

עבד עברי גופו קנוי: Daf Ditty Kiddushin 28



JOHN BROWN

*Meeting the Slave-mother and her Child on the steps of Charlestown jail on his way to execution!
The Artist has represented Cap^t Brown regarding with a look of compassion, a Slave-mother and Child who obstructed
the passage on his way to the Scaffold. — Cap^t Brown stooped and kissed the Child — then met his fate.*

FROM THE ORIGINAL PAINTING BY LOUIS RANSOM.

A rare instance of a mulatto baby portrayed next to the baby's darker mother. John Brown, about to be hanged, kisses the baby. Louis Ransom, 1863

מִתְנִי כֹל הַנְעִיֶשֶׁה דְּמִים בְּאֹרֶךְ כִּיּוֹן שׁוֹכֵה
 זֶה נִתְחַיֵּב זֶה בְּחֻלְיָיו יִכְיָצֵד הַחֲלִיף שׁוֹר
 בְּפִרְהוֹ אִי חֲמֹר בְּשׁוֹר כִּיּוֹן שׁוֹכֵה זֶה נִתְחַיֵּב
 זֶה בְּחֻלְיָיו : גַּם הַלִּיפִין מֵאִי נִיְדוּ מִטְּבַע
 *שָׁמַע מִיָּנָה מִטְּבַע נַעֲשֶׂה הַלִּיפִין אֲמַר רַב
 יְהוּדָה הֵבִי קֹאמֵר כֹּל הַנִּישׁוּם דְּמִים בְּאֹרֶךְ

גלגול שבועה מן התורה

והשביע הכהן את האשה וגו'
 ואמרה האשה אמן אמן

זא מה היא אומרת אמן אמן

אמן שלא סטיתי

ארוסה - ונשואה - ושומרת יבם - וכנוסה



אשכחן סוטה דאיסורא
 ממונא מנלן

קל וחומר מסוטה

ממון

שניתן להתבע
 בעד אחד

אינו דין שמגלגלין

ומה סוטה

שלא ניתנה להתבע

בעד אחד

מגלגלין



The initial ממונא includes only ממונא לבעוד for a טענת ודאי, because the initial ממונא of ממונא is only ממונא לבעוד for a טענת ודאי.

אשכחן
 בודאי
 ספק
 מנלן

However not for a טענת ספק, such as a partnership that was dissolved, to be ממונא לבעוד for a possible claim.

*Although the ממונא of סוטה is also a טענת ספק
 סוטה - כל שבועה ספק
 The initial ממונא of a סוטה is also for a טענת ספק
 Therefore, it can also be ממונא לבעוד for a טענת ספק*

עד היכן גלגול שבועה? אָמַר רַב יְהוּדָה אָמַר רַב: דָּאֵמַר לִיה: "הִשְׁבַּע לִי שְׂאִין עֲבָדֵי אֶתָּה".

§ The Gemara asks: **Until where** does the **extension of an oath** reach? It has been established that a plaintiff can attach other claims to the oath that the defendant is required to take, even if they do not relate to the current claim submitted in court. To what extent can the plaintiff impose additional oaths?

Rav Yehuda said that Rav said: The *halakha* is **that** a plaintiff **can** even **say to** a defendant: **Take an oath to me that you are not my Canaanite slave.** If the defendant is required to take an oath, e.g., concerning denial of a debt, he can be forced to take an oath about this matter as well.

ההוא שמותי משמתין ליה! דתניא: הקורא לחבירו "עבד" – יהא בנדידי. "ממזר" – סופג את הארבעים. "רשע" – יורד עמו לחייו!

The Gemara asks: But the court **ostracizes one** who says this to another, **as it is taught** in a *baraita*: **One who calls another a slave shall be ostracized.** One who calls another a *mamzer* incurs the punishment of **forty** lashes. If one calls another a **wicked person** then the insulted person may **harass him** in all aspects of **his life.** In light of this *halakha*, it is clear that the court will not force the accused to respond to this insult by taking an oath.

אָלָא אָמַר רַבָּא: הִשְׁבַּע לִי שְׁלֹא נִמְכַרְתָּ לִּי בְעֶבֶד עֲבָרִי. הָאִי טַעֲנָתָא מְעַלְיָתָא הִיא, מְמוֹנָא אִית לִיה גְּבִיָּה! רַבָּא לְטַעֲמִיהּ, דָּאֵמַר רַבָּא: עֲבָד עֲבָרִי גּוֹפּוֹ קִנּוּי.

Rather, Rava said that the plaintiff can extend an oath by stating: **Take an oath to me that you were not sold to me as a Hebrew slave.** In this case the plaintiff is not questioning the man's lineage, as he is simply claiming that he was sold to him as a slave and must work for him. The Gemara asks: But there is nothing novel about this *halakha*, as this **is a proper claim** that **there is money** owed **to him** by the accused.

The sale and service of a Hebrew slave can be assessed in monetary terms, and is analogous to all claims of debt, which can be imposed by extension of an oath. The Gemara answers: **Rava conforms to his line of reasoning, as Rava says: The Hebrew slave himself is acquired** by his master. Consequently, this claim involves not just money but ownership over his person as well.

כל הנעשה דמים באחר

All items that the buyer gives the seller to acquire the sale item

כיון שזכה זה נתחייב זה בחליפיו

When the מוכר accepts the item, the קנין is complete and the לוקח acquires the item even if it is still in the מוכר's domain

ואם נאבדו – עליו לשלם המעות

If afterward the item is lost or ruined, the מוכר must still pay the קנין because he already owned the item through the קנין.

מתני' כל הנעשה דמים באחר, כיון שזכה זה – נתחייב זה בחליפיו. כיצד? החליף שור בפרה או חמור בשור, כיון שזכה זה – נתחייב זה בחליפיו.

MISHNA: The mishna discusses a transaction involving the barter of two items. With regard to **all items used as monetary value for another item**, i.e., instead of a buyer paying money to the seller, they exchange items of value with each other, **once one party in the transaction acquires** the item he is receiving, **this party is obligated** with regard to the item being **exchanged for it**.

Therefore, if it is destroyed or lost, he incurs the loss. **How so?** If **one exchanges an ox for a cow, or a donkey for an ox, once this party acquires** the animal that he is receiving, this party **is obligated** with regard to the item being **exchanged for it**.

1

כל הנעשה דמים באחר

מטבע

מטבע נעשה חליפין

Money can also accomplish a קנין חליפין, and if it was given as חליפין, the קנין is complete

However, if the money was given as payment, the קנין is not complete, because - מעות אין קונות

And the continuation of the Mishnah teaches that

פירות עבדי חליפין

That all other items can also accomplish a קנין חליפין

החליף שור בפרה
או חמור בשור

כיון שזכה זה - נתחייב זה בחליפין

X

The Mishnah cannot be referring to מטבע קיימא לן אין מטבע נעשה חליפין

גמ' חליפין מאי ניהו? – מטבע, ש'מע מינה: מטבע נעשה חליפין?
אמר רב יהודה: הכי קאמר: כל הנישום דמים באחר,

GEMARA: The Gemara asks: **What is** the item given in **exchange** mentioned in the mishna? If it is referring to **a coin**, for which property is usually exchanged, can one **learn from** the mishna that **a coin can effect exchange**, i.e., it is possible to perform the act of acquisition of exchange, either a standard exchange or a symbolic exchange, using coins? This is problematic, as the *halakha* is that coins cannot be used for this act of acquisition.

Rav Yehuda said: The phrase: All items used as monetary value for another item, is not referring to a coin. Rather, **this is what** the mishna **is saying:** With regard to **all** items **that** can be **appraised** when used **as monetary value for another** item, i.e., that their value can be appraised relative to the value of another item, excluding a coin, whose value is apparent,

כִּיּוֹן שְׂזֻכָּה זֶה נִתְחַיֵּיב בְּחִלְיָפִין. דִּיקָא נָמִי, דְּקָתְנִי: פִּיצֵד? הֶחְלִיף שׁוֹר
בְּפָרָה אוֹ חֲמוֹר בְּשׁוֹר. שְׁמַע מִינָה.

once one party in the transaction **acquires** the item he is receiving, **this** party **is obligated** with regard to the item being **exchanged for it**. The novelty of the mishna is that all items, not only vessels, can be used to perform the act of acquisition of exchange. Therefore, one should not infer that the same is the *halakha* with regard to coins.

The Gemara comments: The language of the mishna **is also precise, as it teaches** afterward: **How so?** If **one exchanges an ox for a cow, or a donkey for an ox**, once this party acquires the animal that he is receiving, this party is obligated with regard to the item being exchanged for it. This clause apparently explains the previous clause, and employs the example of animals, not coins. The Gemara summarizes: **Learn from** this clause that the mishna is referring to acquisition through the exchange of items, not money.

②

כל הנעשה דמים באחר

כל פניאום דמיא באחר
Any item of undetermined value

פירות עבדי חליפין

קנין חליפין, besides money, can accomplish

כיון שזכה זה - נתחייב זה בחליפין

As in the case of

החליף שור בפרה
או חמור בשור

כיון שזכה זה - נתחייב זה בחליפין

וְלִמָּא דְסָלִיק אֲדַעְתִּין מַעֲקָרָא דְמִטְבַּע נַעֲשֶׂה חֲלִיפִין, מָאֵי כִּיצַד?
הֲכִי קָאָמַר: פִּירוֹת נְמִי עֲבָדֵי חֲלִיפִין. כִּיצַד? הֲחֲלִיף בְּשׂוֹר בְּפָרָה
אוּ בְּשׂוֹר חֲמוֹר בְּשׂוֹר, כִּיּוֹן שְׂזָכָה זֶה נִתְחַיֵּיב בְּחֲלִיפִין.

The Gemara asks: **And with regard to what entered our minds initially, that a coin effects symbolic exchange, what is the meaning of the clause: How so,** if one exchanged an ox for a cow, once this party acquires the animal that he is receiving, this party is obligated with regard to the item being exchanged for it.

This example does not involve a coin. The Gemara explains that it was assumed that **this is what the mishna is saying:** Not only can a coin be used in for the act of acquisition of exchange, but **produce can also effect exchange. How so?** If **one exchanged meat of an ox for a cow, or the meat of a donkey for an ox, once this party acquires** the item that he is receiving, this party **is obligated** with regard to the item being **exchanged** for it.

הַנִּיחָא לְרַב שֶׁשֶׁת, דָּאָמַר: פִּירוֹת עֲבָדֵי חֲלִיפִין. אֲלָא לְרַב נַחְמָן
דָּאָמַר: פִּירוֹת לָא עֲבָדֵי חֲלִיפִין, מָאֵי אִיכָא לְמִימַר?

The Gemara asks: **This works out well according to** the opinion of **Rav Sheshet, who says: Produce effects exchange,** i.e., the mode of acquisition of exchange applies not only to vessels but also to produce and animals. **But according to** the opinion of **Rav Nahman, who says: Produce does not affect exchange, what can be said?**

הֲכִי קָאָמַר: יֵשׁ דְּמִים שְׁהוּ כְּחֲלִיפִין, כִּיצַד? הֲחֲלִיף דְּמֵי שׂוֹר בְּפָרָה
אוּ דְּמֵי חֲמוֹר בְּשׂוֹר.

The Gemara answers: According to this opinion, the mishna is dealing with money alone, and **this is what the mishna is saying: There is a transaction involving money that is like an exchange. How so?** If **one exchanged the monetary value of an ox for a cow, or the monetary value of a donkey for an ox,** the transaction is effective.

In this case, one sold his ox to another for an agreed sum of money, and after the buyer acquired the ox by pulling it, he then offered to give the seller his cow in exchange for the money that he owes him. In this case the cow is acquired without the seller having to pull it. Although this acquisition initially was to be an exchange, it is ultimately a purchase for money, as the second animal is acquired as a result of the forgiving of the monetary debt.

3

רבי נחמן

פירות לא עבדי חליפין
Only a fig, a shoe, or any כלי, a utensil

כל הנעשה דמים באחר

יש דמים לכן כחליפין
There is a case in which money can also accomplish a קנין, as חליפין

כיצד
החליף דמי שור בפרה
או דמי חמור בשור
מכר לו שור במנה
ומשכו ונתחייב לו זה המנה

<i>First the מוכר sold an ox for the price of one מנה.</i>	<i>The אוקף then acquired the ox by משכב and owes the מנה one מוכר.</i>	<i>The מוכר then decided to accept the אוקף's cow in lieu of the מנה.</i>
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The אוקף then said...
הרי המעות שאתה חייב לי
נחונים לך בדמיה
The money that you owe me, you may keep in exchange for your cow.

מעות הללו קונים בלא משיכת הפרה
כחליפין דכלים
The מוכר then immediately acquires the cow even without משכב, as if he had accomplished a חליפין.

מאי טעמא? סבר לה פרבי יוחנן, דאמר: דבר תורה, מעות קונות. ומה טעם אמרו משיכה קונה? גזירה שפא יאמר לו: "נשרפו חיטיך בפעלייה".

What is the reason for this ruling in light of the *halakha* that one cannot acquire movable property by means of money alone? The Gemara explains that Rav Naḥman **holds in accordance with** the opinion of **Rabbi Yoḥanan, who said: By Torah law money effects acquisition**, i.e., when one pays money he acquires the item, even if he has not yet performed another act of acquisition. **And what is the reason** that the Sages **said** that **pulling acquires** an item and money does not? This is a rabbinic **decree lest** the seller **say to** the buyer after receiving the money: **Your wheat was burned in the loft**. If a fire breaks out or some other mishap occurs after a seller receives the money, he will not bother to save the goods in his house because they no longer belong to him, and the buyer may incur a loss.

<p>רש"ק</p> <p>מעות אין קונות מדאורייתא</p> <p>Therefore he holds the Mishnah taught only the halachah of</p> <p>פירות עבדי חליפין</p>	<p>רבי יוחנן</p> <p>דבר תורה מעות קונות</p> <p>However מרבנן only משיכה acquires מטלטלין</p> <p>גזירה שמא יאמר נשרפו חטיף בעלייה</p>
<p>מילתא דלא שכית לא גזרו בה רבנן</p> <p>The רבנן did not initiate this גזירה for an uncommon case such as where the לוקח pays the מוכר with a debt.</p>	<p>מילתא דשכית גזרו בה רבנן</p> <p>The מעות initiated רבנן only for a common sale, where the לוקח pays the מוכר with actual money</p>

מתני' רישות הגבה בכסף ורישות ההדיוט
בחזקה * אמרתו לגבה כמסורתו להדיוט:

מלך

<p>ורשות ההדיוט בחזקה</p> <p><i>A common sale is effective only when the לוקח performs משיכה</i></p>	<p>רשות הגבוה בכסף</p> <p><i>A sale of הקדש is effective only when the money is paid</i></p>
<p>כתיב</p> <p>גיזבר שנתן מעות בבהמה אפילו בהמה בסוף העולם קנה</p> <p><i>If הקדש pays money for an animal, the animal is immediately acquired by הקדש</i></p>	
<p>וְזָתָן הַכֶּסֶף וְקָם לוֹ</p> <p><i>immediately</i></p>	
<p>ובהדיוט לא קנה – עד שימשוך</p> <p><i>Because regarding מטלטלין, מוצות אין קונות</i></p>	

מתני' רשות הגבוה בכסף, ורשות ההדיוט בחזקה. אמרתו לגבוה – כמסירתו להדיוט.

