

Seder Nezikin | Bava Metzia, Daf 111-117
Parashat Shemot | 17-23 Tevet (Jan. 15-21)

Daf 111: שכר שכיר – Wage of a Hired Laborer

The wage of a hired laborer is the compensation received by a worker employed by another person. An employee must be paid his salary by the employer on the same day that the worker completes a job, if the employer has the means with which to pay. The worker exerted himself, sweated and worked diligently on the job. He thinks: *At the end of the day, I will receive my salary, and will have money to buy food for my family.*

If at day's end, the employer approaches the worker and says: "Come back tomorrow, because I can't pay you now," the worker suffers a huge disappointment. **Therefore, the Torah forcefully warns against this situation.**

On this *daf*, we learn that this *issur*, prohibition, exists only if the worker requests his/her wages upon completion of the job. However, if the employee did not ask, then the employer has not breached any transgression in the event the employer does not pay immediately.



Daf 112: "המוציא מתברו, עליו הראיה" – One Who Seeks to Take from his Fellow, Bears the Burden of Proof

Many times, two people – even friends – argue about money. Reuven claims that Shimon owes him money and Shimon says he owes Reuven nothing. If the two cannot come to an agreement amongst themselves, they then approach a *beit din* to determine who will receive the money.

On this *daf*, we learn about an argument between a craftsman and a customer. The customer hired the craftsman to do a job. The craftsman claimed the customer promised to pay two silver coins for the work, while the customer claimed to have only promised one silver coin.

How do the *dayanim*, judges, determine whose claim to accept?

In such a case, we apply the fundamental rule that says: "*HaMotzi Me'chavero Alav ha'Re'ayah*," **the person who seeks to take from his fellow bears the burden of proof.** That is, **someone who claims another person owes him/her money is obligated to bring proof of the legitimacy of their claim.** If the claimant does not provide proof that the other person owes them money, the person making the claim is paid nothing. Now, the craftsman who wants to get money from the customer needs to bring evidence that s/he is right and that the customer indeed promised to pay two silver coins. If the craftsman is unable to provide evidence, the customer will only have to pay one silver coin.



FROM THE TALMUD
SEDER NEZIKIN
MASECHET BAVA METZIA
daf 111B

מן התלמוד:

סדר נזיקין, מסכת בבא מציעא, (דף קי"א):
"דאמר רב אסי: אפילו לא שכרו אלא
לבצור לו אשכול אחד של ענבים, עובר
משום בל תלין"

Translation

שקיל ... Shakeel Take
מיתגר ... Mitgar Rent

Explanation

Even if a person hires a worker merely to perform a short, easy task, like harvesting one cluster of grapes, the employer must pay the laborer their salary before sunset. If the employer does not pay, he is in violation of the *issur*, prohibition, "*Bal Talin*," do not delay.



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📌 Daf 113: "מִשְׁכוֹן שְׁלֹא בְשַׁעַת הַלְוָאָה" – Collateral Given Not at the Time of the Loan

A person who lends money wishes to guarantee the return of that debt. If the lender suspects the borrower will be unable to repay the debt, the lender can demand a pledge of collateral. There are different types of *mashkonot*, pledges. In this segment we will learn about a *mashkon* known as "**Mashkon She'lo Be'sha'at HaL'va'ah**." If the time for repayment of a debt arrives and the borrower does not have the money available to return, the lender is permitted to sue the borrower. The court stipulates that until the borrower is able to repay the debt, the borrower must give the lender an item of value as collateral. This is a "*Mashkon Shelo Be'Sha'at HaL'va'ah*," collateral that was given not at the time of the loan, but afterwards.

On this *daf*, we learn a set of laws regarding the taking of collateral.

1) The lender is prohibited from forcibly taking the collateral directly from the lender. Instead, the lender must approach the *beit din*, and an agent of the court takes the collateral from the borrower. (If the borrower willingly agrees to remit an item as collateral, there is no problem in accepting it, even without involving the court.)



