

## *The Tallest Column: On Monetary Value of Stature in Jewish Law*

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### **Introduction: Donations to the Temple: *Erechin* vs. *Damim***

In contrast to the strict requirements of *Erechin* pledges found in Leviticus 27:1–8, *Damim* (monetary) donations are not closely regulated by the Torah and can take many forms. One may not, for example, offer an *Erech* that corresponds to some fraction of a human being, as *Erech* donations can be made only on an integer number of persons. To use language that could refer to anything but the entirety of a person renders the *Erech* attempt failed (*Erechin* Chapter 5 Mishna 2). *Damim* is more flexible as the giver is free to offer almost any value, flexibly comprised. Beyond specifying a donation in the local currency, the Talmud quotes two cases where people offered either their entire value on the slave market, or the more complicated value of a particular body part such as a hand, which requires two evaluations to solve the equation ‘Value of one’s Hand’ = ‘Value of that Person’ – ‘Value of (Person without his Hand).’ A similar situation arises when one offers to contribute the value of his weight in a material. A simple measurement is needed when the entire weight is specified, but if it’s only the weight of a particular limb, the Mishna (*Erechin* 19a) details an elaborate procedure that involves measuring the volume of the limb through a water displacement exercise, and estimating the density of human flesh using a combination of donkey bone, blood and meat.

### **The Value of Stature**

In the above situations there is clear Talmudic direction given to evaluate the monetary value of a particular pledge, but that is not always the case. Aside from pledges of worth and weight, the Talmud (*Erechin* 19a) records an Amoraic position regarding one who pledges “his Stature”:

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אמר רב יהודה: האומר קומתי עלי נותן שרביט שאינו נכפף, מלא קומתי עלי נותן שרביט הנכפף.

Rav Yehuda states that one who says: “my Stature is upon me,” he gives a rod that cannot bend; “the fullness of my Stature,” he gives a rod that can bend.

The Gemara, taking no issue with the strange language of the pledge, instead focuses on R’ Yehuda’s distinction between קומתי (my Stature) and מלא קומתי (the fullness of my Stature), quoting a Beraisa that appears to equate the two terms:

מיתבי קומתי עלי מלא קומתי עלי נותן שרביט שאינו נכפף.

If he says “my Stature” or “the fullness of my Stature,” he gives a rod that does not bend.

The Gemara explains the two statements as coming from different sources. R’ Yehuda does not hold like the author of this Beraisa, who clearly gives no credence to the added term מלא. Rather, R’ Yehuda follows R’ Akiva, who makes inferences from added words as seen from a Mishna in Bava Basra (20a) that is quoted here:

הוא דאמר כר"ע דדייק לישנא יתירא דתנן לא את הבור ולא [את] הדות אף ע"פ שכתב עומקה ורומה וצריך ליקח לו דרך דברי ר"ע וחכ"א אינו צריך ומודה רבי עקיבא בזמן שאמר לו חוץ מאלו שאין צריך ליקח לו דרך אלמא כיון דלא צריך וקאמר לטפויי מילתא קאתי הכא נמי כיון דלא צריך וקאמר לטפויי מילתא קאתי. The Mishna states: all agree that when one sells a house, the wells and cisterns are not included in the sale. R’ Akiva and the Sages disagree, however, about the pathway to said water sources. The sages hold rights to the path are implicitly included, while R’ Akiva holds the rights are not included unless the non-sale of the water sources was explicitly mentioned in the relevant sale document. We see from this that, though the seller was not obligated to affirm the clause regarding water sources but did so anyway, he wishes to retain the rights to the path. Similarly, by the case in Eruchin, Rav Yehuda holds that if one included the term ‘מלא’, then we can infer its inclusion was intentional and meaningful, and thus קומתי and מלא קומתי are taken to mean different things.

One question that arises from the basic reading of this Talmudic passage relates the exact meaning of קומתי and מלא קומתי. While the words נכפף (bends) and שאינו נכפף (that does not bend) are descriptive, the literal meaning is somewhat vague for the purposes of a monetary evaluation. Rashi weighs in on the issue as follows: קומתי refers to a rod as tall as his height, while שאינו נכפף means (שרביט עב שלא יוכל לכופפו) the rod must