MISHNA: The authority of the Temple treasury effects acquisition by means of **money** to the seller. **And the authority**, i.e., the mode of acquisition, **of a commoner [hedyot] is by possession**. Furthermore, **one's declaration to the Highest**, i.e., when one consecrates an item through speech, **is equivalent to transferring** an item **to a common person**, and the item is acquired by the Temple treasury through his mere speech.

אמירתו לגבוה - כמסירתו להדיוט

If a person pledges an item to הקדש,
the קנין is effective immediately
as if he had actually handed the item to a הדיוט.

בריתא

האומר שור זה עולה
בית זה הקדש
אפילו בסוף העולם קנה

However,

בהדיוט לא קנה
עד שימשוך ויחזיק

גמ' תנו רבנן: פיצד רשות הגבוהה בכסף? גיזבר שנתן מעות
בבהמה, אפילו בהמה בסוף העולם - קנה. ובהדיוט - לא קנה עד
שימשוך.

GEMARA: The Sages taught in a *baraita* (*Tosefta* 1:6): **How does the authority of the Temple treasury effect acquisition by means of money?**

With regard to the Temple **treasurer who gives coins for an animal, even** if the **animal is at the other end of the world, he acquires it** immediately.

And with regard to a commoner, he does not acquire the animal **until he pulls** it.

כריתא

משכו במנה

*If the הקדש sold an item to a הדיוט for 100 זוז,
and the לוקח made a משיכה*

**ולא הספיק לפדותו עד שעמד במאתים
נותן מאתים**

*If before he paid money, the price went up,
the הדיוט pays the higher price*

**משכו במאתים
ולא הספיק לפדותו עד שעמד במנה
נותן מאתים**

לא יהא כח הדיוט תמור מהקדש

*הדיוט cannot be treated worse than a הדיוט,
for whom משיכה is a final קנין.*

פיצד אַמירתו לגבוהה כמסירתו להדיוט? האומר "שור זה עולה",
"בית זה הקדש", אפילו בסוף העולם – קנה. בהדיוט – לא קנה

How is one's declaration to the Highest equivalent to transferring an item to a common person? With regard to **one who says: This ox is a burnt-offering**, or: **This house is consecrated** property, the Temple treasury **acquires** these **even** if they are **at the other end of the world**. There is no need for a further act of acquisition, as that statement alone is sufficient. Whereas **with regard to a commoner, he does not acquire** property in this manner.

עד שימשוך ויחזיק. משכו במנה ולא הספיק לפדותו עד שעמד
במאתים – נותן מאתים. מאי טעמא – "ונתן הכסף וקם לו".

until he pulls or takes possession of it. Additionally, the Temple treasury has the following advantage: If a commoner **pulled** a consecrated item for the purpose of acquiring it **with one hundred dinars, and he did not manage to redeem it** by paying the one hundred dinars to the Temple treasurer **before** the item's price **stood at two hundred** dinars, he **gives**

two hundred dinars. **What is the reason** for this? It states: **He will give the money and it will be assured to him:**

יט ואם-גאל יגאל את-השדה, המקדיש אתו: ויסף חמשים קסוף-ערבך, עליו--וקם לו. 19 And if he that sanctified the field will indeed redeem it, then he shall add the fifth part of the money of thy valuation unto it, and it shall be assured to him.

(See Leviticus 27:19). This indicates that one can acquire an item from the Temple treasury only by the actual transfer of money.

Summary

2) **MISHNAH:** The Mishnah discusses the validity of transferring property by means of חליפין.

3) **Clarifying the language of the Mishnah**

The Gemara inquires whether the Mishnah should be read literally and leads us to the conclusion that one could use coins to make a חליפין transaction.

R' Yehudah explains the true intent of the Mishnah so that one would not draw the conclusion that money could be used for חליפין.

It is noted that a careful reading of the Mishnah supports this explanation.

4) **MISHNAH:** The Mishnah notes two differences between the method of transferring property to the Beis Hamikdash and transferring property to an individual.

Mishnah Kiddushin 1:6¹

The mishna discusses a transaction involving the barter of two items. With regard to **all** items **used as monetary** value **for another** item, i.e., instead of a buyer paying money to the seller, they exchange items of value with each other, **once one** party in the transaction **acquires** the item he is receiving, **this** party **is obligated** with regard to the item being **exchanged for it**. Therefore, if it is destroyed or lost, he incurs the loss. **How so?** If **one**

¹ <https://www.sefaria.org/Kiddushin.28a.9?lang=bi&with=Mishnah%20Kiddushin&lang2=en>

exchanges an ox for a cow, or a donkey for an ox, once this party acquires the animal that he is receiving, this party **is obligated** with regard to the item being **exchanged for it. The authority of the Temple** treasury effects acquisition **by** means of **money** to the seller. **And the authority, i.e., the mode of acquisition, of a commoner [hedyot] is by possession.** Furthermore, **one's declaration to the Highest, i.e.,** when one consecrates an item through speech, **is equivalent to transferring** an item **to a common person,** and the item is acquired by the Temple treasury through his mere speech.

Introduction²

The first half of the mishnah discusses acquiring things through barter. The second half of the mishnah delves into the difference between the laws of acquisition for the Temple and those for an ordinary person.

Whatever can be used as payment for another object, as soon as this one take possession [of the object], the other one assumes liability for what is given in exchange. How so? If one exchanges an ox for a cow, or a donkey for an ox, as soon as this one take possession, the other one assumes liability for what is given in exchange.

The general rule of acquiring things through exchange is illustrated simply in the example of the cow and ox. If Reuven and Shimon exchange an ox for a cow, when Reuven takes physical possession of Shimon's cow, Shimon becomes owner of the ox, even if Shimon doesn't take physical possession. The implication would be that if the ox dies or is stolen, Shimon is out of luck for it is his ox that died or was stolen. Alternatively, if the oxen market rises dramatically Shimon wins out. For better or for worse, in an exchange once one party takes possession of one of the objects being exchanged, the other party automatically owns the other object.

The sanctuary's title to property [is acquired] by money; the title of an ordinary person to property by hazakah.

Ordinary people cannot acquire movable property by using money (see mishnah five), but the Temple can use money to acquire movable property. So if the Temple's treasurer wants to buy a cow, once he gives the cow's owner money the cow is sanctified and belongs to the Temple.

Dedication to the sanctuary is equal to delivery to an ordinary person.

²https://www.sefaria.org/Kiddushin.28a.9?lang=bi&p2=Mishnah_Kiddushin.1.6&lang2=bi&w2=English%20Explanation%20of%20Mishnah&lang3=en

A verbal declaration is not sufficient to transfer ownership. In other words, if I just pick up an object and say, "This belongs to Reuven", the object does not yet belong to Reuven. However, when it comes to dedicating something to the Temple, a verbal declaration is sufficient. If I state, "This cow belongs to the Temple," the cow belongs to the Temple and is considered sacred. We can see through both of these sections that the Temple more easily acquires property than does an ordinary human being.

Mishnah Kiddushin 1:6³

The mishna discusses a transaction involving the barter of two items. With regard to **all items used as monetary value for another item**, i.e., instead of a buyer paying money to the seller, they exchange items of value with each other, **once one party in the transaction acquires the item he is receiving, this party is obligated** with regard to the item being **exchanged for it**. Therefore, if it is destroyed or lost, he incurs the loss. **How so?** If **one exchanges an ox for a cow, or a donkey for an ox, once this party acquires the animal that he is receiving, this party is obligated** with regard to the item being **exchanged for it**. **The authority of the Temple treasury effects acquisition by means of money to the seller. And the authority, i.e., the mode of acquisition, of a commoner [hedyot] is by possession.** Furthermore, **one's declaration to the Highest, i.e., when one consecrates an item through speech, is equivalent to transferring an item to a common person**, and the item is acquired by the Temple treasury through his mere speech.

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SUMMARY⁵

A woman only drinks the Mei Sotah if two witnesses testify that she was in seclusion with the man.

If one witness testifies that a person is Chayav money he must take a Shevu'ah.

A person may force someone to swear with a Gilgul Shevu'ah even though his claim is only a Safek.

⁵ <https://www.dafyomi.co.il/memdb/revdaf.php?tid=20&id=28>

If someone calls his friend a servant he is excommunicated; if he calls him a Mamzer he is punished with Malkus.

If someone calls his friend a Rasha it is permitted to take away his livelihood.

Rava holds that when a person buys a Jewish servant, he has a Kinyan on the Guf (body) of the servant.

A person can make his friend swear with a Gilgul Shevu'ah on the claim that he bought his friend as a servant. (1)

Anything of value may be used for a Kinyan Chalipin; once the Kinyan is made on the item the trade is final and they may not back out. (2)

An example of Chalipin is an ox that is traded for a donkey; once a Kinyan is made on the ox he is Koneh the cow wherever it may be. (3)

R. Sheshes holds that fruit may be used for Chalipin, while R. Nachman argues.

R. Yochanan holds that Min ha'Torah a Kinyan Kesef is Koneh even for movable objects; however the Rabanan decreed that Meshichah is Koneh instead. (4)

A decree of the Rabanan do not apply to an unusual situation.

Reish Lakish holds that Meshichah is Koneh Min ha'Torah.

When the treasurer of Hekdesh gives money for an item it is a Kinyan, while a Hedyot is only Koneh with Meshichah.

An Amirah to Hekdesh is like a Mesirah to Hedyot; if someone says this ox

shall be an Olah or this house shall be a Hekdesh even if it is on the other side of the world Hekdesh is Koneh.

Notes:

(1). However without a Gilgul Shevu'ah he cannot make him swear because a Jewish servant is like Karka since he has a Kinyan on the Guf of the servant and one does not have to take a Shevu'ah on Karka.

(2). All objects may be used for Chalipin even something that is not a utensil with the exception of a coin.

(3). And he is responsible if a Ones happens to the cow even though he has not made any Kinyan on the cow.

(4). Because of a Gezeirah that if Kesef was Koneh and the wheat that is being sold is still in the house of the seller and there is a fire in his house he will not bother to save the wheat because it is already in the Reshus of the buyer. Therefore the Rabanan decreed that Meshichah is Koneh and consequently the seller will save the wheat because it is still in his Reshus.

MAMZER BEN MAMZER

If someone calls his friend a servant he is excommunicated; if he calls him a Mamzer he is punished with Malkus. The Ri Migash says that if someone calls his friend a Mamzer Ben Mamzer he is punished twice with Malkus since he insulted both the person and the father. Even though once he calls the father a Mamzer the son is automatically a Mamzer, however since it is possible for the son to be a Mamzer and not the father it is regarded as two separate insults and he is punished twice. The Maharam Alshakar says that if someone says to his friend that I am not a Mamzer, the implication is that you are a Mamzer and it is as if he said explicitly to his friend that you are a Mamzer and he is Chayav Malkus. (Atzmos Yosef)

KINYAN CHALIPIN

All Metaltelin are Koneh each other with Chalipin. It is not necessary to say [that it is a Kinyan] if the Makneh is not Makpid about the value of the object that is used for the Chalipin, akin to a Kinyan Sudar, that it is a Kinyan Gamur for everything except for coins and something that is not tangible, but even if he is Makpid about the value of the object that is being used, akin to a Kinyan Damim, even so it is a valid Kinyan. What is the case? If two people decide to trade a cow for a donkey and they evaluate their worth, once the owner of the

cow did a Meshichah on the donkey the owner of the donkey is Koneh the cow wherever it may be and neither one of them may back out. (Shulchan Aruch CM 203:1)

Rav Avrohom Adler writes:⁶

Gilgul Shevuah

The Gemora asks: We have derived the concept of gilgul shevuah (devolving an oath - once we force someone to take one oath, we can extend this obligation to take another oath even though there is no requirement for the other oath) from sotah, which is a matter of prohibition.

How do we know that this halachah applies to monetary law as well?

The Gemora answers: A braisa was taught in the Beis Medrash of Rabbi Yishmael: This can be derived through the following kal vachomer (literally translated as light and heavy, or lenient and stringent; and a fortiori argument; it is one of the thirteen principles of biblical hermeneutics; it employs the following reasoning: if a specific stringency applies in a usually lenient case, it must certainly apply in a more serious case): If we cannot administer an oath to a sotah based upon the testimony of one witness, nevertheless, we can impose another oath on her using the principle of a gilgul shevuah; so with respect to monetary matters, where we can administer an oath based upon the testimony of one witness, we should certainly be able to impose another oath using the principle of a gilgul shevuah!

The Gemora asks: We have derived that we may use the principle of gilgul shevuah to impose another oath in a case where the claimant is claiming with a certainty. How do we know that this halachah applies to an uncertain claim as well?

The Gemora cites a braisa where Rabbi Shimon ben Yochai derives this principle from an analogy to sotah. Just like there the Torah treats an uncertain claim the same as a certain one, so too, with respect to all oaths taken in Beis Din, the Torah treats an uncertain claim the same as a certain one.

⁶ https://dafnotes.com/wp-content/uploads/2016/04/Kiddushin_28.pdf

The Gemora asks: What are the guidelines for a gilgul shevuah? Rav Yehudah said in the name of Rav: He can even force him to take an oath that he is not his slave.

The Gemora asks: If someone refers to his friend as a Canaanite slave, he deserves to get excommunicated (so why would someone be forced to defend such an unfounded accusation)!

For we learned in a braisa:

One who calls someone else a slave should be excommunicated!

If he calls him a mamzer, he receives lashes!

If he calls him an evil person, he (the insulted person) may descend against his life (he is permitted to hate him to such an extent that he may attempt to reduce his income).

Rather, Rava says that the claimant may force the defendant to swear that he was not sold to him as a Jewish servant. The Gemora asks: That would be a legitimate claim! He is claiming that the defendant owes him money (why should this claim be different than any other monetary claim)!

The Gemora answers: Rava is following his own line of reasoning that a Jewish servant's body is acquired by the master (and therefore the servant is not regarded as movable property).

