

ETERNAL MEDICINE

by Rabbi Yochanan Zweig

"...and he shall provide for healing" (21:19)

The Torah records that among the compensatory damages which a person who has inflicted bodily harm on another must pay, are the medical bills. The Talmud derives from this verse that "nitna reshus larofeh lerapos" - "The Torah grants permission to a doctor to heal." [1] If Hashem has blessed a person with the power to heal, why would a verse be required to permit him to utilize this talent?

The Ibn Ezra's comments on this verse are perplexing. He notes that the Torah juxtaposes the verse regarding a physician needing permission to heal to the verses which discuss various types of external wounds inflicted upon a person. Therefore, he deduces that a physician may only heal external wounds; all internal maladies are in the hands of Hashem. [2] The Mateh Moshe finds the Ibn Ezra's comments unfathomable, citing numerous references in the Talmud to medical procedures and medications which were given to treat internal ailments. He therefore concludes that a physician is required to treat internal ailments and if he refrains from doing so, causing the death of his patient, he will be held responsible. [3] How do we reconcile the comments of the Ibn Ezra with the treatments mentioned in the Talmud?

To begin resolving the aforementioned difficulties, we must first reexamine the statement "nitna reshus larofeh lerapos". The dictum is generally understood to be granting permission to a physician to heal. However, an alternative definition of the word "reshus" is "domain" or "realm". The Talmud is stating that Hashem has placed the ability to heal entirely in the realm of the doctor. He is completely equipped to deal with the malady in a "derech hatevah" - natural manner; we do not view the malady or its cure as a supernatural phenomenon which requires Hashem's intervention. To this, the Ibn Ezra comments that only external ailments are completely within the realm of medical procedures, while internal ailments are not subject to clear cut medical diagnoses and cures. Although a physician must tend to internal ailments as well, these maladies require Hashem's hand to insure full recovery. Treatments offered by the Talmud for internal ailments are not completely scientific in nature and are often accompanied by amulets, incantations and the like, which supports the Ibn Ezra's assertion.

1. Bava Kama 85a
2. 21:19
3. Refuos p. 358

Sorry Does Help

"an eye for an eye, a tooth for a tooth..." (21:24)

The Torah records that if two men come to blows and accidentally cause bodily injury to a third individual, the assailant is held completely responsible, "an eye for an eye, tooth for a tooth, hand for a hand, foot for a foot". The Talmud states emphatically that the verse is not to be taken literally. Rather, according to the Oral Tradition the responsible party must pay the monetary value of the limb he destroyed in restitution for his actions. The Talmud proves this assertion by stating that it would be impossible to inflict an equitable injury upon the assailant, for no two human beings are physically or emotionally alike.[1] Why then does the Torah couch the restitution in terms which, if taken literally, indicate that the assailant is subject to physical injury?

In the Laws of Damages and Injuries, the Rambam records the various compensatory requirements that must be made for injuring a human being. Contrasting the restitution required for bodily injury to that of property damages, the Rambam states that when a human being has been injured, forgiveness is necessary for complete restitution.[2] Why does the Rambam deem it necessary to include the requirement to seek forgiveness in the laws of financial compensation? Furthermore, the Rambam also includes this requirement in the Laws of Repentance; he adds that even if a person has made full financial restitution, he is not forgiven unless he appeases the person he damaged.[3] If the injured party has been compensated why is it necessary to appease him? What is the Rambam's source for this ruling?

The Talmud teaches that although "nekama" - "revenge" is generally not an acceptable form of behavior, it acknowledges that there are occasions when "nekama" is permitted.[4] The root of the word nekama is "kam" - "to restore", for nekama restores the dignity and self-esteem of the slighted party. The injury inflicted upon the victim is not solely of a financial nature, but a blow to his self-esteem as well for the assailant has exercised physical dominance over him. By recording the restitution in terms indicating that the assailant is subject to physical injury, the Torah is acknowledging that the only way to truly restore the victim's self-esteem would be to inflict upon the perpetrator the same damage that he caused. Through the Oral Tradition we understand that such restitution is not possible and financial compensation is offered instead. However, money does not restore a person's shattered self-esteem. Therefore, the assailant must beg forgiveness from his victim. His seeking appeasement offers the injured party some restoration of his damaged self-esteem.

It emerges that the appeasement is an integral component of the restitution and therefore is recorded by the Rambam in the Laws of Damages and Injuries. One cannot achieve atonement for taking something away from another unless the stolen item is returned. Therefore, appeasement is a prerequisite for receiving atonement since it helps restore that which was taken away. Consequently, the Rambam records this ruling in the Laws of Atonement. He derives his source for

this law from the fact that the Torah acknowledges that complete restitution cannot be attained through financial means alone.

1. Bava Kama 84a
2. Yad Hilchos Chovel Umazik 5:9
3. Yad Hilchos Teshuva 2:9
4. Berachos 33a