

Daf Notes

Insights into the Daily Daf

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Daily Daf

The Majority of those who Slaughter are Proficient

Rav Nachman said in the name of Rav: If a man saw another slaughtering, and he observed him from the beginning (*of the shechitah*) to the end, he may eat of the slaughtering; otherwise, he may not eat of the slaughtering.

The *Gemora* clarifies the ruling: What are the circumstances of the case? If he knows that the slaughterer is knowledgeable about the rules of *shechitah*, then why is it necessary to observe him? If he knows that the slaughterer is not knowledgeable about the rules at all, then it is obvious (*that he must be observed*)! Rather, he must be referring to a case where he does not know whether the slaughterer is knowledgeable about the rules or not.

However, the *Gemora* asks: Shouldn't the principle that 'the majority of those who slaughter are proficient' apply? Has it not been taught in a *braisa*: If one found a slaughtered hen in the market, or if he said to his agent, 'Go and slaughter,' and he went and found it slaughtered, it is presumed to have been correctly slaughtered? This proves that we apply the

principle that 'the majority of those who slaughter are proficient.' So in our case as well, should we not apply this principle?

The *Gemora* answers: He is referring to a case where he knows that the slaughterer is not knowledgeable about the rules of *shechitah* at all, and the slaughterer has cut one of the *simanim* in his presence correctly. Now, you might have thought that since he has cut one *siman* properly, he probably will cut the other just as well; Rav therefore teaches us that we may not assume that to be the case, because it might just as well be that it happened merely by chance that he cut the one *siman* properly, but while he was cutting the other one, he might have paused or pressed.

Rav Dimi bar Yosef inquired of Rav Nachman: If one said to his agent (*who was proficient in slaughtering*), "Go and slaughter," and he subsequently found it slaughtered, what is the law (*should we be concerned that perhaps someone else, who was not proficient in slaughtering, slaughtered it*)? He replied: It is presumed to have been slaughtered correctly.

He inquired further: If one said to his agent, “Go and separate *terumah* from my produce,” and he went and found it separated, what is the law? He replied: It is not presumed to have been validly separated as *terumah*.

Rav Dimi (*was perplexed*) and asked him: What is your opinion? If you hold that there is a presumption that an agent carries out his instructions, then by *terumah* as well (*it should be assumed that he carried out his instructions*); and if you hold that there is no presumption that an agent carries out his instructions, then even in the case of *shechitah*, it should not be presumed that he completed his mission!?

He replied: If you will measure for me a *kor* of salt (*as payment, I will then explain it to you*). In truth, there is no presumption at all that an agent carries out his instructions; now, in the case of *shechitah*, even if a stranger, having overheard the instructions, went and slaughtered, there is no concern, because of the principle that ‘the majority of those who slaughter are proficient’; whereas, in the case of *terumah*, if we assume that a stranger, having overheard the instructions, went and separated the *terumah*, it would be invalid, for he would have done so without the knowledge of the owner, and the *halachah* is that if one separates *terumah* without the knowledge of the owner, the *terumah* is not valid.

The *Gemora* asks: Shall we say that the principle that ‘the majority of those who slaughter are proficient’ is a matter of a *Tannaic* dispute? For it has been taught in a *braisa*: If one lost his goats or chickens and subsequently found them slaughtered, Rabbi Yehudah forbids them, and Rabbi Chanina the son of Rabbi Yosi HaGelili permits them to be eaten. Rebbe said: The words of Rabbi Yehudah seem correct in a case where the lost goats or chickens were found in a garbage heap, while the words of Rabbi Chanina the son of Rabbi Yosi HaGelili seem correct when they were found in a house (*for we then can assume that it was slaughtered correctly*). May we not assume that the

issue between them is regarding the above principle; Rabbi Chanina accepts the principle that ‘the majority of those who slaughter are proficient,’ and Rabbi Yehudah does not accept this principle?