The Gemora asks: But if so, it should have the same halachah as land!? The Gemora answers: I would have thought that an oath can be imposed by a claim involving land, for one generally sells land privately, and if the claimant truthfully purchased this land, people would not necessarily know about it.

However, with respect to a Jewish servant, if the claimant did purchase him as a servant, it would be wellknown (and by the fact that people have not heard about this, we might have said that the defendant would not be obligated to take an oath in order to defend against such an extreme claim); Rava therefore teaches us that even regarding such a claim, the halachah of gilgul shevuah is still applicable.

Mishna

Anything which takes on monetary value (as payment) in place of something else, once the seller acquires it, the buyer becomes obligated for its exchange (this is what is known as chalifin).

[If the object being sold gets lost or stolen, he is responsible for it, since by the seller's meshichah, the buyer acquires the seller's object wherever it is, even though he has not yet made a physical acquisition.]

How is this so? If one exchanged an ox for a cow, or a donkey for an ox, once this one acquires one, the other one becomes obligated for its exchange.

Chalifin

The Gemora asks: If the object that the Mishna is referring to is a coin, this would prove that it would be valid if a coin was the object used for chalifin (and we hold that it cannot be used for chalifin)!?

Rav Yehudah explains the Mishna as follows: Anything, whose value must be evaluated (any object except for a coin), which takes on monetary value (as payment) in place of something else, once the seller acquires it (the coin), the buyer becomes obligated for its exchange.

Proof to this explanation can be brought from the language of the Mishna which states: How is this so? If one exchanged an ox for a cow (and it did not say "if one exchanged money for a cow"), or a donkey for an ox, once this one acquires one, the other one becomes obligated for its exchange.

The Gemora asks: According to what we initially thought that a coin can be used for chalifin, what did the Mishna mean when it said, "How so etc." (it should have said, "if one exchanged money for a cow")?

The Gemora answers: The Mishna would have been coming to teach us that produce (anything that is not a utensil) can be used for chalifin.

The Gemora asks: This would be understandable according to Rav Sheishes, who holds that produce can be used for chalifin. However, according to Rav Nachman, who disagrees, how would he explain the Mishna?

The Gemora answers: The following is what the Mishna means: There is money that can be used as chalifin. How is this so? If one exchanged money which he owed for an ox (he had purchased an ox from him but did not yet pay for it) for a cow (the benefit that he is giving him for cancelling the loan is in exchange for the cow), or money which he owed for a donkey for an ox, it is valid (for he is actually making the kinyan with money).

The Gemora asks: What is the reason for this (generally, money cannot be used to make a kinyan on movable properties)?

The Gemora answers: He holds like Rabbi Yochanan, who maintains that biblically, only money can acquire movable property, and why was there a Rabbinic decree where they replaced the kinyan of "money" with the kinyan of "pulling it near"?

This was because a seller might tell the buyer, "Your wheat was destroyed in a fire." [*Since the wheat belonged to the buyer when the money changed hands, the seller will not try hard to save the wheat. The Rabbis therefore abrogated the kinyan of money and replaced it with meshichah.*]

The Rabbis issued decrees only in common cases. However, in our case (where the purchaser is buying the animal with the cancelled loan), where it is an unusual one, the Rabbis did not impose this decree. The Gemora asks: But according to Rish Lakish, who holds that "pulling it near" is the kinyan that the Torah specifies for movable properties, how can the Mishna be explained (for "money" would certainly not be effective)?

The Gemora answers: He must hold like Rav Sheishes that produce is valid for chalifin.

Don't Call him "Evil."

One who calls someone else a slave should be excommunicated! If he calls him a mamzer, he receives lashes! If he calls him an evil person, he (the insulted person) may descend against his life (he is permitted to hate him to such an extent that he may attempt to reduce his income).

Rashi in Bava Metzia (71a) explains this to mean that the insulted person may fight with him as if the libeler hit him, and it is as if he was coming to kill him.

Furthermore, Rashi heard that he could compete against him in his line of business in an attempt to decrease his income. Rashi asks that it is hard to understand how the Chachamim would allow this person to take revenge. Some answer that here it is permitted because he suffered personally and he was subject to a public humiliation.

The Chafetz Chaim, however, writes that it is unclear if this is the accepted halachah, and therefore, one should be stringent in the matter and not take revenge. Others answer that it is permitted because if people think that he is indeed an evil person, his income will suffer tremendously, for people will not have compassion on him.

Tosfos in Bava Metzia writes in the name of the Gaonim that it is permitted to burn one-third of his grain. Tosfos concludes that this is bewildering, for where is the source for this?

THE COMPARISON BETWEEN AN EVED IVRI AND LAND

Rav Mordechai Kornfeld writes:⁷

The Gemara quotes Rava who says that the entitlement of a Gilgul Shevu'ah allows the claimant even to insist that the defendant take an oath that he is not his Eved Ivri. The Gemara asks why such a claim should differ from any other monetary claim for which an independent Shevu'ah is made (in a case of Modeh b'Miktzas or when there is only one witness).

The Gemara answers that Rava follows his own logic as expressed earlier (16a), where he says that the body of an Eved Ivri is owned by his master -- "Eved Ivri Gufo Kanuy." Accordingly, an Eved Ivri is not like other forms of Metaltelin for which a Shevu'ah may be made.

The Gemara asks that if an Eved Ivri is not considered Metaltelin, this Halachah is already mentioned in the Mishnah which states that one may make a Gilgul Shevu'ah on *land*. The Gemara answers that Rava needs to teach that a Gilgul Shevu'ah extends even to a claim of "Eved Ivri" because one might have thought that the defendant does not need to swear since, if he *is* an Eved Ivri, everyone would know about it.

The Gemara seems to compare an Eved Ivri to land with regard to the laws of Shevu'ah: just as a defendant does not make a Shevu'ah on a claim of land, he does not make a Shevu'ah on a claim that he is owned as an Eved Ivri. Apparently, this is based on the Hekesh which the Gemara earlier (22b) derives from the verse, "v'Hisnachaltem Osam" (Vayikra 25:46), which compares an Eved to land.

The Gemara understands that even an Eved Ivri is compared to land, but the verse refers only to an *Eved Kena'ani*. Exactly what type of Eved is compared to land?

⁷ <https://www.dafyomi.co.il/kidushin/insites/kd-dt-028.htm>

(a) The **SHACH** (end of CM 95:18) cites the Gemara here which compares an Eved Ivri to land, and the Gemara earlier (7a) which apparently compares a married woman to land (see **RASHI**, DH she'Yesh Lahen Achrayus). He also cites the Gemara in Megilah (23b) and in Sanhedrin (15a) which teach that when a person promises to give his value ("Dami Alai") to Hekdesh, his value must be evaluated by ten people just as the appraisal of land requires ten people when a person wants to redeem a plot of land from Hekdesh, "because an Eved is compared to land." The Shach proves from these two sources that not only is an Eved Ivri compared to land, but even a free person is compared to land.

The **MAGID MISHNEH** (Hilchos To'en v'Nit'an 5:2) also infers from the words of the **RA'AVAD** that he maintains that a free man is compared to land (see, however, (c) below).

(b) The **RAMBAM** (Hilchos Mechirah 13:15) rules with regard to Ona'ah (underpayment) that when one hires a laborer, the laborer's wages are not subject to the law of Ona'ah because hiring a worker is akin to purchasing him temporarily. The hired worker is considered an Eved and the Halachah is that "Avadim Ein Lahem Ona'ah" -- Ona'ah does not apply to Avadim just as it does not apply to land (Bava Metzia 56a, 57a).

However, perhaps the Rambam refers only to a *Nochri* worker (as the Magid Mishneh implies), and he compares the worker to an Eved *Kena'ani* whom the verse indeed compares to land. However, the **SHULCHAN ARUCH** (CM 227:33) cites this Halachah with regard to a person who "hires his *friend*" to work for him, clearly referring to a Jewish worker who is compared to an Eved Ivri. The Shulchan Aruch compares an Eved *Ivri* to land to which the law of Ona'ah does not apply. This is also the ruling of the **TERUMAS HA'DESHEN** (#318) who explains that an Eved Ivri is included in the Torah's comparison of an Eved *Kena'ani* to land (because of his title of "Eved"), as is evident from the Gemara here.

TOSFOS in Megilah (23b) proves from the Gemara there that an Eved Ivri is compared to land (but a free person is not compared to land, in contrast to the view of the Shach). Although the Gemara in Megilah discusses the case of a free person who says, "Dami Alai," his worth is determined by how much a buyer would pay for him if he would be sold as an Eved Ivri, and therefore the same number of people are needed to assess his Eved-value as are needed to assess the value of land.

Tosfos there also understands that when the Gemara earlier in Kidushin (7a) compares a married woman to land, it places her in the same category as an Eved Ivri (with regard to Kinyan Agav) and not in the category of a free

person. Although the woman certainly is a free person, she has the status of an Eved Ivri (with regard to certain matters) due to her husband's Kinyan (a Kinyan ha'Guf; see [Insights to Kidushin 21:2](#) and [22:5](#)). (Tosfos asks, however, why the Gemara compares an Eved Ivri to land when the verse refers only to an Eved Kena'ani.)

Although the Gemara (16a) derives from "v'Hisnachaltem Osam" that only an Eved Kena'ani is acquired with Chazakah and not an Eved Ivri, this exclusion may refer only to Kinyan Chazakah but not to other Halachos relevant to land.

(c) The **RAMBAN** and **RASHBA** in Bava Metzia (56b, as cited by the Magid Mishneh, Hilchos Mechirah loc. cit.) write that a Jewish worker is not compared to land and thus his wage *is* subject to the law of Ona'ah. Only an Eved Kena'ani is compared to land. This is also the opinion of **TOSFOS** earlier in Kidushin (7a, DH Im Ken). Even Rashi there may agree with Tosfos on this point.

This also seems to be the view of **RABEINU CHANANEL** in Sanhedrin (15a) who writes that when a person says "Dami Alai" his value is assessed by ten people *not* because an Eved Ivri is compared to land, but because his assessment is based on his value as an Eved *Kena'ani*, and an Eved *Kena'ani is* compared to land.

This also may be the intention of the **RA'AVAD** (cited in (a) above). The Ra'avad means that with regard to payment for damages, the payment for injury to a free person is compared to payment for damage to land because injury to a free person is assessed based on what his value would be if he would be sold as an Eved, as the **VILNA GA'ON** writes (CM 95).

*(These Rishonim follow the view of the Rosh and most Rishonim in the beginning of the eighth Perek of Bava Kama (83b), that damages are assessed on the basis of the person's value as an Eved Kena'ani who is sold permanently, and not on the basis of his value as an Eved Ivri who is sold temporarily. However, Rashi in Bava Kama there writes that damage to a person is assessed according to his value as an Eved Ivri. See **KUNTRESEI SHI'URIM** to Bava Kama.)*

The **RITVA** and **RAN** explain that the Gemara here does not intend to compare an Eved Ivri to land. Rather, the Gemara means that an Eved Ivri is not like ordinary Metaltelin. This may be the intention of Rashi here as well (DH Gufo Kanuy).

THE DIFFERENCE BETWEEN "MALKUS D'ORAISA" AND "MAKAS MARDUS"

The Beraisa teaches that one who calls another person a Mamzer "receives forty lashes." **RASHI** explains that this punishment was enacted by the Rabanan as a penalty. Lashes that are mid'Rabanan are called "Makas Mardus."

The wording of the Gemara implies that the same number of lashes are administered for Makas Mardus as for Malkus d'Oraisa (forty, which means forty minus one, or 39). However, the Mishnah in Nazir (23a) teaches that when a woman drinks wine under the impression that she is a Nazir, unaware that her husband already annulled her Nezirus, she does not receive the Torah-prescribed Malkus which one normally would receive for transgressing a Neder. Rabbi Yehudah adds that she *does* receive Makas Mardus (Malkus d'Rabanan). The Gemara there implies that Makas Mardus differs from Malkus d'Oraisa.

In what ways does Makas Mardus differ from Malkus d'Oraisa?

(a) **TOSFOS** (Nazir 20b, DH Rabbi Yehudah) and the **ROSH** (ibid.) cite a Tosefta in Makos (3:10) which teaches that Malkus d'Oraisa is comprised of 39 lashes, but Beis Din must evaluate the strength of the person liable for Malkus and determine how many lashes he can tolerate (before they endanger his life). Makas Mardus is different; the person is beaten until he either accepts to do what Beis Din tells him to do or "until his soul leaves him" (Kesuvos 86a).

The **ARUCH** (Erech "Mered") differentiates similarly between the two types of Malkus. He writes that one who transgresses a Mitzvas Aseh (by refusing to fulfill it) is lashed until his soul leaves him, and one who transgresses the words of the Chachamim is lashed with no assessment of his strength and no set number of lashes. (The Aruch writes that these lashes are called "Makas Mardus" because the person "rebelled" (Marad) against the Chachamim and the Torah.) This is also the opinion of the **GE'ONIM** (cited by the **NIMUKEI YOSEF**, end of Makos). The **RAMBAM** (Hilchos Chametz u'Matzah 6:12) also writes that Makas Mardus for one who eats Matzah on Erev Pesach (an Isur d'Rabanan) is administered until he does what he is supposed to do or until his soul leaves him. **RASHI** in Chulin (141b, DH Makas) also writes that Makas

Mardus involves lashes without limit (until the person accepts to do what he is supposed to do).

Why, though, are the laws of Malkus d'Rabanan stricter than the laws of Malkus d'Oraisa? This question is especially applicable in the case of the Mishnah in Nazir, in which the sin of the woman cannot even be called a transgression of an Isur d'Rabanan; she is punished merely for *intent* to transgress an Isur d'Oraisa.

The **RIVASH** (#90) addresses this question and concludes that Makas Mardus which is administered "until his soul leaves him" is merely a form of *preventative* Malkus, given as rebuke to convince a person to fulfill a Mitzvah actively (Kum v'Aseh). However, if a person transgressed a Mitzvah d'Rabanan and Beis Din simply wants to punish him for his wrongdoing, Makas Mardus certainly has a limit, and it is treated like Malkus d'Oraisa. **TOSFOS** and the **ROSH** in Nazir make a similar distinction.

(According to the Rivash, the word "Mardus" does not mean "rebellious" but "rebuke," as in Berachos 7a. See also Rashi in Chulin, loc. cit.)

(The Rivash adds that for refusal to fulfill -- or to stop transgressing -- a Mitzvah d'Rabanan, Beis Din never beats a person until his soul leaves him. However, Rashi and the Rambam (ibid., according to the text of the Rambam which appears in our editions; see commentators there) apparently disagree with the Rivash on this point and sanction unlimited Malkus even for refusal to fulfill a Mitzvah d'Rabanan.)