2) The *shaliach beit din* is prohibited from entering the house of the borrower to take the collateral. **Rather, the *shaliach* must stand outside the house and the borrower must bring out the item of his/her choice to serve as collateral.**

📌 Daf 114: מִפְּנֵי עִם אֵלֵיהֶוּ הַנְּבִיא בֵּית הַקְּבֻרוֹת – Meeting Eliyahu HaNavi in a Cemetery

Eliyahu HaNavi appeared to the *Amora* Rabbah Bar Ahuvah in a non-Jewish cemetery. Rabbah asked Eliyahu several questions of *halacha* and Eliyahu HaNavi answered them all. In the end, Rabbah asked Eliyahu: **Since you are a kohen, how are you permitted to be in a cemetery? It is forbidden for a kohen to become impure through contact with the dead!**

Eliyahu HaNavi answered: Haven't you learned the Talmud's *Seder Tahahrot*, Order on Purity? There, Rabbi Shimon Bar Yochai states that the graves of non-Jews do not render impure those who stand over them. (Only someone who touches the corpse of a non-Jew becomes impure as a result.)

Rabbah [who was incredibly poor and desperate to earn a livelihood and as such, lacked the time to study as much as he would have liked] replied: "There are six *sedarim*, orders, of Mishna. **Two of the *sedarim* are no longer applicable. *Seder Zeraim*, which deals with mitzvot customarily observed only in Eretz Yisrael, while I, Rabbah, live in Babylonia; and *Seder Taharot*, which deals with the halachot of purity that were primarily observed during the time of the Beit HaMikdash."**

📌 | Who's Who

Rachel, The Poet 1890-1931 • (5651-5691)

Rachel Bluwstein Sela, known by her pen names, "Rachel" or "Rachel the Poet", was one of the most prominent leaders in the revival of Hebrew poetry. Rachel was born in Russia, and at the age of 19, she and her sister went to Eretz Yisrael and settled in Rechovot. Later, she moved to France to study agronomy, and in 1919 (5680), she returned to Israel on the Ruslan and joined Kibbutz Degania — along with many of the pillars of the Third Aliyah. Shortly thereafter, Rachel was diagnosed with tuberculosis, which was incurable at the time. She lived out her last days in a convalescent home for tuberculosis patients in Gadera. Rachel wrote most of her poetry during the final six years of her life. She died alone, at the age of 41 and was buried in the *Kinneret* cemetery. But her poems live on, continuing to be a shining light of Hebrew literature.



Rachel Bluwstein • Photo Source: Wikipedia



Daf 115: מְצוֹת שְׁמִטָּה כְּסָפִים – Cancellation of Debts

In the seventh year, the *Shmittah* year, along with the prohibition against working the land, there is an additional mitzvah, which is ***Shmitat Kesafim***, cancellation of debts. For every individual who lends money to his or her fellow, once the *Shmittah* year ends, the debt may never be collected.

Three mitzvot are stated in the Torah regarding the mitzvah of *Shmitat Kesafim*, and from these we learn the details for observing this mitzvah.

MITZVAH 1 – Renunciation of the Debt: If the borrower wants to return the money after the *Shmittah* year, the lender is commanded to say: “I erase it,” that is, the debt is waived.

MITZVAH 2 – Prohibition of Debt Claim: The lender is not permitted to pressure the borrower for repayment after the end of the *Shmittah* year.

MITZVAH 3 – Do Not Avoid Providing a Loan: It is forbidden to abstain from or refuse to lend money, out of fear the *Shmittah* year will come and the borrower will lose the money that had been lent.

While the prohibition on working the land is observed in Eretz Yisrael alone, debt cancellation is binding law all over the world.

On this *daf*, we learn that if the lender received a *mashkon*, collateral pledge, from the borrower, then the lender is not obligated to cancel the debt.

Daf 116: “הַבַּיִת וְהַעֲלִיָּה” – The Lower & Upper Floors



The tenth and final chapter of *Bava Metzia*, “*HaBayit v’ha’Aliya*,” begins on this *daf*.

“*Ha’Aliya*” refers to the upper story of a house, and “*HaBayit*” refers to the house’s ground story, or lower floor.

In a building there were neighbors, who lived on the first floor and second floor, respectively. Suddenly, the building collapses. The

neighbors want to take materials from the rubble such as girders, beams, wood, and stones, to use in constructing a new house. However, there may be a problem. **They may be unable to determine which stones and beams came from the first floor and thus belong to the downstairs neighbor, and which materials were a part of the upper floor and thus belong to the upstairs neighbor. What should they do?**

At first glance, what difference does it make? It is known how many stones make up each level of the building. Each neighbor should take the stones s/he is due. But, what will be done if some of the stones broke and no one knows to whom those stones belong?

