

שבת קודש פרשת שלח | מסכת כתובות דף מ'

INSIGHTS FROM OUR CHABUROS

The Assessment for Embarrassment

איזהו בושת? הכל לפי המבייש והמתבייש

The amount assessed to pay for embarrassment in a case of **אונס** and **נפתה** is a function of who the perpetrator is, and of who the victim is. From the words of Rashi, it seems that it is understood that it is more embarrassing to be shamed by an average person than it is to be humiliated by a drunken vagrant or to be disgraced by a dignitary. Similarly, the degree of perceived embarrassment varies based upon the status of the girl who was attacked and her family. The court must assess all of these factors and determine how much it was worth for this situation to have been avoided, had money been a factor in preventing it.

Rambam (Hilchos Na'ara 2:4) presents the contrast differently than does Rashi, and he suggests that being embarrassed by an important person is not as bad as being disgraced by a lowly individual. The less a person's status, according to Rambam, the greater is the humiliation of being the object of his ridicule.

cites Geonim who describe the evaluation of **בושת** in terms of both the one who does the embarrassment as well as the one who is embarrassed, as did the Mishnah. Rambam also speaks about evaluating **בושת** in terms of the victim, her family, and the one causing the embarrassment. Furthermore, Rambam adds that we consider the family in the calculation of the **בושת**, as he holds that the payment is given to the father of the girl. **שיטה מקובצת** seems to hold that the payment is evaluated completely in terms of the girl herself, although the money goes to the father. Therefore, the amount is evaluated in terms of the girl's ordeal.

PARSHA CONNECTION

In this week's **daf** we learn about the requirement of **לאשה**. Someone who forced a girl, must marry her and can never divorce her. This punishment is a consequence for his actions. In פרשת שלח, the תורה tells us about the terrible consequences, which **חטא המרגלים** suffered because of the **בני ישראל**, which resulted in a 40 year delay in entering **ישראל**, and the **אורץ ישראל** of everyone above 20 years old (except **יהושע** and **כלב**). Being part of the group, **יהושע** was well aware of the **חטא המרגלים** and witnessed its terrible consequences, this begs the question about his own actions when he sent spies to **יריחו**. Why wasn't he concerned about sending spies given his own past experience? The **אלישיך הקדוש** explains that the two missions were very different. The first group went to evaluate the land and the people living there to determine if **ישראל** could win. **יהושע** by contrast had one very specific purpose, to assess the "timing" for entering **ישראל**. In other words, **יהושע** was not deciding IF but when. The **פסוק** in **פרק ב'** says **יהושע פרק ב'** **ישלח יהושע בן נון מן יהושע** **הוא** **אמר** **לכו** **ראו** **את** **הארץ** **ואת** **יריחו** **וילכו** **ויבאו** **בית** **השטים** **שנים** **אנשים** **מרגלים** **חרש** **לאמר** **לכו** **ראו** **את** **הארץ** **ואת** **יריחו** **וילכו** **וישכבו** **שמה** **יריחו** **את** **הארץ** **ואת** **יריחו**, **אשה** **זונה** **ושמה** **רחב** **וישכבו** **שמה** **יריחו** **part of the ארץ**? Why did they only visit **רחב** and not spy on the rest of the city or the land? The answer is that they knew that **רחב** could share with them what all of the kings were thinking, because she knew all of them. Given that everyone was terrified of **ישראל**, they understood that **הקב"ה** had created the perfect conditions for entering **ישראל**. This is why they didn't need to see anything else, and it illustrates how their mission was totally different from the first group of 12 spies.

STORIES OF THE DAF

The Alter and his Talmid

הכל לפי המבייש והמתבייש

The Torah prescribes a fine for a person who embarrasses another. Our Mishnah teaches us how to evaluate the amount that needs to be paid, "Embarrassment is evaluated according to the social status of the one who caused the shame, and the one who felt the shame." The gedolei Yisrael went to great lengths to allay even the unintentional embarrassment of another Jew.

Some time after the Alter of Slobodka, **ז"ל**, moved to Yerushalayim, he fell very ill. He had to be confined to bed and all of his needs were provided for him by his devoted students. On one occasion, he needed to be given a spoonful of water to help him wash down his medicine. One of the talmidim attending him brought him a spoon filled from a bottle of clear liquid on the kitchen table. Although he thought it was water, it was actually rubbing alcohol! When the Alter took this spoon of "water" into his mouth, he nearly choked. As he was gagging in great pain, he noticed that the student responsible for the blunder was slinking out the door, obviously deeply embarrassed to have been the cause of the great Rav's distress. The moment the Alter could speak, despite the fact that he was still unwell as a result of the alcohol, he requested that this student be brought before him as soon as possible. As it turned out, the student only came the next day when the Alter was completely recovered from the experience. As the student entered the room in a downcast manner, the Alter received him with a glowing countenance and said, "Don't feel bad about yesterday. You actually caused me great happiness. Although at first I was very afraid, when I realized that there would be no adverse effects I was filled with joy. The error brought me a gain, that feeling of elation, not a loss at all!" With these comforting words, the student's discomfort dissolved completely and he again felt at ease in his Rebbe's presence.