(b) The **RIVASH** cites **TOSFOS** (see Tosfos to Bechoros 54a, DH u'Shnei) who explains that Makas Mardus is comprised of 39 lashes like Malkus d'Oraisa, but they are not as powerful. They are given while the person is dressed and without the full strength of the one who administers them. This explains why Beis Din is not required to assess whether the person can tolerate the Malkus.

Some add that Makas Mardus is administered with a stick instead of a whip (see Rashi to Sanhedrin 7b, DH Makel). According to this view, the word "Mardus" may be based on the expression, "Rodeh b'Makel" (see Sotah 40a, Shabbos 52b).

(c) The Rivash himself proposes that Makas Mardus are comprised of no set number of lashes. In contrast to Malkus of the Torah for which the number of lashes is determined by the strength of the sinner, the number of lashes of Makas Mardus is determined by the severity of the *sin*. He concurs with Tosfos that the lashes are not as strong or as painful as Malkus d'Oraisa. However, if

the sin was not severe, he is given only the number of lashes which that particular transgression warrants even if he can tolerate more lashes.

Perhaps the Rivash understands the reason why the Gemara here prescribes *forty* lashes of Makas Mardus in the same way that **TOSFOS** and the other Rishonim understand it. The sinner is given forty lashes because he accused his fellow man of being a Mamzer and transgressing the Lo Ta'aseh against marrying a Jewess, for which he should be punished with Malkus d'Oraisa. The sinner therefore deserves forty lashes for making such an accusation.

(d) **RABEINU TAM** (cited by the **SHILTEI GIBORIM** on the **MORDECHAI**, Bava Basra 8:1, and by the **TESHUVOS RASHBASH** #96) explains that the punishment of Makas Mardus for a transgression which one already committed is comprised of only 13 lashes and not 39. The Torah prescribes 39 lashes because it requires that a triple set of lashes be given -- one set on each of the two shoulders, and one set on the stomach. Makas Mardus does not need to be tripled and is administered only on the back, and therefore only 13 lashes are given.

This may be the intention of the Aruch when he mentions that Malkus d'Oraisa must be "Meshulashos," but not Makas Mardus.

The Punishment Fits the Crime

Steinsaltz (OBM) writes:⁸

The Gemara on *our daf* quotes a *baraita* that teaches:

- If someone calls another person an *eved*, he is ostracized.
- If one calls another a *mamzer*, he is *sofeg et ha-arba'im* – liable to receive forty lashes.
- If one calls another a *rasha*, *yored imo le-hayyav* – the insulted person can harass the accuser in all aspects of his life (i.e., the courts will not respond, but the individual who has been targeted as a *rasha* can take matters into his own hands).

⁸ <https://steinsaltz.org/daf/kiddushin27/>

Rav Shmuel ben Hofni Gaon was asked why the different epithets receive such different punishments, and he answered that these were simply edicts that could not be explained. Rav Se'adya ibn Danan responded to this by arguing that such an explanation might be appropriate when dealing with a difficult-to-explain biblical law, but when discussing a rabbinic ordinance, there must be a logical explanation for their ruling.

He suggests that each of these punishments fits the crime *midah ke-neged midah* – each in an appropriate fashion.

When someone calls his friend a slave, he is attempting to remove him from the Jewish community by means of his accusation. In response he himself is ostracized, which effectively removes the accuser from interaction with the community.

When someone calls his friend a *mamzer*, he is not impugning his Jewishness, but he is attempting to injure him personally, since, according to Jewish law, a *mamzer* is very limited in the people who he can marry. Therefore we punish the accuser personally by giving him *malkot*.

If someone calls his friend a *rasha*, that causes the slandered to lose the sympathy of others. In response we show no mercy on the accuser and allow the accused to harass him.

Calling another Jew a “רשע”

רשע—יורד עמו לחייו

In its discussion regarding the cases where we apply the rule of גלגול שבועה, the Gemara suggests that one case may be where Reuven demands that Shimon take an oath that he is not Reuven's slave.⁹

The Gemara quickly notes that if anyone publicly calls someone else a slave, the Jewish court will reprimand him and even banish him for having insinuated that this man's status is compromised. In fact, if Reuven calls Shimon a רשע – an evil person – the Baraisa uses an enigmatic term and rules “יורד עמו לחייו” – he may pursue him to his very life.”

Rashi here explains that this means that it is permitted to undermine the person's ability to earn a living, and to interfere with his vocation, yet Rashi in Bava Metzia 71a asks how it is possible that our sages permitted outright revenge and to allow a Jew to harm another. Furthermore, the Gemara (Kesuvos 50a) teaches that a father may contend with his son until he is

⁹ <https://dafdigest.org/masechtos/Kiddushin%20028.pdf>

twelve years old and encourage the son to study properly. After age twelve, the father may be “יורד עמו לחייו”.

How can this response make any sense when referring to dealing with a son and attempting to encourage him to learn Torah properly?

Rather, Rashi explains that the Gemara which instructs how to deal with one's son means that a father may take a direct and disciplinary approach if necessary, and to compel the son to study in a structured manner.

In response to Rashi's question, Maharam Shif explains that our Gemara is discussing how to react to someone who shames another Jew by calling him “an evil person.” The offender has demonstrated that he has removed himself from the category of one who fulfills “עמך אחיך וחי” —live together with your fellow brother.” He is now able to be dealt with measure for measure, and to be subject to scorn for his verbal abuse.

Igros Moshe (Choshen Mishpat, 1:38) writes that this halacha only applies to where the insult was launched unprovoked. However, where the belittling remarks were spoken as part of a heated exchange in the midst of feuding between the parties, the one who verbalizes them should not be vilified. He was himself hurt, and his poor choice of words under such circumstances should not be treated with such contempt.

Oral consecration of property

אמירתו לגבוה כמסירתו להדיוט

A statement of consecration is as effective as handing an object to a private person.

The Yerushalmi (1) writes that the source for the principle, of statement A — אמירתו לגבוה כמסירתו להדיוט consecration is as effective as handing an object to a

private person, is the pasuk (Tehillim 24:1)— לה' הארץ ומלואה To Hashem is the land and all that is in it.

Meiri (2) explains that the Beis Hamikdash acquires the property through the mechanism of חצר — courtyard. Since the entire world is Hashem's property, He acquires the property as soon as the benefactor makes his declaration.

This approach would seem to have bearing on a dispute between Nesivos and Or Sameach. Nesivos (3) maintains that land cannot be acquired via the mechanism of חצר whereas Or Sameach (4) holds that one can acquire land via the kinyan of חצר. Since the principle that a declaration of consecration applies even to land it would seem that the Yerushalmi supports the approach of Or Sameach.

Rosh (5) offers an alternative source for this principle. He maintains that the pasuk (Devarim 23:24) — מוצא שפתיך תשמור You should watch what comes out of your mouth. This source indicates that hekdesch does not acquire the property at the time of the declaration; rather it creates an obligation to fulfill the vow that the benefactor made.

Rav Chaim Ozer Grodzenski (6), author of Teshuvos Achiezer, explained that even according to Rosh the declaration of consecration automatically transfers the property to the Beis Hamikdash and it does not constitute a mere vow to be fulfilled.

The verse cited by Rosh is necessary to teach the halacha of a declaration that an item will be sacred after thirty days. If one made a declaration to transfer property to a private person after thirty days, he would have the ability to retract within the thirty days but when the declaration was made to consecrate property the verse obligates him to follow through on his commitment.

When, however, the consecration was made without qualification it is effective immediately.

1. ירושלמי קידושין פ"א ה"ו.
2. מאירי ד"ה המשנה השביעית.
3. נתיבות המשפט סי' רמ"א סק"ג.
4. אור שמח פ"א מהל' גירושין ה"א.
5. רא"ש לנדרים כ"ט: ד"ה שאני.
6. שו"ת אחיעזר ח"ג סי' ס"ז סק"ג. ■

The sinning "Tzaddik"

"אמירתו לגבוה כמסירתו להדיוט..."

People can sometimes act very righteous in certain areas but be appallingly unreceptive to correction in others.

It's almost as if they feel that their good actions will atone for their lapses. In a certain town they were having serious trouble dealing with just such a person.

On the one hand, his davening was superlative. He always came precisely on time and would pray with such fervor that he frequently cried tears from the magnitude of his dveikus. His prayers inspired everyone.

Unfortunately, there was a down side. This man was an informant and extortionist. Whenever he found out any information, he could use to make trouble for a fellow Jew, he would threaten to disclose it to the proper, and most often thoroughly corrupt, authority if a payment in cash was not immediately forthcoming.

He was as good as his word and never double-crossed his "cash customers." If he received the money on time he would not inform. But if he was refused or the money was not presented on time, he would always inform. The people of the town had the ability to make serious trouble for him but they wondered: should they really make trouble for this "tzaddik"?

Since they didn't know what to do, they consulted with Rav Uri of Strelisk, zt"l, who immediately quoted today's daf.

"It says in Kiddushin 28, 'אמירתו לגבוה, כמסירתו להדיוט'. Although this literally means that one's pledge for hekdesch is equivalent to handing it over to a person,

there is another explanation that applies to this man.

We can tell the true level of one's words to Hashem in prayer by whether one informs on his fellow Jew. You should definitely ignore any of his so-called 'greatness' in his prayers and stop this wicked man!" (1)

¹אמרי קדוש השלם, עמוד קע"ג

It's not about the money

Rabbi Seth Goren writes:¹⁰

In today's economy, we typically think of transactions as involving money. True, there may be times where we trade our lunch dessert for a colleague's package of potato chips, but such barter situations are relatively uncommon. On *our daf*, the rabbis ask this question explicitly: Are the rules about transactions applicable only to money transactions?

The mishnah on *our daf* is pretty straightforward. If you're trading "items used as monetary value for another item," once one of the parties acquires the item they're receiving, that person becomes obligated to hand over the other item in the exchange. The mishnah even offers an example: If two people are bartering an ox for a cow or a donkey for an ox, once one of them acquires the animal they're getting, that person has an obligation to hand their animal over.

But this phrase "items used as monetary value for another item" is a bit peculiar. What does it mean exactly, and does it include money itself?

Rav Yehuda said: This is what (the mishnah) is saying: All items that can be appraised as monetary value for another item, once one (party) acquires, this (party) is obligated to exchange for it.

According to Rav Yehuda, this particular mishnah is talking about something that can be appraised, as opposed to money which needn't be appraised because its value is obvious. Pretty much any object other than money fits the bill. The mishnah offers the example of the ox/cow and donkey/ox exchanges as straightforward illustrations of this kind of barter.

To our modern sensibilities, it might be peculiar to have different rules for cash and barter transactions. As soon as I hand over my money or my bit of barter, shouldn't that be the moment I have a right to the item I've purchased? What's the rationale for having different rules for cash transactions?

In fact, later on the *daf* we find an opinion from Rabbi Yohanan that, by Torah law at least, there is no difference — whether it's cash or barter, the moment there is an exchange, the item is acquired. Rather, it's according to rabbinic law that a further step is required beyond money changing hands.

And what is the reason (that the sages) said that pulling acquires? It was decreed lest the seller says: Your wheat was burned in the loft.

The rabbis required a further act, pulling, to effect a cash sale, and their concern is a fair one. Let's say Sarah buys wheat from Rebecca and pays cash for it. We typically consider Sarah's acquisition of the wheat to be complete even if she hasn't yet taken possession of it. But if Sarah owns the wheat that's still in Rebecca's possession, what incentive does Rebecca's have to keep the wheat safe? She has her money, so if the wheat catches fire in some sort of accident, what's it to her? (In

¹⁰ <https://www.myjewishlearning.com/article/kiddushin-28/>

fact, we saw this same scenario back in Eruvin, where the rabbis expressed concerns that currency transactions were more susceptible to fraud and treachery.) To avoid this outcome, the rabbis require Sarah to “pull” the wheat to effect the sale. Exactly what it means to pull wheat is a longer conversation we’ll save for another time.

Though Rabbi Yohanan’s position is challenged on today’s daf, later *halakhic* authorities agree that the Torah does indeed hold that moveable property is acquired through money. It is only by rabbinic law that moveable property must be lifted or pulled to effect acquisition. If you want to learn more about currency-based transactions, you’ll have to wait until we get to Bava Metziah next year. For now, though, it’s not about the money.

Rabbi Johnny Solomon writes:¹¹

Our daf (Kiddushin 28a) quotes a Beraita which states that: ‘Someone who calls their friend a slave should be placed under a ban. If he calls him a Mamzer, such a person should be lashed. And if he calls him a wicked person, then the one who has been insulted may contest the insulter’s livelihood’.

As you may expect, the classic commentaries invest much time explaining the relevance of each punishment (ban/lashing/contest livelihood) to each of the three insults that are listed (slave/Mamzer/wicked). However, what I would like to focus on is the beginning of this Beraita which explains that we are talking about a situation where this insult has been said to a friend.

Sadly, especially when we feel angry or stressed, we can lash out to those nearest and dearest to us and say things that we deeply regret. Alternatively, in a moment of jest, we can call our friends a name which, in any given context, would be considered to be a terrible insult. In both instances, we often think that our friend will understand that ‘this is what friendship is about’. However, words matter. Labels matter. It is never acceptable to treat another as a verbal punchbag. And even when we think we are speaking in jest, others can hear our words in an altogether different tone.

Having explained what a friendship isn’t, we should ask what a friend is? A friend is someone who, when spoken to rudely, loves you and your friendship enough to say that it is not acceptable, and then, presuming that the relationship is salvageable, helps you find ways to address or channel your stress or jest in more constructive ways. They are someone who tells you the truth even when you don’t want to hear it. And they are, as Bernard Meltzer once said, ‘someone who thinks that you are a good egg, even though they know that you are slightly cracked’.

¹¹ www.rabbijohnnysolomon.com

So as we approach Rosh Hashanah, while we must certainly apologize to the neighbour and acquaintance that we don't get along with but whom we may have wronged over the past year, we should also make time to consider how we have treated our friends, whether we have lashed out at them or called them names that have hurt them more than we realize, and apologize.



A Prize Fight, From the National Sports of Great Britain

Slander

Mark Kerzner writes:¹²

The courts once had this power that if one called another a slave, he would be put under a ban, and if he called him a "mamzer" (bastard), the courts could flog him.

If one calls another a bad person (Rasha), courts do not get involved, but the one slandered can compete with the offender in business, even unfairly. What about the law of not taking revenge? It does not apply if one is hurt or humiliated in public. However, since it is uncertain if the above ruling is accepted, one should refrain from revenge even in this situation.