In such a case, it is impossible to clarify the matter. Since there is no other option, they divide all of the stones and beams 50/50 – each neighbor gets half.

A Moment In Jewish History

The “*Ruslan*” was the first and last officially organized voyage to sail from Russia to pre-state Israel after the end of World War I. Carrying 700 passengers, the ship embarked from Odessa, in southern Ukraine. The voyage was fraught with difficulties, but it finally docked for three weeks in the port of Jaffa beginning on December 19, 1919. Those on the boat had to claim they were refugees from Eretz Yisrael, who had gotten stranded in Russia, in order to be entitled to ‘return’ to the country. To do so, they attended “Preparation courses for refugees,” during which they learned various details about Eretz Yisrael. “*Ruslan*” was considered to be the ship that began the period of the Third Aliyah, and was nicknamed “The Zionist Mayflower.” On board were many immigrants who became well-known personalities and people of influence, including Rachel the Poet.



The *Ruslan* vessel moored in the port of Constantinople, on its way from the city of Odessa to Eretz Yisrael. Wikipedia.

📌 Daf 117: בונים מחדש את הבנין – Rebuilding the Building

There were two neighbors, Yaki and Yoel. **Yaki lived on the ground level and Yoel lived on the second floor.**

One day, Yaki, Yoel and their families left the house for a *tiyul*, an outing. They had only walked a short distance when suddenly they heard a huge explosion coming from the direction of the house. Immediately, the neighbors ran back home. To their astonishment, the building had collapsed. A strong smell of gas spread through the air. They understood at once that a gas had leaked and caused the explosion.



Yaki decided he did not currently have the funds to invest in rebuilding the apartment from scratch. So he and his family moved to his grandmother's house, which was empty.

Yoel thought: As I live on the upper floor, what am I going to do? In the end, Yoel decided that since Yaki was not there, he would build one

floor and live in it. And, so he did. On the day Yoel was about to affix the *mezuzah* on the entrance of the new house, Yaki arrived and said to him: Sorry, but the first floor belongs to me. You have no right to live here. If you want to live here, please build an upstairs floor and live there.

Is Yaki correct? The Talmud teaches us that he is not. Yoel is permitted to live on the first floor for free until Yaki can repay the money Yoel spent on rebuilding the apartment. After Yaki pays him, Yoel will need to build another story for himself and then they will live as it had been at the beginning. (This is the law according to *Chachamim*.)



QUESTIONS OF THE WEEK

All answers can be found in this Daf Yomi booklet

1. What is the meaning of the phrase "*HaMotzi mechavero alav ha'Re'ayah*"?
2. Give an example of when the principle "*HaMotzi Mechavero Alav ha'Re'ayah*" applies.
3. What are the three commandments stated in the Torah regarding the mitzvah of *shmitat kesafim* in the *shmittah* year?

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📖 | Dvar Torah for the Shabbat Table

Moshe spent his entire childhood and adolescence in Pharaoh's palace, having been brought there from the Nile River by Pharaoh's daughter when he was a baby. Upon his reaching adulthood, the *pasuk* says, "**When Moshe had grown, he went out to his own people and saw their suffering. He saw an Egyptian man strike one of his fellow Hebrews.**"

About the words – "*VaYigdal Moshe*," and Moshe had grown, *Chazal* asked, what in essence is the novelty contained in these words? Every person grows eventually; why mention it with respect to Moshe?

This midrash, in *Shemot Rabbah* answers: "**It was because Moshe grew up in a manner unlike the rest of the world.**"

What is the meaning of, "**in a manner unlike the rest of the world**"?

Chazal replied — In many instances, when a person has grown and becomes an important and respected individual, s/he forgets, or sometimes makes it look like s/he has forgotten his/her family, acquaintances, relatives and friends. Sometimes s/he even avoids them and does not share their troubles and suffering. From this perspective, Moshe had grown up differently — not like others. Although Moshe spent most of his life in the Egyptian palace and was intended for greatness — still, he did not forget his people and his acquaintances when he went to his brothers and saw their suffering — "**and he saw their suffering and saw an Egyptian man striking a Hebrew man, from among his people.**" Not only did Moshe not turn a blind eye, he did just the opposite — even though Moshe had much to lose and potentially endanger. Moshe did not hesitate to intervene. He acted decisively on behalf of his fellow Israelite. This is the intention of the midrash about Moshe in asserting that he was one "**who grew up in a manner unlike the rest of the world.**"