HALACHA HIGHLIGHT

Now that's Embarrassing!

איזהו בושת הכל לפי המבייש והמתבייש

How is the humiliation payment calculated? It all depends on the one causing the humiliation and the humiliated

The Mishnah does not detail how to calculate the humiliation payment; it simply states that it depends on who is causing the humiliation and the humiliated. Tur¹, however, provides more detail for calculating this payment. When discussing the נערה who is violated or seduced, he writes that there is no comparison between the humiliation this incident will cause a girl who is upright and the humiliation this incident will cause a girl of loose morals. Furthermore, there is a difference in the degree of humiliation between an offender who is known to behave despicably and one who was thought to be respectable. Therefore, Beis Din must take both factors into account and determine how much the girl's father or family would pay for this incident to not occur and that is the amount the offender must pay towards his humiliation payment.

There was once an incident in which Reuven told Shimon that "your friend" is at the door for you. When Shimon went to the door there was a non-Jew at the door and Shimon was angered that Reuven identified the non-Jew as his friend. Shimon claimed that he was humiliated by the reference that the non-Jew was his "friend" and claimed that he should be paid for the humiliation. The Mahari Bruna² responded that according to the Gemara³, Shimon has no claim because the Gemara states, "One may not say to his friend, 'Go and hire for me workers' etc." and R' Pappa interprets the reference to "his friend" to refer to a non-Jew. This clearly indicates that if a Jew has a relationship with a non-Jew he can be described as a friend. Thus, Reuven can claim that he did not intend to disparage or humiliate Shimon when he referred to the non-Jew as Shimon's "friend." If, however, there was ill will between Reuven and Shimon at the time that Reuven referred to the non-Jew as Shimon's "friend" it is evident that his intention was to humiliate Shimon and he would be obligated to pay for the humiliation he caused. Consequently, it is up to the presiding judges to assess the circumstances and make a determination whether payment is appropriate and how much that payment should be.

1. טור אה"ע סי' קע"ז
2. מהר"י ברוגא סי' נ"ב
3. גמ' שבת ק"ג

MUSSAR FROM THE DAF

Parents are Unique

The Gemara asks why we don't say that the עשה of marrying the girl who he violated, should override the לא תעשה of not marrying a girl who he is not allowed to marry. The Gemara answers that we cannot apply this כלל since the girl can decide she doesn't want to marry this man. The Ritva explains that the Gemara is informing us that the mitzvah is a mitzvah קל since it does not have to happen if the other side is מוחל. The Tosafos Yeshanim quotes הר"ר עזרא who asks based on this כלל why does the Gemara in יבמות דף ה say that we need a pasuk to tell us that in a situation when a parent requests their child to be מחלל שבת, the child shouldn't listen to the parent; since we know that a parent can be מוחל the obligation of the child to honor them and therefore a pasuk shouldn't be needed!

One could answer that the mitzvah of אב ואם כיבוד is a unique mitzvah. Since it is בין אדם לחברו שמים, it is different than any other mitzvah בין אדם למצוה and therefore it would certainly not be called a mitzvah קל. (This is similar to what Ketsos Hachoshen Siman 97, Sif Katan 1 answers). In fact, the Minchas Chinuch has a ספק if אב ואם כיבוד really is a mitzvah בין אדם למצוה (as we see it is on the בין אדם למצוה side of the luchos). Perhaps that is why Rav Wolbe (Ale Shur Chelek 2, page 227) labels the mitzvah of אב ואם כיבוד a mitzvah that is שבחמורות of any מצוה עשה.

We see from here that the mitzvah of אב ואם כיבוד is unlike any other mitzvah בין אדם לחברו as there is a crucial aspect of it which is also between man and Hashem. While there can be a challenge to not take this mitzvah as seriously because of the familiarity one has with their parents, remembering this lesson can help a person take this mitzvah with the most severity and reverence.

POINT TO PONDER

writes that we teach her to say no. Is this only applicable in this case of לא תעשה עשה דוחה? Why can't we say the same in a case of יבום where it's חייבי לאוין, and the גמרא says that it's מותר because of תעשה לא תעשה. Why don't we tell her to say no, and thereby avoid the problem?

Response to last week's Point to Ponder:

The גמרא says that according to רבי שמעון an אונס shouldn't pay צער because such pain would happen anyways once the woman gets married. How does this change the fact that right now the אונס caused her צער and should pay? If someone for example breaks someone else's dish, can he claim that it would have broken anyway in the future?

When someone breaks a dish belonging to someone else, even if it eventually would break (for example to person threw it off the roof), the person who smashed it first did מעשה הזק. By contrast, the סברא of חבלה בעלה tells us that this מעשה is not a חבלה at all. See ברכת אברהם.

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, dafaweek.org, or download the app

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