¹² <https://talmudilluminated.com/kiddushin/kiddushin28.html>



What the Talmud Teaches Us About Disagreeing in a Productive and Constructive Manner

By Hershey H. Friedman See *Daf Ditty Nedarim 45*¹³

Talmudic Arguments: The Use of Insults, Reprimands, Rebukes and Curses as Part of the Disputation Process

¹³ [https://www.jyungar.com/daf-ditty/2022/12/10/nedarim-45-angry-partners:](https://www.jyungar.com/daf-ditty/2022/12/10/nedarim-45-angry-partners)
https://www.researchgate.net/publication/308765370_What_the_Talmud_Teaches_Us_About_Disagreeing_in_a_Productive_and_Constructive_Manner

Hershey H. Friedman, Ph.D. writes:¹⁴

In the Talmud, the colleague one argued with most in legal matters in the Talmud was known as “*bar plugta*” who was typically one’s best friend. This was seen as the ideal study partnership since it involved constructive arguing; one might see it as form of adversarial collaboration. Unfortunately, arguing often results in insults being hurled and there is always the risk that an insult can be seen as harsh rather than playful or part of the disputation process. One example of an insult used fairly frequently is the term *terada* which either means scatterbrain or lunatic. The following insult was said about Rabbah bar bar Chanah [bar means son]: “Every Abba is as stupid as a donkey; and every bar bar Chanah is a fool.” This paper examines and discusses many different insults, reprimand, rebukes and even curses used by the sages.

¹⁴ SSRN: <https://ssrn.com/abstract=2801821> or <http://dx.doi.org/10.2139/ssrn.2801821>

Disagreements, often over small matters, lead to discord and even war. If people can learn how to disagree with each other and yet be respectful, the world would be a much better place. Sacks (2006: 209) makes the point that: “Difference does not diminish; it enlarges the sphere of human possibilities... We will learn to live with diversity once we understand the God-given, world-enhancing dignity of difference.” One of the myths of history is that religion is the cause of most wars. Actually, Phillips & Axelrod (2004) examined 1,763 wars recorded in history and found that only 123 had a religious cause. Thus, religion accounted for about 7% of all wars and approximately 2% of all fatalities during warfare (Lurie, 2012).

Lurie asserts:

History simply does not support the hypothesis that religion is the major cause of conflict. The wars of the ancient world were rarely, if ever, based on religion. These wars were for territorial conquest, to control borders, secure trade routes, or respond to an internal challenge to political authority. In fact, the ancient conquerors, whether Egyptian, Babylonian, Persian, Greek, or Roman, openly welcomed the religious beliefs of those they conquered, and often added the new gods to their own pantheon (Lurie, 2012).

White (2012) comes up with a different statistic and concludes that religion was responsible for the death of 47 million people, or 10% of deaths. Apparently, it is not that easy to answer the question as to how many people died in the name of religion. One thing, however, is clear: Religion should not be blamed as the major cause of violent death. It is indubitably true that disagreements, even those with neighbors, can be destructive. Jacoby (2011) states that it is not strangers that we should fear, it is our own neighbors. He says that “we live in an era of ethnic, national, and religious fratricide.” Our own neighbor is the one likeliest to kill us. People kill each other over relatively small differences. Indeed, Barash &

Webel (2009: 192) state that differences in ideology between groups or countries, whether based on politics, economics, or religion, can often lead to war. These wars are frequently quite vicious since ideologues tend to be certain that only their beliefs are correct. They act like they are omniscient and do not tolerate dissent.

Knowing how to disagree without resorting to violence is important for everyone. According to Vozza (2016), companies are hiring individuals who have effective conflict resolution skills, i.e., possess the art of “nonviolent communication” and can disagree in a way that does not cause major conflicts. Today’s U.S. Congress is a prime example of not knowing how to disagree in a productive manner. One website compiled ten insulting terms used in the media to describe the outgoing 112th Congress. These terms included: dysfunctional, do-nothing, most disliked, incompetent, worthless, clowns, and unproductive (Maass, 2013). This is a major reason there is gridlock in government and if it continues the United States will quickly find that it has become a second-rate power.

Friedman (2014) uses the Talmud as a tool for teaching the art of constructive arguing. He posits that the Talmud consists of thousands of disagreements regarding Jewish law yet served as a device to keep the Jewish people united. For example, there are hundreds of arguments between Abaye (ca. 278 CE – 339 CE) and Rava (ca. 270 CE – 350 CE) in the Talmud; in fact, one can find an argument between the two on almost every other page. Yet Abaye and Rava were friends and are even buried together in the same cave. Talmudic arguments did not lead to ugly battles (there are some exceptions) but were seen as the way to clarify the law as well as philosophical questions. In almost every case, the person one argued with most was a close friend.

With so many arguments in the Talmud, it is no surprise that there are quite a few cases where one scholar insulted or rebuked another colleague or student. Despite this, they remained friends. This paper will examine Talmudic insults and rebukes and see the lessons that can be learned from them. Even when insulting another person it is important to remember that this must be done in a manner that does not cause the other party to reject everything. The Talmud uses the expression of “pushing away with the left hand while simultaneously drawing closer with the right hand” as the proper way to rebuke (Babylonian Talmud, Sotah 47a). The stronger hand, the right hand, draws close and makes it clear that the rebuke is not an act of total rejection. There is an art to properly admonishing a student or someone who is doing something wrong.

Debating Styles: Babylonian vs. Israeli

Not all the sages in the Talmud argued in a calm manner. The Talmud notes that the scholars of Israel treated each other pleasantly and respectfully when debating law; the Babylonian scholars sometimes hurt each other’s feelings when debating

(Babylonian Talmud, Sanhedrin 24a). Rabbi Oshaia interprets a verse in Zecharia 11:7 homiletically to refer to the two debating styles. The Babylonian scholars were *hoblim* (literally, injurers) who hurt others feelings when debating. The Israeli scholars were *noam* (literally, pleasant), i.e., treated each other pleasantly when arguing Jewish law. Rabbi Yitzchak interpreted a different verse in Zechariah (4:14) to refer to the different debating styles. He compared the Israeli scholars to olive oil which is soothing and pleasant; the Babylonian scholars were compared to the wood of the olive tree which is bitter. This may help explain the following statement: “Three hate each other: Dogs, roosters, and sorcerers. Some say, also prostitutes and some say, also the scholars in Babylon (Pesachim 113b).” As noted, the scholars of Babylon were sometimes harsh when arguing the fine points of *halacha*. The Talmud contrasts the eulogies of the scholars of Israel vs. the scholars of Babylon (Babylonian Talmud, Megillah 28b). Resh Lakish, a great Israeli scholar, had no problem eulogizing an ordinary scholar with lavish praise (“Woe! The land of Israel has lost a great man!”). Rabbi Nachman, a Babylonian scholar was reluctant to be that effusive in an eulogy unless the scholar was truly accomplished. It should be pointed out that scholars who compared the Babylonian Talmud with the Jerusalem Talmud – 82 basic differences have been found – note that ad hominem attacks are much more prevalent in the former. Even when comparing parallel stories that appear in both Talmuds, the negative criticisms generally do not appear in the Jerusalem Talmud (Brand, 2013).

This discussion in the Talmud would convince one that the Jerusalem Talmud should be superior to the Babylonian Talmud. Actually, it is the opposite and the codifiers of Jewish law rely almost completely on the Babylonian Talmud which is much more authoritative than

the Jerusalem Talmud. The Anaf Yosef says that the above statements critical of the Babylonian style of scholarship was only true for one generation (that of Rabbah, Rabbi Yochanan, and Rabbi Zera). After that, learning improved greatly in Babylonia and eventually scholarship there was well above that in Israel. One might assume the criticism of the old style of debating resulted in a sea change and the Babylonian scholars learned to work together. Indeed, as noted earlier, one's best friend was the scholar one argued with most.

Rabbi Chiya b. Abba (Babylonian Talmud, Kiddushin 30b) homiletically derives from a verse that "even a father and son and teacher and student who study Torah at the same gate [appear to] become enemies of each other; yet they do not leave from there until they come to love each other." Rabbi Chiya is describing a style of debating that is harsh but leads to love in the end.

The following are some of the rebukes and insults one finds in the Talmud and Midrash. One should keep in mind that the scholars of Babylon "had a mutual understanding that insult was an accepted and expected part of the discourse, and that it was not to be taken personally or with offense" (Dratch, 2014).

The Chavos Yair (Responsum 152) examines several of the insults in the Talmud and attempts to explain them. He is puzzled by the fact that some of the sages appear to be so harsh to each other. He believes that many of the insults involve teachers talking to students and this was a device used by educators to motivate disciples.

This paper relies heavily on translations by Soncino and ArtScroll. The Soncino translation of the Talmud is available for free on the Internet. They may be found at: <http://www.halakhah.com/>. Translations of the Talmud may also be found at the Sefaria

website, <http://www.sefaria.org/>. There is a search engine at the Sefaria website that is extremely useful.

The names of the sages usually indicated the father's name; the "b." means *ben* (Hebrew) or *bar* (Aramaic) meaning son. For example, Eliezer b. Shimon is Eliezer the son of Shimon.

"Dwelling in a Dark Land"; "Babylonian Fools"

Some of the sages living in Israel were critical of Babylonian erudition. Interestingly, the Babylonian scholars admitted that the "air of Israel makes one wise." In particular, Rabbi Yirmiyah was quite critical of the scholarship of the Babylonians. He sarcastically referred to Babylonia as a "dark land" either because of its low altitude or because the Zoroastrians (fire-worshippers) did not allow the Jews to have any light during their festivals (Babylonian Talmud, Pesachim 34b, see Rashi and Soncino note 1b). Rabbi Yirmiyah felt that the Babylonian scholars would provide dubious explanations for various laws if they did not know the real reason.

Rabbi Yirmiyah remarked: "The Babylonian fools, because they dwell in a dark land, they express dark legal opinions" (Babylonian Talmud, Pesachim 34b). Rabbi Yirmiyah also came up with a unique interpretation of the verse in Lamentations (3:6) "He made me dwell in darkness like the eternally dead." He said that this verse refers to the learning of the Babylonians (Babylonian Talmud, Sanhedrin 24a). Rabbi Yirmiyah preferred the Israeli style of argumentation that was more relaxed than the competitiveness of the Babylonian scholars.

As noted above, he felt that the Babylonian style of debating would result in opinions that were not well thought out and conclusive.

“Those Babylonians are Fools, They Eat Bread Together with Bread”

Rabbi Yirmiyah’s teacher, Rabbi Zera, also referred to the Babylonians as fools when discussing their diet: “Those Babylonians are fools, they eat bread together with bread (Babylonian Talmud, Nedarim 49b; Beitzta 16a). The Babylonians ate bread with *daisa* (a dish made of pounded grain, similar to grits). This might be analogous to someone today who ate pizza with bread.

“Do not be Upset for One of Them is Equal to Two of Us”

Rabbi Ashi made this remark to Rabbi Sama stating that one scholar who is from Israel is equal to two Babylonian scholars (Babylonian Talmud, Menachos 42a). Ravina, a scholar from Israel, had refuted a statement that Rabbi Sama made about *tzitzith* and he was embarrassed.

Abaye also remarked to Rava that one Israeli scholar was equal to two Babylonian scholars. Rava replied: When one of us goes to Israel he is better than two of the Israeli scholars. “After all, when Rabbi Yirmiyah was here he did not know what the rabbis were talking about, but after he went up to Israel he called us Babylonian fools” (Babylonian Talmud, Kethuboth 75a).

“They Laughed at this in the West [Israel]”

It should also be noted that if a Babylonian sage would come up with an unusual explanation, the Talmud might state that “they laughed at this in the West” (i.e., in the academies of Israel which is to the west of Babylon). This expression is used in many places in the Babylonian Talmud (Beitzah 14a; Yevamot 88a; Nazir 42a; Bava Kama 102b; Sanhedrin 109b; Shevuot 26a, 34b; Zevachim 15a, 62a). The Talmud (Babylonian Talmud, Sanhedrin 17b) is very explicit as to who is meant by “West.” It refers to Rabbi Yosi b. Chanina (his academy?). Apparently, some scholars in Israel had no problem laughing at explanations which they felt were ridiculous (e.g., Babylonian Talmud, Nazir 42a; Babylonian Talmud, Sanhedrin 109a). This is the Talmudic way of saying that the Israeli sages thought the explanations of the Babylonian sages were absurd.

In Sanhedrin 109a, the discussion involves the sin of the Generation of the Dispersion that built the Tower of Babel (see Genesis 11:1-4). The Torah does not actually disclose how they sinned. The Babylonian scholars of Rabbi Shela’s academy said that they wanted to build a tower, ascend to the sky, and strike it with axes to make its water flow. In other words, they wanted a constant source of rain and thus never have to pray to God (ArtScroll). The reason for the laughter was because if this was the reason, they should have built the tower on a mountain, not a valley. In Nazir 42a, the expression is used to mock an objection raised by Rabbi Yosi b. Chanina to a statement dealing with the laws of the nazirite. Here it must be referring to a different academy in Israel.

“Stuff it down Shabba’s Throat”

Rav b. Shabba does better in this story. At least he is not forced to eat liver.

Rav bar Shabba was a guest in Rabbi Nachman’s house and was served with well-cooked liver but he would not eat it. They told Rabbi Nachman: “There is a young student inside, namely Rav b. Shabba who will not eat it.” Rabbi Nachman replied: “Stuff it down Shabba’s throat” (Babylonian Talmud, Chullin 111a; based on translation by Soncino).

Rav b. Shabba did not eat it because he followed the opinion of Rabbi Yishmael, the son of Yochanan b. Beroka, that well-cooked liver is prohibited because it absorbed the blood that was emitted during the cooking process (Babylonian Talmud, Chullin 111a). The fact that the name of Rav b. Shabba’s father was used makes it apparent that Rabbi Nachman was angry and did not want to use the first name. The commentaries discuss why Rabbi Nachman

wanted the liver stuffed down Rav b. Shabba's throat when people are permitted to take on stringencies.

Student (2012) discusses the issue of students disagreeing with their teachers. He notes that the Minchas Elazar (4:6) enumerates several cases where Talmudic sages disagreed with their fathers and/or teachers. He mentions this story:

The upshot is that you need not (should not) check your brain at the door when studying Torah but you must take care to relate to your mentor with respect. Exactly what that entails is debated. I suspect that it might also differ by personality, with some demanding less deference than others. The Gemara (Chullin 111a) tells how one of R. Nachman's students refused to eat the liver served in the teacher's home out of concern for the view that liver is forbidden even when broiled. When R. Nachman realized what was happening, he used colorful language to instruct the other student to force the reluctant student to eat the liver. He would not allow a student to follow a different view, to disagree with him, at least in his home. I suspect that most Torah teachers are more tolerant of individualistic behavior.

