it. Rav Yosef

declared that the custodian is liable to pay, but Abaye said to him: Did we not learn in a *braisa* the laws pertaining to a custodian only apply if he was given the object to watch, but not if he was given it to distribute to the poor (*and no pauper can come and advance a claim against him, for he can respond that he was intending to give it to a different poor man*)? Rav Yosef replied: The poor people of Pumbedisa have a fixed stipend and the charity money could be subject to the laws of custodianship (*for it is as if each poor person gave his own money to the custodian*). (93a)

WE SHALL RETURN TO YOU, HACHOVEIL

Mishna

[This chapter deals with the laws of robbery: Whoever steals is obligated to return the stolen object itself. If the stolen object is still in existence, and underwent no change while in the possession of the robber, he is obligated to return it as it is. Our *Mishna* teaches that if the stolen object underwent a change while in the possession of the robber, even though the owner had not yet despaired of retrieving it, the robber acquires it because of the change, and pays its value as at the time of the robbery. The *Gemora* explains the verse, “*he shall restore that which he took by robbery*” as follows: the words “*that which he took by robbery*” mean that if it still exists as the object that he stole, he returns it, and if not, he pays its value. Kahati]

If one steals wood and makes it into utensils, or wool and he makes of it garments, he pays their value as at the time of the robbery. If he stole a pregnant cow and it gave birth, or a ewe loaded (*with wool*) and he sheared it, he pays the value of the cow about to give birth, or the value of the ewe about to be shorn. If a person stole a cow and it became pregnant in his possession and gave birth, or a ewe and it became loaded in his possession and he sheared it, he pays the value as at the time of the robbery. This is the general rule: All robbers pay as at the time of the robbery. (93b)

Reversible Changes

Shall we say that it (*the Mishna's rule*) is only where he actually made utensils out of the pieces of wood, whereas if he merely planed them, this would not be so? And again, it is only where he made garments out of the wool that this will be so, whereas where he merely bleached it, this would not be so!

The *Gemora* asks that this would be a contradiction to the following *braisa*: One who stole pieces of wood and planed them, or stones and he chiseled them, or wool and

he whitened it, or flax and he cleansed it, he would have to pay in accordance with the value at the time of the robbery!?! [Evidently, planning wood and whitening wool constitute a change and the thief acquires the object!?!]

Abaye answers: The *Tanna* of our *Mishna* stated the ruling where the change is such that is only recognized by the Rabbis, that is, where it can still revert to its former condition, and of course it applies all the more where the change is such that is Biblically recognized (*one that is irreversible*), for our *Mishna's* case where he stole wood and made it into utensils refers to pieces of wood already planed, such as finished boards (*and he made a chair out of it*), in which a reversion to the previous condition is still possible, since if he wants, he can easily pull the boards apart. And the *Mishna's* case, where he stole wool and made it into garments refers to wool which was already spun, in which a reversion to the previous condition is possible, since if he wants, he can take apart the garment and restore them to the previous condition, and the same *halachah* would apply all the more in the case of a change which is Biblically recognized (*one that is irreversible*). But the *Tanna* of the *braisa* deals only with a change which is Biblically recognized, but does not deal with a change recognized only by the Rabbis.

Rav Ashi answers: The *Tanna* of our *Mishna* also deals with a change which is Biblically recognized, for when the *Tanna* of the *Mishna* stated that he stole wood and made it into utensils; he is referring to a pestle, which was changed by planing the wood. And when the *Tanna* of the *Mishna* stated that he stole wool and made it into a garment, he was referring to felts, which involves a change that cannot revert to its previous condition. (93b)

Whitening

The *Gemora* asks: But should whitening be considered a change? Would this not be contradicted from the following *Mishna*: If the owner did not manage to give the first of the shearings to the *Kohen* until it had already been dyed, he would be exempt (*from giving it to the Kohen, for now that it has been changed, it is not regarded as being "the first of his shearings"*), but if he only whitened it without having dyed it, he would still be obligated to give it!?

Abaye answers: This is no difficulty, as the *braisa* (*regarding robbery*) is in accordance with Rabbi Shimon (*who holds that whitening constitutes a change*) and the *Mishna* is in accordance with the Rabbis (*who hold that whitening does not constitute a change*). for it was taught in the following *braisa*: If after the owner had shorn his

sheep, he spun it and or wove it, this portion will not combine with wool that he will shear later (*for since he changed it, it cannot be included in the required amount from the five ewes*), but if he only whitened it, Rabbi Shimon says: It would still not combine, whereas the Sages say that it would combine.

Rava answers that both statements might be in accordance with Rabbi Shimon, and there would still be no difficulty, as the *Mishna* is referring to a case where the process of whitening was by disentangling the wool (*where no actual change took place*), whereas in the case of the *braisa*, the wool was combed with a comb (*which does constitute a change*).

Rabbi Chiya bar Avin answers that the *Mishna* is referring to a case where the wool was merely washed (*so that no actual change took place*), whereas the *braisa* is referring to a case where it was whitened with sulfur.

But, the *Gemora* asks: Since even dyeing (*which no doubt is a greater change than whitening*) is not considered a change according to Rabbi Shimon, how could whitening be considered a change, for was it not taught in the following *braisa*: If the owner sheared one sheep and dyed its wool and then sheared another and dyed its wool, or the owner sheared one sheep and spun its wool and then sheared another and spun its wool, or the owner sheared one sheep and wove its wool and then sheared another and wove its wool, they do not combine (*for since he changed it, it cannot be included in the required amount from the five ewes*), but Rabbi Shimon ben Yehudah said in the name of Rabbi Shimon that if he only dyed the wool, they would combine!?

Abaye answers: There is no difficulty, as the former *braisa* was made by the Rabbis according to Rabbi Shimon, whereas the latter *braisa* was made by Rabbi Shimon ben Yehudah according to Rabbi Shimon.

Rava answers: You may still say that the Rabbis did not differ from Rabbi Shimon ben Yehudah on this point, for dyeing might be different since the color could be removed by soap (*and therefore, it is not considered a change*), and as to the *Mishna's* statement there that if the owner did not manage to give the first of the shearings to the *Kohen* until it had already been dyed, he would be exempt, and it has been stated to be accepted unanimously, this deals with a case where it was dyed with indigo, which cannot be removed by soap. (93b)