

Seder Nezikin | Bava Batra 105-111

Shabbat Parashat Emor | 11-17 Iyar (May 7-13)

Daf 105: – הַסֵּפֶם שְׁכִירוֹת בְּשָׁנָה מְעוֹבֶרֶת – Rental Agreement in a Leap Year



Once every few years we lengthen the year by adding the month of Adar II. During the era of the *Mishnah*, the Sanhedrin decided which years would take on an additional month. Sometimes, the Sanhedrin would only reach their decision during the first Adar of that year, meaning it was often unknown at the start of the year whether it would be a leap year.

What would the ruling be if a person rented an apartment for a year at a set fee, (e.g., \$12,000 for the year) and later on, the month of Adar II was added? If they had agreed on a “yearly” rental, then the renter gains the added month, and retains the apartment for 13 months. However, if they agreed to a 12-month contract at \$1,000 per month, then the renter is required to pay an additional \$1,000 for the added month.

Once, an individual rented a bathhouse from another fellow in the city of Tzipori. The pair agreed on a rental fee of 12 gold coins per year, which is one gold coin for each month. However, a leap month later was declared for that year. What was to be done? On one hand, the two had agreed to a fee “per year” and as such, the renter is supposed to benefit. On the other hand, they did mention a specific monthly fee. On this *daf*, the *Tannaim* debate and disagree regarding the appropriate action to be taken in such a case.

Daf 106: – חֲלֻקַּת הִירוּשָׁה בֵּין אֲחִים – Division of an Inheritance Amongst Brothers



Brothers who inherited assets from their father are considered to be partners. If they want to distribute the inheritance, one option open to them is to divide the assets by *goral*, a method of casting lots. If there are two brothers, they would divide the assets in half and toss a coin to determine which half each would receive. On this *daf* we learn a *chiddush* (novelty):

from the moment the lots are cast, one may not change one’s mind and alter the division of the assets even if the act of *kinyan* had not yet been performed, since the act of casting of lots itself is considered a “*kinyan*”.

The Talmud raises another interesting scenario. There were two brothers who divided their inheritance. After some time, a person arrived from abroad and he turned out to be a brother whom they never knew existed. A question arises: in light of the arrival of the new brother, what is done regarding the previous division of the inheritance, which was mistakenly split between the two brothers?

Some *Amoraim* say the initial division of the inheritance is void and now the three brothers must re-divide the inheritance from scratch. Other *Amoraim* say the division of the inheritance is not completely void. Rather, each brother must take one third of the assets he received and give it to the third brother.



FROM THE TALMUD
SEDER NEZIKIN
MASECHET BAVA BATRA
daf106

מִן הַתְּלֻמוֹד:

סדר נזיקין, מסכת בבא בתרא, דף ק"ו:

”אמר רבי אלעזר: כתחילת ארץ ישראל, מה תחילה בגורל, אף כאן בגורל. אי מה להלן בקלפי ואורים ותומים, אף כאן בקלפי ואורים ותומים? אמר רב אשי: בההוא הנאה דקא צייתי להדדי, גמרי ומקנו להדדי.”

Translation

צייתי ... Tz'eye'tay We hear, we obey

להדדי ... L'hadaday ... One to another, mutually

Explanation

When brothers inherit a certain asset and draw lots between them to settle who receives each of the parts, the moment one of them wins his portion, the remaining portions are considered acquired by the others and may not be returned or exchanged. This is similar to the way in which land was divided in the days of Joshua, using lots. However, there is no need for a lottery box or *Urim* and *Tumim* (divining stones of the *Kohen Gadol*) as there was then, because each of the brothers agrees to give the required share to the remaining brothers.

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Daf 107: שְׁעָבוֹד נְכָסִים – Assets As Collateral

A *malveh* (lender) and a *loveh* (borrower) might agree to “*she’abud nechasin*” (lien on property) for the loan.

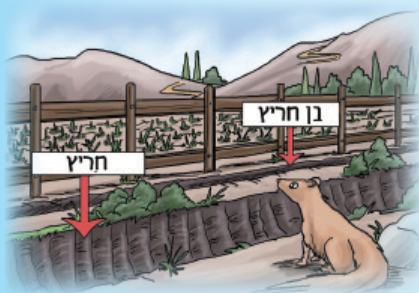
Reuven borrowed money from Shimon and they wrote a *shtar hov* (promissory note) in front of witnesses who signed the document attesting: “I Reuven, borrowed \$1,000 from Shimon.” From that point on, not only is Reuven obligated to repay the loan when it comes due, but his assets are pledged by a lien to cover repayment of the debt.