Rav Nachman bar Yitzchak replied: It is not so. Both accept the principle that ‘the majority of those who slaughter are proficient,’ and if the lost goats and chickens were found in a house, they would both agree that they are permitted for consumption; and if they were found in a garbage heap in the marketplace, both agree that they are forbidden (*for one would not throw a slaughtered animal there*); the issue between them is only in the case where they were found in the garbage heap of a house: Rabbi Yehudah is of the opinion that a man is wont to throw his *neveilah* into the garbage heap in his house (*and he won’t necessarily take the trouble to throw it in the public garbage heap*), while Rabbi Chanina is of the opinion that a man will not throw his *neveilah* into the garbage heap in his house. (12a)

Casting Meat into a Garbage Heap

The master had stated in the *braisa* above: Rebbe said: The words of Rabbi Yehudah seem correct in a case where the lost goats or chickens were found in a garbage heap. Now what kind of garbage heap was he referring to? It cannot be referring to a public garbage heap, for we have said above that in such a case they both agree that they are forbidden for consumption. It must then be referring to a garbage heap of a house.

But let us consider the next statement of Rebbe: the words of Rabbi Chanina the son of Rabbi Yosi HaGelili seem correct when they were found in a house. Now, what was he referring to when he said ‘in a house’? It cannot be referring to the house itself, for we have said above that in such a case they both agree that they are permitted for consumption! It must then be referring to a garbage heap of a

house. Is there not then a contradiction between these two statements of Rebbe?

The *Gemora* answers: This is what Rebbe meant to say: The words of Rabbi Yehudah seem correct even to Rabbi Chanina the son of Rabbi Yosi HaGelili in the case where they were found in a public garbage heap, for Rabbi Chanina disagrees with Rabbi Yehudah only in the case where they were found in the garbage heap of a house, but he agrees with him if they were found on a public garbage heap.

It was stated in our *Mishna*: [Anyone may slaughter and their slaughtering is valid] except for a deaf-mute, a deranged person and a minor, for they might botch their slaughtering. It does not say: for they **botched** their slaughtering (*in the past tense*); rather, it says: for they might botch their slaughtering. This, said Rava, proves that one may not give them even ordinary *chullin* animals to slaughter in the first place (*even when under our supervision*). [Since they very likely will both the slaughtering, it would be regarded as a careless destruction of food.]

The *Mishna* had stated: However, if any of them slaughter and others watch them, their slaughtering is valid.

The *Gemora* asks: Who is the author of this statement, who holds that one does not require having the intention for slaughtering?

Rava said: It is Rabbi Nassan. For Oshaya, the young one, one of the academy members, taught the following: If one threw a knife intending to force it into a wall, and in its flight it slaughtered an animal in the correct way, Rabbi Nassan declares the slaughtering valid (*even though there was no intent to slaughter*); but the Sages declare it invalid.

The *Gemora* notes: Oshaya taught this *braisa* and also added that the *halachah* follows Rabbi Nassan's view.

The *Gemora* asks: But do we not require the slaughterer to move the knife backwards and forward?

The *Gemora* answers: There was here a forward and backward motion (*when it bounced back off the wall*) in the correct manner. (12a – 12b)

INSIGHTS TO THE DAF

Examining the lungs: the rule, the reasons and the shocking question

By: Meoros HaDaf HaYomi

Shulchan Aruch rules (Y.D. 39:1): "One doesn't have to examine for any *treifos*...except for the lung...anyone who breaches the fence and eats without examination should be bitten by a snake."

Is the obligation to examine the lung from the Torah or a Rabbinical decree? All the Rishonim on our *sugya* emphasize that the obligation to examine the lungs is not from the Torah. This halachah is based on our *sugya*, which teaches that we should follow the majority; as most animals are not *treifah* and are assumed (*bechezkas*) to be healthy and kosher, there is no obligation to examine them. They may be eaten without *bedikah* as long as no suspicion has arisen that obligates examination. Strictly speaking, the lungs should also not need examination, as Rambam wrote (*Hilchos Shechitah* 11:7): "Although it appears so from the *Gemora* (that there is no need for *bedikah*), the common custom is so...and one examines the lung..." According to some Rishonim, the examination of the lungs was not yet instituted in the Talmudic era (*Mordechai*, Chulin, Ch. 3, §619, in the name of Rabeinu Baruch) and the Geonim ruled this halachah (*Meiri*, Chulin 9a). However, Ramban and the Rashba (9a) prove that the Talmudic sages ruled so and that it resembles any Rabbinical decree (see *Peri Megadim* in the preface to 39).