“Vinegar son of Wine”

Rabbi Elazar the son of Rabbi Shimon (b. Yochai) became a police officer for the king. His job was to apprehend robbers. He was very good at his job and arrested many robbers. The Roman authorities executed them. He was criticized for doing this by Rabbi Yehoshua ben Korcha who sent him the following message: “Vinegar son of wine! How long will you hand over the people of our God to their execution!” His response was: “I am ridding the vineyard of its thorns!” Rabbi Yeshoshua replied: “Let the Master of the vineyard come and get rid of His thorns Himself” (Babylonian Talmud, Bava Metzia 83b).

“Vinegar son of Wine” was Rabbi Yehoshua's way of criticizing Rabbi Elazar b. the son of the great scholar Rabbi Shimon b. Yochai. He was making it clear that what he was

doing was wicked. Both father and son hid from the Romans in a cave for 13 years (Babylonian Talmud, Shabbos 33b-34a). All they had for sustenance were carobs and water. The reason they had to go into hiding was because Rabbi Shimon b. Yochai was critical of the Romans. This is what he said about the Romans: “All that they made they made for themselves; they built marketplaces, to set harlots in them; bathhouses, to beautify themselves; bridges, to levy tolls for them” (Babylonian Talmud, Shabbos 33b). It is ironic that Elazar b. Shimon went to work for the Roman authorities. He is known in the Talmud for his huge stomach (Babylonian Talmud, Bava Metzia 84a). One can safely assume that this huge belly did not come from carobs and water.

“Acher” (the Other)

Acher’s real name was Elisha ben Avuyah. Acher means “the other”; this name was used to indicate that he had transformed himself into another person and left the sages to live a hedonistic lifestyle as a heretic.

It is not clear what is meant by “*pardes* in this story” (It is probably related to the word Paradise); it actually means orchard or garden. Soncino Talmud cites sources that claim it is the mystical realm of theosophy. Most believe that the four scholars were studying some mystical aspects of Kabbalah. It is not even clear how they entered the *Pardes*. One opinion is that they used a secret name of God and actually made it into Heaven (Rashi). Another opinion is that it appeared to them that they were in Heaven (Tosafot). This story follows rules that limit the teaching of *maaseh merkaveh* (“Account of the Divine Chariot”) to the most worthy of students who meet certain criteria. *The maaseh merkaveh* is described in the first chapter of Ezekiel.

Our rabbis taught: four entered the “Orchard” (*Pardes*), namely Ben Azzai, Ben Zomah, Acher, and Rabbi Akiva. Rabbi Akiva said: “When you arrive at the stones of pure marble, do not say, ‘water, water!’ For it says (Psalms 51:7): ‘He that speaks falsehood shall not be established before My eyes.’” [This is very kabbalistic and difficult

to interpret]. Ben Azzai looked and died... Ben Zoma looked and became demented ... Acher cut off the shoots [he became a heretic]... Rabbi Akiva left in peace." ...

Once, Acher was riding on a horse on the Sabbath [this is prohibited on the Sabbath], and Rabbi Meir was walking behind him to learn Torah at his mouth. Elisha ben Avuyah said to him: "Meir, turn back and return from whence you came, as I have already measured by the paces of my horse that only until here is the *techum shabbat* [the 2,000 cubits outside city limits that one is permitted to walk on Shabbat]." Rabbi Meir said to him: "You too go back [repent]." Acher replied: "Have I not already told you that I heard from behind the curtain, 'Return you backsliding children' [verse from Jeremiah 3:22]-- except for Acher." Rabbi Meir prevailed upon Acher and took him to the study hall. Acher said to a child: "Recite for me the verse you learned today." The child responded (Isaiah 48:22): "There is no peace for the wicked, says the Lord." (Babylonian Talmud, Chagigah 14b-15a).

The story continues and Acher (this means "the other") asked 13 children to recite the verse they learned that day and every child quotes a verse that indicates that God is not pleased with Acher.

"Acheirim" (Others)

Rabbi Meir and Rabbi Nosson were punished for trying to embarrass the Nasi, Rabban Shimon b. Gamliel II (Babylonian Talmud, Horayos 13b). As a result, thereafter, Rabbi Meir was referred to as "Others say," and Rabbi Nosson was referred to as "Some say."

"Demented Yarud"

Rabbi Shimon b. Chalafta was walking on the path when he encountered lions. They roared at him. He quoted the verse (Psalms 104:21): “The young lions roar for their prey,” and two pieces of meat miraculously fell from heaven. The lions ate one of the pieces and left over the other piece. Rabbi Shimon took the piece of meat to the academy and asked whether it was clean or unclean [i.e., is it kosher and allowed to be eaten]. He was told: Nothing unkosher descends from heaven. Rabbi Zera asked Rabbi Abahu: If a piece of meat resembling a donkey [an unkosher animal] falls from heaven, may it be eaten? Rabbi Abahu replied: Demented yarud [a desert bird possibly related to an ostrich], they already told you that nothing unkosher descends from heaven (Babylonian Talmud, Sanhedrin 59b).

There is no question that Rabbi Abahu was playfully referring to his student, Rabbi Zera, as a demented yarud. Rabbi Zera was a sage who was very strict about not laughing because he concurred with the opinion of Rabbi Yochanan who stated in the name of Rabbi Shimon b. Yochai: “It is forbidden for a person to fill his mouth with levity in this world” (Babylonian Talmud, Berachos 31a). Rabbi Zera’s student, Rabbi Yirmiyah, on the other hand would ask his teacher funny questions in order to get him to laugh (Babylonian Talmud, Niddah 23a). The Chavos Yair (Responsum 152) discussed in the ArtScroll Talmud claims that Rabbi Abahu was critical of his student because he was too much of an ascetic. Rabbi Abahu felt that Rabbi Zera’s excessive asceticism and fasting affected his ability to think clearly. This is why he was so critical. Perhaps this is why Rabbi Yirmiyah worked so hard to get Rabbi Zera to laugh. Most of the Talmudic sages were opposed to living the ascetic life.

“No Brains in His Head”

Rabbi Yehuda Ha-Nasi (known as Rebbi) rebuked his student Levi with the following remark: “It seems to me that he has no brain in his head” (Babylonian Talmud, Yebamoth 9a). Rebbi is saying this to one of his favorite students in a warm way to encourage him to come up with a solution. There is no question that the two were quite close. In some cases, a teacher used what appears to be an insult not to disparage but to encourage the student to work harder. Clearly, a teacher who knows his students quite well will know when to use a humorous insult as a motivational tool. This is the explanation used by the Chavos Yair (Responsum 152) to explain why Rebbi, known for his great humility, would use such strong language. The Chavos Yair quotes the Shulchan Aruch (Yoreh Deah 246:11) that states a teacher is supposed to get angry at students and even embarrass them if they neglect their studies. This approach, of course, if used with the wrong student, could have very adverse consequences. He also states that in some of the Talmudic stories, what appears to be an insulting remark is playful and actually complimentary.

“Your Name is not Hamnuna but Karnuna” (someone who loiters at street corners)

The Talmud relates the following incident (Babylonian Talmud, Kiddushin 25a). The elders of the city of Nezonias did not attend the lectures of Rabbi Chisda so he sent Rabbi Hamnuna to investigate. They provided a reason for not attending: “Why should we come? Whenever we asked him a question, he did not answer it for us.” Rabbi Hamnuna challenged them and told them to ask him a question. They did and he could not answer it. They asked him his name and he replied, “Hamnuna.” They told him “Your name is not Hamnuna but Karnuna.” Karnuna means someone who “loiters at street corners,” i.e., an ignoramus who does not study in the academy but wastes his time idling around gossiping.

“Scatterbrain!”

Rabbah called Rabbi Amram, *terada* (or *terrara*), which is translated as scatterbrain, lunatic, fool, or madman (ArtScroll). This expression is used in the Babylonian Talmud, Bava Metzia 20b, Bava Kama 105b). In Babylonian Talmud, Zevachim 25b, Rabbi Chiya bar Abba calls Rabbi Zera *terada* (there Soncino translates the word as “fool”). Rava bar Chanan says this to Abaye in Babylonian Talmud, Krithos 18b.

“Every Abba is as Stupid as a Donkey; and Every bar bar Chanah is a Fool”

The stories of Rabba bar bar Chanah (grandson of Chanah) are generally not taken literally. Soncino feels that they are “allegories on the political and social conditions” that prevailed then. The Talmud relates 21 of his stories (Babylonian Talmud, Bava Bathra 73a – 74b).

The Arab merchant said to me: “Come, I will show you Mount Sinai.” I went and saw that scorpions surrounded it and they stood like white donkeys. I heard a Heavenly voice saying: “Woe is to Me that I have made an oath to exile My people; now that I have made the oath who can annul it for Me?” When I came back before the Rabbis, they said to me: “Every Abba [that was Rabbah’s name; Rabbah is a contraction of Rabbi Abbah] is as stupid as a donkey; and every bar bar Chanah is a fool. You should have declared: “It is annulled for You.” (Babylonian Talmud, Bava Bathra 74a; based on translation of ArtScroll and Soncino).

A scholar has the authority to annul vows.

In another of the stories that Rabbah bar bar Chanah related, he mentions that the Arab merchant showed him the corpses of the Israelites who died in the wilderness when they left Egypt with Moses (Babylonian Talmud, Bava Bathra 74a). He tried to cut off the *tzitzis* of one of the corpses but had to return it. The merchant told him that there was a tradition that if someone takes something from any of the corpses, he would be unable to leave. Rabbah bar Chanah later told the Rabbis the story and they used the same expression to rebuke him.

They told him that he should have checked the *tzitzis* so he could report back to the sages as to whether the School of Hillel or the School of Shammai is correct in the number of threads required in making *tzitzis*. We actually hold like the School of Shammai in this dispute (only one of six exceptions where the law follows the opinion of the Shammaites rather than the Hillelites).

“Your Mother’s Eyes are Weak”

The verse (Genesis 29:17) states: “And the eyes of Leah were rakkoth.” The amora [whose job was to stand by the lecturer and expound and interpret what was said] of Rabbi Yochanan translated this before Rabbi Yochanan: And the eyes of Leah were [naturally] weak. Rabbi Yochanan said to him: “Your mother’s eyes were weak!” What does rakkoth mean, her eyes became weak from crying. (Midrash Genesis Rabbah 70:16)

Rabbi Yochanan interpreted the verse that Leah wept because people used to say that the eldest son of Rebecca [Esau] would marry the eldest daughter of Laban [Leah]. It appears that he was angry that his personal *amora* would interpret the verse in this manner.

“He Became a Heap of Bones”

The ultimate punishment in the Talmud is being miraculously turned into a “heap on bones” by the stare of a sage.

Rabbi Shesheth was blind. Once all the people went out to greet the king, and Rabbi Shesheth arose and went with them. A certain Sadducean met him and said: “The whole pitchers go to the river, but where do the broken ones go to?” [He compared Rabbi Shesheth to a useless broken pitcher]. He replied: “I will show you that I know more than you.” The first troop passed by and the crowd began shouting. The Sadducean said: “The king is coming.” Rabbi Shesheth replied: “He is not coming.” A second troop passed by and the crowd began shouting. The Sadducean said: “Now the king is coming.” Rabbi Shesheth replied: “The king is not coming.” A third troop passed by and there was silence. Said Rabbi Shesheth: “Now indeed the king is coming.” The Sadducean said to him: “How did you

know this?" He replied: "Because the earthly royalty is like the heavenly. And it is written (I Kings 19: 11,12): 'Go forth and stand upon the mountain before the Lord. And behold, the Lord passed by and a great, powerful wind smashing mountains and breaking rocks went before the Lord. But the Lord was not in the wind. After the wind came an earthquake; but the Lord was not in the earthquake. After the earthquake came a fire; but the Lord was not in the fire; and after the fire came a still, thin sound'" [God appeared to Elijah in the still, thin sound].

When the king came, Rabbi Shesheth said the blessing over him. The Sadducean said to him: "You say a blessing for one whom you do not see?"

What became of that Sadducean? Some say that his companions put his eyes out; others say that Rabbi Shesheth cast his eyes upon him and he became a heap of bones (Babylonian Talmud, Berachos 58a; based on translation of Soncino and ArtScroll).

A second story involves Rabbi Shimon b. Yochai who made a disparaging remark about the Romans. He said about them: "All that they made they made for themselves; they built marketplaces, to set harlots in them; bathhouses, to beautify themselves; bridges, to levy tolls for them." Yehuda, the son of proselytes, overheard the conversation and went and related their talk, which reached the Roman government. They sentenced Rabbi Shimon b. Yochai to death so he had to flee and hide in a cave with his son for 13 years. When the danger passed, he went out into the street and saw Yehuda, the son of proselytes. He said: "Is this one still in the world!" and cast his eyes upon him and he became a heap of bones (Babylonian Talmud, Shabbos 33b-34a).

The following story involves Rabbi Yochanan and a certain student.

Rabbi Yochanan once sat and lectured: "The Holy One, blessed be He, will in the future [Messianic times] bring precious stones and pearls which are thirty cubits by thirty and will cut out from them openings of ten cubits by twenty, and will set them up in the gates of Jerusalem." A certain student mocked him: "Jewels of the size of a dove's egg are not to be found; can jewels of such a size to be found?" After a time, the student's

ship sailed out to sea where he saw ministering angels sitting and engaged in cutting precious stones and pearls which were thirty cubits by thirty and on which were engravings of ten cubits] by twenty. He said to them: "For whom are these?" They replied that the Holy One, blessed be He, would in time to come set them up in the gates of Jerusalem. When he came again before Rabbi Yochanan he said to him: "Lecture, O my master; it is becoming for you to lecture; as you said, so have I seen." He replied to him: "You empty person; had you not seen it yourself, would you not have believed it? You are then one who mocks at the words of the Sages!" He set his eyes on him and the student turned into a heap of bones (Babylonian Talmud, Bava Bathra 75a; based on translation by Soncino and ArtScroll)

This story involving Rabbi Yochanan is discussed thoroughly by Slifkin (2008). He concludes:

We therefore have an extraordinary situation which sets rationalists and traditionalists at polar extremes. In explaining Rabbi Yochanan's definition of a heretic, rationalists and traditionalists each see the other as the focus of Rabbi Yochanan's condemnation (Slifkin, 2008).

