



Kim Lei Be'Deraba Minei

The third *perek* begin by differentiating between particular cases of *ones* where one is obligated to pay the *knas* and when one is not. Where the relationship is a capital offense, then the offender is exempt from paying the fine. If however it is punishable with *karet*, then the fine must be paid (and the other components of the monetary compensation).

The reason for the exemption in the former case is the principle of *kim lei be'de'rabah minei*. Put differently, when faced with different punishments, we only serve the harsher punishment.

The *Gemara* (30a) brings a *Beraita* that reveals a debate regarding whether when faced with *karet* and monetary compensation both punishments apply. Our *Mishnah* seems to suggest that it can. *R' Nechunya ben Hakana* however argues that they cannot. In the cited *Beraita*, *R' Nechunya* equates *Yom Kippur* (where the punishment for performing *melacha* is *karet*) with *Shabbat* (where it is a capital offence) such that if one set his friend stack of wheat alight on *Yom Kippur*, he would be exempt from monetary compensation.

Both appear to derive their positions for the same *passuk*. The *Torah* (*Shemot* 21:22) teaches, "If men shall fight and they collide with a pregnant woman and she miscarries, but there will be no fatality (*ason*), he shall surely be punished..." The *Chachamim* understand that this means that if there is a fatality, i.e. a capital punishment, then there

will be no monetary compensation. *Abaye* explains that according to *R' Nechunya* the term *ason* is used for both death cause by man and death cause by heaven. *Rava* on the other hand provides a different *drasha* that effectively equates the two.

How do we understand the principle of *kim lei*? It is quite a large topic and we will only scratch the surface. The *Gemara* in *Bava Metzia* (91a) teaches that if one muzzles a cow and uses it to thresh he receives lashes and is obligated to pay compensation. This appears to contradict *kim lei*. *Rava* answer that we find that an *etnan* given to a mother is still *assur*. *Rashi* explains that even though if the mother took him to court to depend that the *etnan* be paid he would not be obligated due to *kim lei*, this is because the *Beit Din* do not have the power to punish him twice. Nevertheless the obligation of payment is still there and once given it is considered an *etnan*. Likewise, in the case of the muzzled cow, the obligation to pay is certainly there; it is *Beit Din* who do not have the power to force him to pay it. The *Ketzot* explains that *Rashi* maintains that if the other party would then seize the funds due to him, he would not be required to pay them back.

We find that according to *Rashi* the principle of *kim lei* sits with the inability to execute judgement twice here. Nevertheless the person is not truly exempt on that second count. In our case, complete *teshuva* would require the monetary compensation despite *Beit Din's* inability to demand it.

Yisrael Yitzchak Bankier

Revision Questions

כתובות ג' א' ד' ה'

- What does it mean when it says: "אלו נערות שיש להן קנס" (ג' א')
- Which *ne'arot* do not have a *knas* associated with them? (ג' ב')
- What is the source for the law that if one is sentenced to death, he is exempt from monetary payments? (ג' ב')
- Explain the debate regarding whether a *knas* applies to a *na'arah* that got engaged then divorced. (ג' ג')
- What three things is a *mefateh* obligated to pay? (ג' ד')
- What four things is an *ones* obligated to pay? (ג' ד')
- What are the three differences between a *mefateh* and an *ones*? (ג' ד')
- In what case is the *ones* not "*shoteh ba'atzitzo*"? (ג' ה')
- According to *R' Elazar* what is another difference between *mefateh* and *ones*? (ג' ו')
- How is *boshet* (shame) compensation calculated? (ג' ו')
- How is *pegam* compensation calculated? (ג' ו')
- What relationship does the *Mishnah* draw between the rights of the father in *mecher* and *knas*? (ג' ח')
- What is a person obligated to pay if they confess that they stole an object? (ג' ט')
- Complete the following principle: (ג' ט') _____: זה הכלל: אינו משלם על בי עצמו
- In a case of *pitui*, to whom are elements of compensation paid: (ג' יא')
 - If the father is alive during the trial?
 - If the father died after the trial?
 - If the father died prior to the trial?
 - If she became a *bogeret* prior to the trial?
- On which of the cases in the previous question does *R' Shimon* argue? (ג' יא')
- In what case is the *ketubah* payment paid to someone else other than the divorcee? (ג' יב')
- What is different from a regular case of *na'arah meorasah she'zinta* when: (ג' יג')
 - The *na'arah* converted?
 - The *na'arah* mother converted whilst pregnant with her?
- What are the five rights listed in the *Mishnah* that a father has whilst his daughter has not yet become a *bogeret*? (ג' יד')
- What is the difference between the rights of a father and husband? (ג' יד')
- What are the three obligations placed on a husband? (ג' יד')
- At what point is a girl transferred from the *reshut* of the father to the *reshut* of the husband? (ג' יה')

Local Shiurim

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
 Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Beit Ha'Roeh
 Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
 9:00am
Kollel Magen Avraham
 Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendar/myomi/myomi-thisweek.htm>

**SHIUR
 ON KOL HALOSHON**

Rabbi Moshe Meir Weiss
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
22 nd July ג' אב	23 rd July ד' אב	24 th July ה' אב	25 th July ו' אב	26 th July ז' אב	27 th July ח' אב	28 th July ט' אב
Ketubot 4:6-7	Ketubot 4:8-9	Ketubot 4:10-11	Ketubot 4:12-5:1	Ketubot 5:2-3	Ketubot 5:4-5	Ketubot 5:6-7