So, if Reuven does not have the money to repay the loan, Shimon can collect one of Reuven’s properties, even if Reuven had sold that property to another person. In such a case, Shimon would approach the buyer and say: “I am truly sorry, but I have a lien on this property, and therefore, you need to transfer ownership to me.” This type of collection is called “*Trayfa*” (seizure), as the lender “tears away” the property from the buyer.

A property lien only takes affect in the case of a loan enacted through a written document. In an oral agreement, the assets of the borrower are not placed under a lien and the lender may not seize assets someone may have purchased at a later date from the borrower.



Daf 108: “חָרֵיץ וּבֶן חָרֵיץ” – A Ditch and A Smaller Ditch



A person was prepared to sell some land (*karka*) to his fellow. The two reached an agreement. The field owner stated: “I will sell you half of my field.” The seller chooses which half of the property will be given to the buyer. The *Mishnah* adds that the seller must give the buyer slightly more than half of the land, in order to put up a fence and to make a “*chareetz*” (ditch) and a “*ben chareetz*” (smaller ditch). The *Shulchan Arukh* stipulates that these ditches are dug within the portion of property belonging to the buyer.

What is the purpose of the “*chareetz*” and “*ben chareetz*”? Sometimes, a fence is not sufficient protection for a field. There are animals that are able to jump over fences (e.g., the mongoose). For this reason, it was customary to dig two ditches in the ground, across the entire length of a field’s fence — one ditch, called the *chareetz*, was wide and the other smaller ditch, referred to as the “*ben chareetz*,” was narrow. According to the commentary of the *Rashbam*, this makes it difficult for animals to jump over the fence without injuring themselves.

Who's Who?

Yigal Yadin

(1917-1984)

Israeli politician, archeologist and Chief of Staff of the Israel Defense Forces, Yigal Yadin was born in Jerusalem. His father was a well known archeologist and his mother was a women’s rights activist.

Yadin served as the Chief of Operations during the Israeli War of Independence and in 1949, became the second Chief of Staff of the Israel Defense Forces. After resigning from his position, Yadin returned to his studies, later receiving the Israel Prize for his doctoral thesis on the translation of the Dead Sea Scrolls. He was the lead archaeologist on a number of important sites including *Tel Megiddo*, *Hazor* and the *Qumran* caves. His most important archeological work was at Masada.

In 1976, Yadin entered politics and formed a new party known as “Dash”. His party garnered 15 seats in the 1977 elections in which Prime Minister Menachem Begin came to power. Yadin joined the coalition and served as Deputy Prime Minister. He took part in many important events during his time in the Knesset, specifically working on ties with Egypt that later resulted in the signing of Israel’s first peace agreement with a neighboring country.



Left to right: Commanders Yehoshafat Harkabi, Aryeh Simon, Yigael Yadin and Yitzhak Rabin (1949)
Photo Source: Israel Government Press Office



Daf 109: שאלת זהות – A Question of Identity

The “Idol of Michah”^{*} was an unfortunate episode that took place during the era of the Judges. Michah hired a young man to serve as the kohen at his forbidden shrine. The Tanakh identifies the individual Michah chose as being “*from Bethlehem in Yehudah, from the clan seat of Yehudah; he was a Levite and had resided there as a sojourner.*” This text is slightly ambiguous.

Did the person Michah chose to officiate over his shrine descend from *shevet* (tribe) Yehudah or *shevet* Levi? The Talmud first suggests the young man's father was a Levi (thus making him a proper Levi) and that his mother was from *shevet* Yehudah. The Talmud then rejects its initial suggestion and posits that the young man descended from *shevet* Yehudah and that coincidentally his given name was Levi. But that suggestion, too, is rejected, because Michah was happy about having found a suitable officiant for his idol, implying that the boy really was a Levi and not just a person named Levi.

Moreover, the Tanakh later identifies the young man Michah chose by name. He was Yehonatan ben Gershom ben Menashe from *shevet* Levi. The Talmud clarifies that this young man was actually the grandson of Moshe. The letter “nun” was added into Yehonatan's name (יהונתן בן גרשום בן משה) to conceal that Moshe's grandson was an idolater and to associate Yehonatan with the later King Menashe from *shevet* Yehudah who introduced idolatry to the Beit Hamikdash. The nominal attempt to obscure Moshe's name teaches us that although we prefer not to besmirch the legacies of righteous heroes we must also be aware that even the descendants of tzadikim can do serious wrong.

*** NOTE:** This episode is NOT about Micha, the later prophet.

Daf 110: אחיו של אשה פוטנציאלית – Brother of One's Perspective Wife



The Talmud offers guidance to a single man looking to get married. He should investigate the character of his prospective wife's brothers. Why? Because sons typically take after the ways of their maternal uncles. This lesson is derived from the following verse: “*And Aharon took Elisheva the daughter of Aminadav, the sister of Nachshon, to him as a wife.*”

By identifying Elisheva as Aminadav's daughter, the Torah has effectively also identified her as Nachshon's sister because elsewhere the text refers to Nachshon as Aminadav's son.