Reasons for examining the lungs: The Rishonim stated a few reasons for this decree. According to Rashi (s.v. *Pesach*), there is a reasonable suspicion that a lung will be found *treifah* and the sages instituted not to rely on the majority. Some say (see the Rashba, 9a) that as the common *treifos* of the lung are openly visible, a *treifah* lung is likely to be revealed later and then all the people who bought parts of that animal will have to dispose of anything cooked therefrom. The *chachamim* suspected that not everyone would withstand the temptation. *Pri Megadim* adds (ibid) that *bedikah* of the lungs is very simple as opposed to checking for other *treifos* and therefore *Chazal* obligated their examination. (This reason is close to Rashba's additional reason, ibid, that the lung should be checked because failing to do so is like shutting one's eyes to a prohibition).

Kosher *shechitah* for people who eat *neveilos*: We now turn to a shocking halachic question that was referred to the *poskim*. An observant *shochet* faced an extremely complicated dilemma. He got an offer to work at a certain place and the owner of the animals informed him that he was interested in Jewish *shechitah* but that *treifos* were too complicated for him. It was enough for him that the animals would be slaughtered by a *shochet* with a long beard... but if an animal were found to be *treifah*, he would still eat it. As it was obvious that the situation would not change, the *poskim* discussed if there was a way to minimize the prohibitions that the Jews living there would transgress.

The problem becomes more complicated: If we analyze the situation, we discover that we are faced with various serious halachic hazards. If the *shochet* doesn't examine the lungs, this entails a gain and a loss. The loss is that the consumer transgresses a Rabbinical prohibition as it is forbidden to eat meat from an animal whose lungs have not been examined. The gain is that the consumer is saved from the prohibition of *treifah* had the *shochet* examined the animal and found it to be *treifah* as its owner would

still supply it to him. Now that the animal wasn't examined, by Torah law it may be eaten relying on "rov" – that most animals are not *treifah*. On the other hand, if the *shochet* examines the lungs, though he prevents them from eating the meat of an animal which wasn't examined, at the same time a great risk arises that they will transgress the prohibition of eating *treifah* from the Torah if he discerns a *treifah* in an animal. How should he act?

HaGaon Rabbi Tzvi Pesach Frank zt"l, author of *Har Tzvi* (Responsa, Y.D. 19), instructed the *shochet* that he had better not examine at all as in certain circumstances "we tell a person to sin so that your companion will gain (avoiding a greater sin)". In fact in this instance he is not even being asked to sin but to do nothing. Aside from that, the obligation to examine is not incumbent on the *shochet* but on the consumer, lest he eat meat which hasn't been examined and transgress the prohibition of *treifah*. Since, in this instance, the meat will be eaten anyway, not examining is a greater saving than examining as, if he finds it to be *treifah*, they would transgress a Torah prohibition but if he doesn't examine it, it is not *treifah* because we rely on the majority.

(The author of *Tzitz Eli'ezer* [Responsa, IX, 36] rejects his decision for a few reasons. Firstly, he says, the rule that we sometimes tell a person to "sin [a minor transgression, not checking] so that your companion will merit [avoiding a major sin of eating ascertained *treifah*]" is said only when, if not for the minor sin, the major sin would certainly be transgressed. In our case there is no certainty that the animal will be found *treifah* – on the contrary, the animal more likely will not be *treifah*. The *shochet* therefore must not commit the sin of not checking. Moreover if the *shochet* doesn't check, they will also sin, eating meat of an unexamined animal. The rule telling a person to sin is only if by doing so the companion will gain entirely without any sin, whereas these people will also transgress a prohibition by means of his sin).