



Volume 5. Issue 27

## The Value of a Corpse

The *Mishnah* (5:4) discusses the case of a person (*Reuven*) who makes a vow to pay the worth of another person (*Shimon*) to the treasury of the *Bet Ha'Mikdash*. The *Bet Din* needs to assess the 'worth' of *Shimon* in order to determine how much *Reuven* must pay. If *Shimon* dies before his worth has been assessed by the *Bet Din* then *Reuven* does not need to pay anything. Since the subject of the vow is dead, no assessment can be made and the vow is no longer payable.

There are two explanations for the reason why no worth can be assessed after death:

- a person's 'worth' is assessed by their value as a slave. After death, a person has no worth as a slave (*Tiferet Yisrael*); or
- after death, the only possible measure of worth is the value of the corpse and since we are forbidden from deriving benefit from a human corpse the person no longer has any worth (*Tosefot Yom Tov*).

This position seems to be inconsistent with the *Mishnah* (3:3) which refers to a *muad* ox (an ox that has previously killed three people) that kills a free person. The owner of the ox must pay *kofer* – an atonement payment – to the heirs of the victim. According to the majority opinion, the *kofer* represents the value of the victim just prior to death. We see from this *Mishnah* that an assessment of worth can be made retroactively after death. Why then can't we assess the value of *Shimon* before their death in our case of the vow?

*Rashi* (*Gemara Erchin* 20a) explains that in the case of the *kofer* payment, the obligation to pay becomes effective from the time the damage was caused, which is prior to the death of the victim. The *Bet Din's* task is to assess the amount of that earlier obligation. However in our case of the vow, the obligation to pay only takes effect once the *Bet Din* have made their assessment. Therefore, an assessment of what *Shimon* was worth in the past (before his death) is not relevant because the obligation to pay cannot be made retroactively.

The explanation given by *Tosefot Yom Tov* (that we are forbidden to derive benefit from a human corpse) seems to be inconsistent with the *Mishnah* (1:4) which states that if a woman is executed we may derive benefit from her hair. The *Gemara* (*Erchin* 7b) is puzzled by this statement because it is inconsistent with the principle that it is forbidden to benefit from a human corpse. The *Gemara* gives two explanations:

- the *Mishnah* is limited to the case of a foreign hair piece and only where the woman had stated before her death that she wished to give the hair piece away (*Rav*); or
- hair is an exception to the rule that it is forbidden to benefit from a human corpse (*Rav Nachman bar Yitzchak*).

The *Shulchan Aruch* (*Yoreh Deah* 349:2) rules in accordance with *Rav* while *Rambam* rules in accordance with *Rav Nachman bar Yitzchak*.

*Rav Nachman bar Yitzchak's* opinion that we can derive benefit from human hair after death would suggest that a human corpse does have some worth posthumously. Therefore, it would seem that those who hold by this opinion would disagree with the reasoning of *Tosefot Yom Tov* (i.e. a corpse has no worth because we are forbidden from deriving benefit) and would be more likely to hold by the opinion of *Tiferet Yisrael* (i.e. after death a person has no worth as a slave).

Alternatively, even those who hold that we can derive benefit from human hair after death might still agree with the reason given by *Tosefot Yom Tov*. They might argue that the value of hair cannot be a replacement for the value of a person. This would be supported by the principle stated in the *Mishnah* (5:2) in relation to *erech* vows – anything upon which one's life depends (such as the head or the heart) can be treated as a replacement for the entire self; however anything that is not essential to life (such as an arm or a leg or hair) cannot be a replacement for the entire self. The *Gemara* (*Erchin* 20a) establishes an analogy between vows of worth and *erech* valuations and therefore derives that this principle applies in both cases.

Allon Ledder

**Revision Questions**

ערכין ה' ב' - ז' ד'

- If someone volunteers to donate the value of their hand how is the value determined? (ה' ב')
- In what way are the laws of *erchin* stricter than *nedarim* and in what way are they more lenient? (ה' ב')
- What is the law if someone volunteers to donate the *erech* of their head? (ה' ב')
- What is the difference if the person volunteers to donate using the following language: (ה' ג')
  - “Half my *erech*” or “the *erech* of half of me”?
  - “Half my value” or “the value of half of me”?
- If someone made an *erech*-vow to donate the *erech* of another person, and both he and that person died, do the heirs need to pay? (ה' ד')
- If someone volunteered to donate the value of another person, in what case would that *neder* need not be paid? (ה' ד')
- If a person made a *neder* stated that “this house is a *korban*” and the house collapsed, when would they need to donate the value of the house and when would they be exempt? (ה' ה')
- As apposed to sin offerings, why do *Beit Din* not forcefully take a collateral until one offers a *korban olah* as they promised to do? (ה' ו')
- With respect to which three areas of law can *Beit Din* force one to act? (ה' ו')
- For who long is the sale of property announced for the following cases: (ה' א')
  - When collecting a debt from the property of orphans?
  - For the sale of a field of *hekdesch*?
- Explain the debate regard one who sanctifies his field, but must pay his wife her *ketubah*. (ה' א')
- What other case is debated in a similar manner? (ה' א')
- How are the previous two cases dealt with in practice? (ה' ב')
- When *Beit Din* forcibly take a collateral to ensure payment of an *erech*-vow what must the leave behind? (ה' ג')
- If one sanctifies his possessions, does this include his *tefillin*? (ה' ד')
- What items are not included such a *neder*? (ה' ה')
- If an item made *hekdesch* would improve in value with time, do we wait? (What three examples are brought?) (ה' ה')
- How close to the *yovel* year can once sanctify a *sde achuzah*? (ה' ו')
- How close to the *yovel* year can one redeem a *sde achuzah* and why? (ה' ו')
- How is the value of a *sde achuzah* calculated? (ה' ז')
- How shallow must a pit (of water) be in the field to be included in this calculation? (ה' ז')
- Who can redeem a sanctified *sde achuzah* and what is the difference between these two groups of people in terms of the value to be paid? (ה' ז')
- What other difference is there between these two groups of people? (ה' ז')
- Who gets ownership of the *sde achuzah* if a *kohen* redeems the field and the *yovel* year arrives? (ה' ד')
- Explain the debate regarding the processes if one does not redeem his *sde achuzah* by the *yovel* year. (Include all three opinions.) (ה' ז')

**Local Shiurim**

**Sunday -Thursday**  
Between mincha & ma'ariv  
Mizrachi Shul

**Friday & Shabbat**  
10 minutes before mincha  
Mizrachi Shul

**Quick Thought...**

**Value of a Corpse (2)**

The main article discussed the rule that no monetary assessment of the value of a person can be made after their death.

The fact that a person's worth disappears with their death may serve as a reminder of the importance of our time in *Olam Hazeih*.

The *Mishnah* in *Pirkei Avot* (4:22) states that one hour of repentance and good deeds in *Olam Hazeih* is better than the entire life of *Olam Habah*. It is only in this world that we can perform *Mitzvot* and earn reward. Let us take advantage of that opportunity while we can.

Allon Ledder

**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
2 <sup>nd</sup> November ד' חשוון	3 <sup>rd</sup> November ה' חשוון	4 <sup>th</sup> November ו' חשוון	5 <sup>th</sup> November ז' חשוון	6 <sup>th</sup> November ח' חשוון	7 <sup>th</sup> November ט' חשוון	8 <sup>th</sup> November י' חשוון
Erchin 7:5-8:1	Erchin 8:2-3	Erchin 8:4-5	Erchin 8:6-7	Erchin 9:1-2	Erchin 9:3-4	Erchin 9:5-6