Why then the seemingly redundant phrase about Elisheva being Nachshon's sister? To teach us that Aharon was interested in marrying Elisheva not only for her own virtues, but also because her brother was the righteous hero Nachshon.

On The Map

Masada

Located approximately 60 miles southeast from Jerusalem, Masada is an ancient fortress on top of a mountain overlooking the Dead Sea. Masada was the last Jewish holdout against the Romans following the destruction of Jerusalem and the the Second Beit HaMikdash, in 70 CE.

According to Josephus Flavius, a Jewish Roman citizen and historian from Jerusalem who lived almost 2000 years ago, Herod the Great built a palace on Masada 100 years before the Second Beit Hamikdash was destroyed. It was a luxurious residence, filled with beautiful rooms and terraces and carefully planned to bring water to the site. Since Masada is located in the desert and naturally very hot, the building were specially designed to keep the interiors cool.

The story most well-known about Masada revolves around the remaining Jewish zealots, lead by Elazar Ben Yair, who stayed on the mountaintop for three years until it was clear that they could not hold out any longer against the Romans. Till this day, Masada is remembered as a place of of bravery and symbolizes Jewish resolve.



Daf 111: יורש אחרות אשתו – Inheriting a Wife's Estate

The Mishnah teaches that a husband inherits the estate of his deceased wife. The Gemara looked for a basis in the Torah for this ruling. Rabbi Yishmael derived the law from the passage concerning the daughters of Tzelophchad and the general instructions issued in response to that incident. "Every daughter among the Israelite tribes who inherits a share must marry someone from a clan of her father's tribe. Thus no inheritance shall pass over from one tribe to another." (Bamidbar 36:8-9).

If a woman were to inherit her father's ancestral land holdings, marry out of her tribe, die, and bequeath her estate to her husband, an ancestral holding would sadly be lost to its original tribe. Accordingly, and in light of the husband's right to inherit, women were instructed to marry within their own tribe.

The Talmud teaches that the rule restricting marriage options was only applicable in the early years of B'nei Yisrael's presence in Eretz Yisrael. The day on which inter-tribal marriage was permitted, 15 Av, is an auspicious day in Judaism.



חוכמת החכמים |

הוא הִיָּה אומר: לא הִבֵּישׁן לָמַד. (אבות ב:ה).

הסֵפֶר: עַל מִנַּת לְלַמּוֹד, תְּלַמִּידִים צְרִיכִים לִהְיוֹת סְקֻנָּיִים,
לֹא לְהִתְבִּישׁ וְלֹא לִפְחַד לְשִׂאוֹל שְׁאֵלוֹת.

מלון 
To be embarrassed – לְהִתְבִּישׁ shy, embarrassed – בִּישׁן
To be afraid – לִפְחַד in order that – עַל מִנַּת
curious – סְקֻנָּיִים

| Dvar Torah for the Shabbat Table

Parashat Emor deals in detail with Israel's holy days. "These are God's appointed holidays, holy occasions, which you should designate in their appointed time." (Vayikra 23:4)

And then here, amidst the teachings about holidays, suddenly a *pasuk* appears in the *parasha* that seems unrelated to the topic: "When you reap the harvest of your land, you should not fully reap the corner of your field, nor shall you gather the gleanings of your harvest ... you shall leave them for the poor and the stranger. I am HaShem, your God." (Vayikra 19: 9-10). This *pasuk* deals with matters of *tzedakah* and *chesed*, though not in relation to holy days. Indeed, Rashi also asked: "Why did the Torah attach this matter in between writing about the festivals? Rashi's answer touches on key Jewish values and the essence of our holidays: "To teach you that one who gives *leket*, *shikcha*, and *pe'ah* to the needy, s/he is considered as if s/he had built the Beit HaMikdash and offered a sacrifice in it."

Holidays are times of happiness. True Jewish joy is jubilation shared by everyone, including the weak in the society. Therefore, amidst dealing with the holidays of Israel, the Torah pauses and commands the allocating of *tzedakah* and performing acts of *chesed* required to be done with the needy and the stranger, in order for them to also be partners in the happiness of the holidays.

QUESTIONS OF THE WEEK All answers can be found in this Daf Yomi booklet

1. Concerning which types of loans is it permissible to enact a lien, with which type of loans is it not permissible?
2. Can brothers who cast lots in order to divide the assets left to them by their father change their minds about the allotment afterward?
3. Concerning what matter did *Tannaim* disagree regarding the rental of an apartment during a leap year?

Please email answers to questions to
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TALMUD ISRAELI—DAF YOMI FOR US: 112 W. 34th Street, 18th floor • New York, N.Y. 10120 • www.talmudisraeli.com
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