The expression *gal atzamot* (heap of bones) is interpreted many different ways. One explanation is that it means a sudden death. Cooper (2009) cites several other explanations. Rabbi Nachman of Breslov (1772-1810) sees it as a metaphor. People often sin and do not see the consequences of their misdeeds. A righteous person, on the other hand, can see the harm that can result from what may seem to be a slight transgression. The greatest punishment is "when a person perceives the damage he has wrought" after his eyes are opened (Cooper, 2009). Another explanation cited by Cooper in the name of Rabbi Yehoshua Heschel Rabinowitz of Monastyriska (1860-1938) states that when the sage "gives his eyes" to the transgressor, the offender loses his arrogance that caused him to sin in the first place. Once the wrongdoer understands, he sees himself as being no more significant than a "heap

of bones.” The “heap of bones” expression may be related to the aphorism said by Rabbi Levitas of Yavneh (Avos 4:4): “Be exceedingly humble, for the hope of man is the worm.”

Conclusion

Plester & Sayers (2007) describe how people working at three different IT companies use amusing “banter” to strengthen workplace relationships. The term *banter* is a kind of spirited, playful teasing whose purpose is to deflate another person’s ego in a humorous way. It is part of what employees see as a “fun” organizational culture. Plester & Sayers also note that banter strengthens the cohesion of the in-group. Many of the Talmudic insults can be seen this way. It is well known that the ideal study partnership in the Talmud involves finding a “*bar-plugta*,” (a debating partner) to disagree with (Friedman, 2014). Unfortunately, arguing often results in insults being hurled. Rubenstein (2003: 58) posits that “the more intense the debate, the greater the potential that it will break down into insults.” There is always the risk that an insult can be seen as harsh rather than playful or part of the disagreeing process. Rubenstein (2003: 59) makes the point:

They depended on study partners for rigorous argumentation but simultaneously risked insulting their partners in the heat of the debate. A razor’s edge seems to have separated intense argumentation — the prerequisite for rabbinic life — from verbal insults that could cause embarrassment and (social and metaphoric) death (Rubenstein, 2003: 59).

This could even happen between close friends and spouses. One party says something mean and later regrets, but it is too late. Friedman (2014) summarizes the principles of disagreeing for those who want to follow the Talmudic approach to arguing in a constructive

manner. These were made to ensure that *halachic* disagreements would not destroy friendships.

- (1) Believe that logic trumps everything. It is not about winning an argument but about discovering and acknowledging the truth.
- (2) One should never rejoice over another colleague's unease when proven right. Legal arguments are never about winning.
- (3) Understand the value of learning from everyone and everything.
- (4) Both sides have to be willing to compromise. No one is always right; even God is willing to change his mind.
- (5) Purposely seek a partner who is willing to present opposing opinions.
- (6) Name dropping to win an argument does not work. Even using God's name does not help win arguments. The way to win is by using logic.
- (7) The opinion of the dissenting colleague should be respected and mentioned. Only by understanding what the other side has to say, can one win an argument using pure logic.
- (8) One should pay respect to the opposing side.
- (9) It is important to have humility. Arrogance is not helpful in a constructive debate.

It is clear from the above that scholars have to respect each other, even if they disagree. The Talmud states (Babylonian Talmud, Megilla 32a):

Two scholars who live in the same town and do not respect each other in discussing Jewish law, regarding them the verse states (Ezekiel 20:25): "So I gave them statutes which were not good and ordinances by which they could not live."

This story in the Talmud illustrates what could result if a dispute got too intense.

Rabbi Elazar and Rabbi Yosi argued so heatedly [regarding a door bolt which has on its top a fastening contrivance which may also be used as a pestle, whether it can be used on the Sabbath] that a Torah scroll was accidentally torn in their anger. Rabbi Yosi b. Kisma was present when this happened and declared, "I wonder if this synagogue will not become a house of idolatry" [because such strife was allowed to take place], and this is what happened (Babylonian Talmud, Yebamoth 96b).

The above story must have served as a warning of what too vociferous an argument could cause. The Talmud also says that: “It is better for a person to throw himself into a fiery furnace rather than shame his fellow-man in public (Babylonian Talmud, Berachos 43b).” Shaming someone publicly was seen as tantamount to murder (Babylonian Talmud, Bava Metzia 58b). The Talmud maintains that arrogant scholars are punished for being disrespectful of others – even non-scholars. The punishment is that their children will not be scholars (Babylonian Talmud, Nedarim 81a). This may have been a clever way to encourage scholars to be modest and treat everyone with respect. The sages were certainly very respectful of sages who lived in previous generations. Thus, a popular saying was (Babylonian Talmud, Shabbos 112b):

If the scholars of previous generations were sons of angels, we are sons of men; and if the early scholars were sons of men, we are like donkeys. And not even like the donkeys of Rabbi Chanina b. Dosa or that of Rabbi Pinchas b. Yair, but like other donkeys” [the donkeys of Rabbi Chanina b. Dosa and Pinchas b. Yair would not eat untithed feed].

Despite all this, it seems that insults were used quite often among Talmudic sages, not only with teachers and disciples. Dratch (2014) makes the following observation about Talmudic disputes:

Therefore, as long as the system of dispute, whether by societal or cultural norms, was set up that both parties understood and acted under the awareness that there was no real personal attack, but just the intensity of a passionate debate of theory and fact, no prohibition would apply. Some may even be flattered by forceful opposition. The Maggid of Mezeritch expresses this possible flattery through a parable. He relates that “a highway robber attacks the man who bears jewels, he never bothers with a man who drives a wagon of straw or refuse.” Regardless of the reason a sage chose to incorporate heavy language, as long as no embarrassment or intently personal attacks are found, it can be used. This rule is not limited to ancient Babylonia, but it is true to any society where dispute carries with it, in a healthy manner, the element of verbal jabs and attacks...But do so with caution, because even Rav Huna and Rav Hisda let the debate

become personal, and even Hashem [God] regrets, as it were, knocking someone else down (Dratch, 2014).

It is clear that some insults in the Talmud caused serious problems and did not end well. In particular, the dispute between Rabbi Yochanan and Resh Lakish where the former said: “A robber understands the tools of his trade.” The story of Abdan and Yishmael b. Yosi also had a disastrous conclusion. These stories demonstrate that even sages have to be careful when using sarcasm, insults, and derision as a tool to enhance the disputation process.



LISETTE MARSHALL writes:¹⁵

A few days ago I realized that my characters were being woefully unimaginative with their insults – nothing more creative than “bastard” and “fool”. A shame because Medieval insults can get a *lot* more creative! So for educative purposes (okay, okay, and for my own amusement too): here’s a helpful list on how to offend people in the Middle Ages.

Of course the list below is not a complete list of all existing Medieval insults – if only because the worst of them were probably rarely written down... If you want to make up your own insults, generally you can say something about:

- **Virtue.** Especially for women, this is very important – a noblewoman’s virtue was often the most valuable thing she possessed. If you’re trying to insult a man, you can of course always imply that his *mother* was a promiscuous lady.

¹⁵ <https://lisettemarshall.com/fun-facts/medieval-insults/>

- **Birth.** Tell a nobleman he's of low birth, and you can be sure he'll be properly offended.
- **Stupidity or uselessness.** Let's face it, nobody likes to be called an idiot. Medieval people were no exception.

But of course there are many more options: for example, call a man impotent, or simply accuse someone of lacking morals or bad hygiene.

20 Medieval insults

1. **Bastard.** This was not always an insult: it could also be used to simply state a fact. However, by the end of the Middle Ages, it was starting to get a more general pejorative meaning.
2. **Bedswerver.** Alright, this one is a little more recent – it was invented by Shakespeare – but I just liked it too much. Quite literally, an adulterer.
3. **Bespawler.** Someone who spits when he speaks.
4. **Bitch.** Although, it sounds quite modern, this was already used as an insult for women around 1400.
5. **Churl.** A *churl* was a member of the lowest social class, only just above a slave. When used to a nobleman, it was a grave insult.
6. **Coxcomb.** The original spelling was *cock's comb*, the cap worn by a professional fool. Later it just referred to a foolish or vain person in general.
7. **Crooked-nose knave.** We have this insult attested because in 1555, a certain John Bridges sued a fellow named Warneford for calling him this in public.
8. **Cumberworld.** Also **cumberground.** Someone who encumbers the world (or ground) without being useful in any way.
9. **Dalcop.** Literally a *dull-head – cop* was an older word for 'head'.
10. **Doxy.** Originally the wife or girlfriend of a criminal; later just a promiscuous woman in general.
11. **Fat-kidneyed.** Ah, Medieval anatomy. At some point it was believed that dumb people had fatter kidneys.
12. **Fool.** Quite self-evident, and perhaps the earliest Medieval insult still in use.
13. **Fopdoodle.** Just an idiot
14. **Hedge-born.** Someone who is either illegitimate or born of very low standing.
15. **Levereter.** Old spelling for *liver-eater*: someone who'll hurt everyone else for his own benefit.
16. **Loggerhead.** A logger was a heavy block of wood.
17. **Puterelle.** Derived from Italian or Spanish *puta*, meaning 'whore'.
18. **Sot.** A drunk.

19. **Wandought.** *Wandoughty*, literally “lacking in might / strength”, was an old word for impotence.
20. **Yaldson.** *Yald* was an old word for a prostitute (apparently borrowed from Norse *jalda* ‘mare’...), so a *yaldson* was a prostitute’s son.

Alright, some more Medieval insults...

During my research I also stumbled upon the *Flyting of Dunbar and Kennedy*. A flyting is basically a Medieval rap battle: in this lovely piece of writing, the two Scottish poets Dunbar and Kennedy are trying to verbally burn each other to the ground. That means a ton of creative insults – and even better, a lot of them alliterate.

Some of my personal favourites:

- Dismal-eyed and anused
- You look like the crows already ate your cheeks.
- Your balls droop below your dress
- Cheap as slivers in the millhouse
- Thrice-shelled trickster with a threadbare gown

Flytings in general are quite amusing to read – ridiculously vulgar, but always highly eloquent and perfectly poetic in their form and structure. So if you need more inspiration for your Medieval insults, there is no better source!



10 Amazing Ancient Insults

Ben Gazur writes:¹⁶

A well-crafted insult is a beautiful thing. Putting together just the right words to cut your opponent to the core is an art form. Masters of insults have been found in all times and all cultures.

If you read history, you'll discover that personal abuse has changed how events play out at times. So be careful before you let fly with an offensive remark. Thanks to a range of rude gestures, you don't even have to open your mouth to insult others.

Here are 10 ways that people have been offended in the past and some that might not win you many friends in the present.

10 Ariston vs. Ctesias

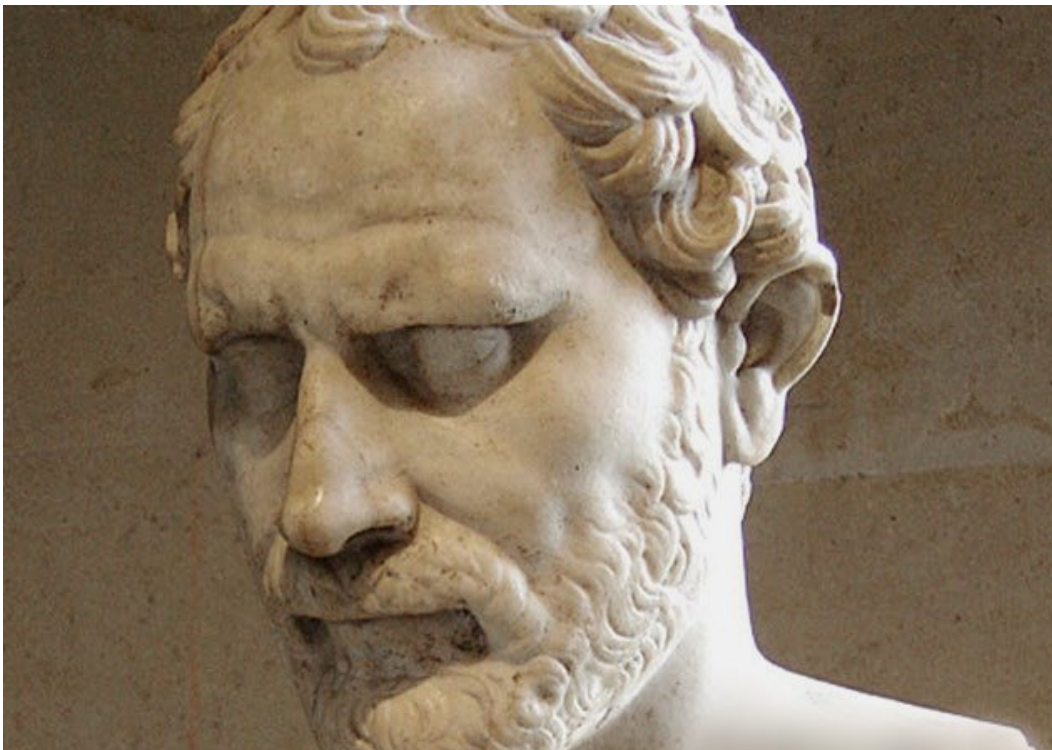


Photo credit: Eric Gaba

Demosthenes is often considered to be the finest public speaker who ever lived. In the ancient world, he was held up as a model for all orators to follow. He did not just deliver his own speeches, however. For the right fee, he would write a speech for someone else to give.

¹⁶ <https://listverse.com/2018/03/08/10-amazing-ancient-insults/>

In ancient Athens, both the accuser and the defendant had to act as their own lawyers. Thanks to Demosthenes's fame, one of these speeches was preserved and we know how Athenians insulted each other.

The rivalry between Ariston and Ctesias went back to their military service together. Ctesias would get drunk, cause a ruckus, and urinate on Ariston's slaves. Ariston decided to act when Ctesias started mocking him. He told the general in charge. Ctesias did not take this well and beat up Ariston. Matters were left there . . . until they returned to Athens.

One night in the marketplace, a drunken Ctesias passed Ariston. Ctesias went off and gathered his friends and family, who came and thrashed Ariston. What really seems to have riled Ariston is how Ctesias acted once Ariston was on the ground. According to Demosthenes: "He began to crow, mimicking fighting cocks that have won a battle, and his fellows bade him flap his elbows against his sides like wings."^[1]

9 Adding Insult to Injury



Imagine standing in the dust of an ancient battle. You are doing your best to fend off the swords and spears of the opposing warriors. Out of nowhere, something slams into your body. If you are lucky, you are rescued from the fray and taken to a doctor.

Using his rudimentary skills, he pulls a small lump of lead out of you. You've not been hit by a bullet fired by an anachronistic gun but by slingshot. When

the doctor shows you what knocked you down, you see that something is written on it: "For Octavius's Arse."

Slingshots could be deadly, so you would be lucky to live to read the message after you were hit. But they were also a good way to insult an armed enemy at a distance. Archaeological digs have found many Roman and Greek slingshots with inscriptions on them like: "Catch this," "This is for dessert," and "Crack your teeth."

As his forces came under attack by lead shot, one Roman commander found himself being insulted with these words written on the enemy ammunition: "Lucius Antonius. You baldy. You've lost."^[2]

8 Giving the Finger

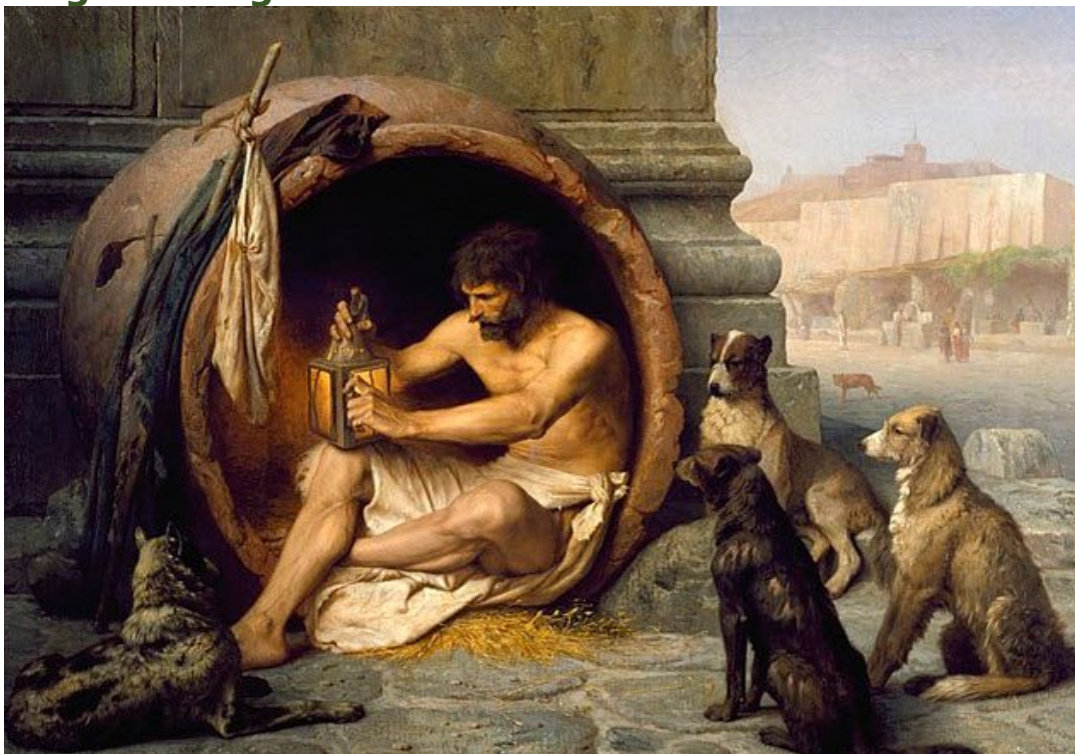


Photo credit: Jean-Leon Gerome

Giving someone "the finger" is perhaps the simplest gestural insult there is. Without the need for words, you have told them exactly what you think of

them. But what is “the finger” actually saying? To find out, we have to go back to the gesture’s origin.

Ancient Greek sources are full of instances of “the finger.” Their name for it, *katapygon*, was also the name of an insult directed at men who were anally penetrated. The link between the finger and the phallus was not purely linguistic as it was thought that the erect middle finger looked like a penis. The Greek use of “the finger” was not limited to the ignorant. The philosopher Diogenes (pictured above) made a habit of attacking politicians with whom he disagreed by giving them the finger.

The Romans also found the middle finger insulting. They called it the *digitus impudicus* (the “offensive finger”). They may have learned the gesture from the Germans, who supposedly welcomed the invading legions of Rome by flipping them the bird.^[3]

7 Flyting



Photo credit: atlasobscura.com

Fighting with fists is so uncivilized. Try flyting instead.

Flyting is a ritual combat using insulting verses to attack your opponent. It has been found in many cultures of Northern Europe and lasted from around the 5th to the 16th centuries. Many scholars compare flyting to modern-day rap battles as originality and inventiveness of insult were the keys to victory. One famous account of flyting comes from the epic poem *Beowulf*, but it is relatively tame by comparison to other examples that have survived. Implying that someone is a bit of a coward doesn't really compare to the god Loki accusing someone of incest:

***I will no longer keep it secret:
It was with thy sister
Thou hadst such a son
Hardly worse than thyself.***

A Scottish poem records *The Flyting of Dumbar and Kennedie* and shows just how far a flyting could go. The competitors accuse each other of terrible crimes, insult each other's ancestors, and aren't afraid to turn scatological.^[4] One is accused of having such a "running bottom" that he nearly sank a ship with his waste. When Kennedie calls Dumbar a "sh—t," it is the first recorded use of that word as a direct insult.

6 Vikings



The Vikings were a literate people who prized wit in their heroes. It is not surprising that their language is full of terms that could be used to curse their enemies.

You had to be careful with your tongue, however. An insult to the wrong person could result in immediate death or being given a criminal trial. Under one Viking law code, to accuse another man of being *ragr*, *strooinn*, or *soroinn* was enough to give that man the legal right to kill you. All three words relate to being unmanly.

Vikings also liked to leave their mark by carving runes into rock. In a burial chamber in Scotland, they left such traditional graffiti as "Benedikt made this cross." They also mocked certain attitudes of some people who had to duck to get into the chamber. "Many a woman has come stooping in here, no matter how pompous a person she was."^[5]

5 Roman Graffiti



Photo credit: *Smithsonian Magazine*

Graffiti pops up on walls in many times and places, and ancient Rome had so many walls that were crying out for some writing. In the preserved remains of Pompeii, much of that graffiti has survived.

They used graffiti to offer advice to fellow travelers at an inn: "The finances officer of the emperor Nero says this food is poison." Another bar owner was given the following review: "What a lot of tricks you use to deceive, innkeeper. You sell water but drink unmixed wine."^[6]

Other writers took on more personal targets with their graffiti. "Secundus likes to scr—w boys," runs one inscription. "Epaphra, you are bald!" and "Phileros is a eunuch!" can also be found among the classical beauties of Pompeii.

From Rome itself, an inscription was found that many modern people may be sympathetic to: *Dominus est non gradus anus rodentum!* ("The boss isn't worth a rat's arse.")

4 Philosopher Brawls



Photo credit: Mattia Preti

We like to think of ancient philosophy as a sedate activity in which men with long beards used even longer words to discuss abstract matters. In fact, philosophy can be just as cutthroat as any other human activity. In the ancient world, great thinkers gave some of the greatest burns of all time. In ancient Athens, Plato and Diogenes had a running battle of words.

When Diogenes—of the middle finger we met earlier—ridiculed Plato’s idea of the existence of a higher form of objects, Plato replied, “That is natural enough, for you have eyes, by which a cup and a table are contemplated; but you have not intellect, by which tableness and cupness are seen.”

Plato also called Diogenes a “Socrates gone mad.” Diogenes repaid the favor. When he was shown Plato’s expensive new carpets, Diogenes wiped his dirty feet on them. “Thus I trample on Plato’s pride.”^[7]

When Plato, who loved defining words precisely, came up with the definition of a human as “a featherless biped,” Diogenes interrupted him. Producing a plucked chicken from under his cloak, he announced, “Behold! Plato’s man!” Plato was forced to amend his definition by adding “with broad, flat nails.”

3 Martial



Photo via: Wikimedia

If one man turned insults into an art form, it is the Roman poet Martial. In neat little epigrams, he summed up the vices of the age and revealed people's innermost shames.

As his books of witty poems poked fun at real people, they were hugely popular among the Romans. He even turned his pen against the people who sponsored him to write.

Being mocked by Martial was a path to immortality. Who would remember the bibulous Acerra if Martial had not written, "Whoever believes it is yesterday's wine that Acerra smells of is mistaken: Acerra always drinks till morning."

There is also the unfortunate Diaulus: "Diaulus had been a surgeon and is now an undertaker. He has begun to be useful to the sick in the only way that he could."

Some of Martial's other epigrams have a more brutal sense of humor. To Manneia, he wrote, "Your lapdog, Manneia, licks your mouth and lips: it always did like to eat sh—t." Many others were considered too rude to translate for many years. "Lesbia swears that she has never slept with a man for free. It's true. When she wants sex, she usually pays for it."^[8]

2 Cicero

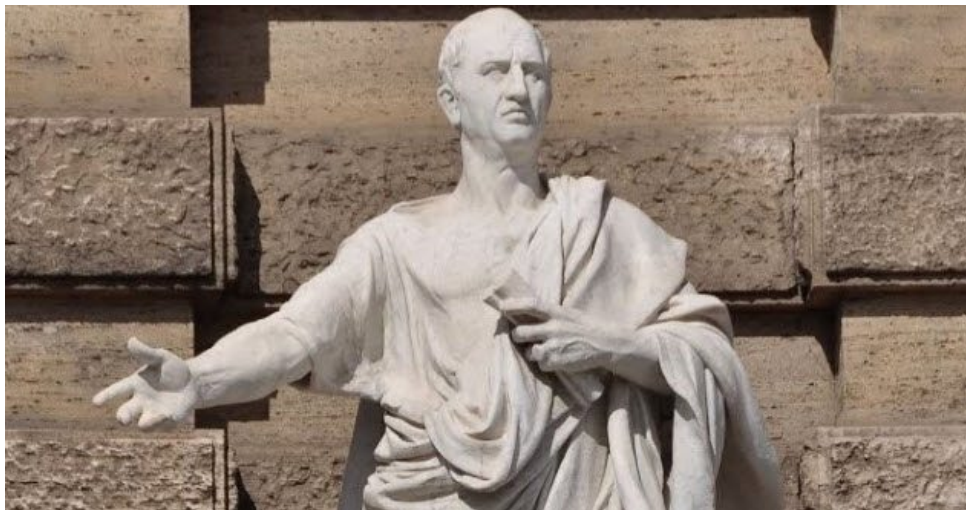


Photo credit: theimaginativeconservative.org

The Roman statesman Cicero was a great man, as he never stopped telling anyone who would listen. For many years, he harped about how he had saved the Roman Republic by revealing a conspiracy headed by Catiline.

He lambasted Catiline with four speeches of rolling insults: “Is there one youth, when you have once entangled him in the temptations of your corruption, to whom you have not held out a sword for audacious crime, or a torch for licentious wickedness?”^[9]

Like Demosthenes, Cicero also used his well-trained tongue in the courts of law. When Cicero was defending a client, he did not hesitate to use anything that came to mind. “The woman’s husband, sorry, I mean brother—I always make that slip—is my personal enemy,” he said, making use of a rumor of incest that clung to the accuser.

Unfortunately, Cicero’s tongue talked his head off. Having insulted Mark Antony, Cicero also managed to antagonize the future Augustus. Cicero said of the young Octavius: “He should be praised, honored, and disposed of.” With no one to protect him, Cicero was killed. His hands and head, with which he had written and spoken so many insults, were nailed up in public.

1 Aristophanes

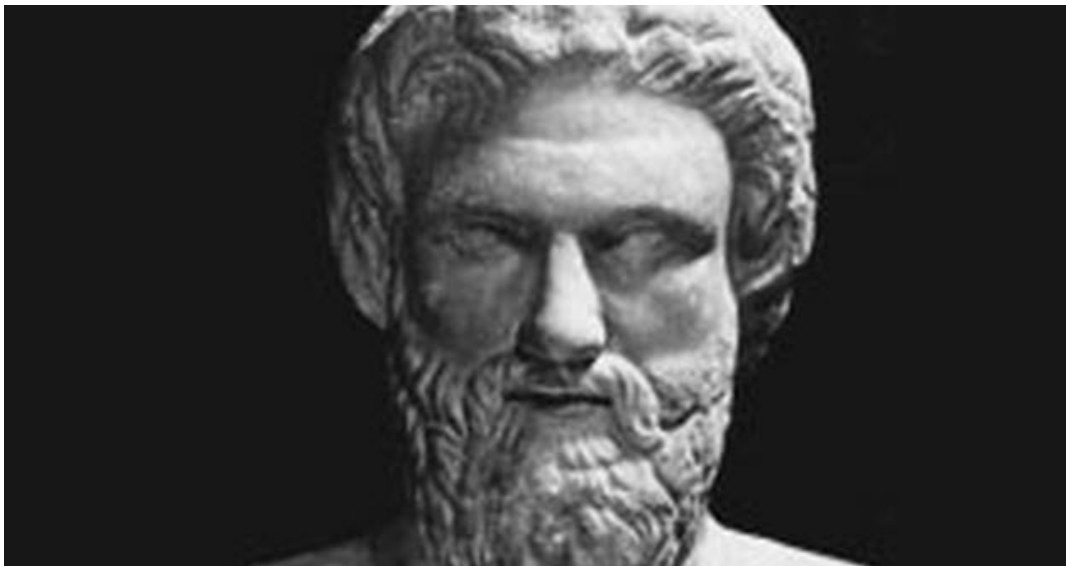


Photo credit: Torquemada

Ancient Greek theater is usually imagined as high drama of grand eloquence. But after watching all those dramas with deaths, tragedies, and suicides, the

Athenians wanted a good laugh. No one made them laugh more than Aristophanes.

Even in the classical world, he was known for the bawdy nature of his jokes and his attacks on public figures. Plato would even blame Aristophanes's lampoon of Socrates for turning the people against Socrates and eventually executing him.

Aristophanes was not afraid to target the leaders of his city. He attacked a popular politician called Cleon by saying, "You demagogues are like the fishers for eels; in still waters they catch nothing, but if they thoroughly stir up the slime, their fishing is good; in the same way it's only in troubled times that you line your pockets."^[10]

This Cleon received some of Aristophanes's strongest insults. He was a dogheaded ape, a beggar, a butchered pig, a common market rogue, and an ignoramus. When Aristophanes could find no one brave enough to say his lines, the author took to the stage and addressed his insults directly to Cleon, who was sitting in the audience.

However, not all of Aristophanes's targets were political. He would insult anyone, even the audience, if it would get a laugh.

Two characters weigh up the worth of various groups. What are lawyers? "Buggers." What about politicians? "Buggers." Comic playwrights? "Buggers." Well, what do you think of them, he asks while gesturing toward the audience. "Just a load of buggers."