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Nedarim Daf 36

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Rav Simi bar Ashi asks a question from a braisa: If he (*the person who was forbidden from giving his friend benefit*) was a Kohen, he may sprinkle the blood (for the one who is subject to the vow) of his chatas offering, or of his asham offering. [Now, since the Tanna does not specify which type of offerings these are, they must refer to all, even of those who do not lack atonement, and nevertheless, the Kohen is permitted to sprinkle the blood; evidently, they are, in fact, Heaven’s agents!]

The Gemora answers: This braisa is referring to the blood of a metzora’s chatas and the blood of a metzora’s asham (*whose korban can even be brought without the knowledge of the owner, and therefore, the Kohen serves as an agent of Heaven*). For it is written: *This will be the laws of the metzora*. This (the law) implies: whether he is an adult or a minor (*who is not deemed as having knowledge*).

The Gemora asks from a Mishna: *Kohanim* who purposely make a *korban piggul* (*a korban whose avodah was done with the intention that it would be eaten after its designated time*) must pay the owner for the damage (*a new animal*). This implies that if they did so unwittingly they are exempt. And in connection with this, it was taught in a *braisa*: It is nevertheless rendered *piggul*. Now, it is understandable if you say that *Kohanim* are deemed agents of Heaven – that is

why their *piggul* intention is effective (for they are agents of heaven regardless); however, if they are deemed our agents, why is there *piggul* effective? Let the owner of the korban say to the Kohen: I made you my agent on the assumed condition that you would improve my situation but not to weaken it!?

The Gemora answers: *Piggul* is different, as the verse states: *it will not be considered for him*. This implies that it will not be considered in any case (*even though the Kohen clearly acted against the intent of the owner of the korban, his actions are effective*). (36a1 – 36a2)

The Gemora discusses an earlier statement: Rabbi Yochanan said: *Korbanos* are brought with the owner’s consent, except for those which are brought for one who lacks atonement. This may be proven from the fact that a man can bring these *korbanos* for his sons and daughters who are minors.

The Gemora asks: If this is true, then a person should be able to bring a *korban chatas* for eating *cheilev* (forbidden fats) on behalf of his friend, for one can bring a *chatas* on behalf of his insane wife, as per the opinion of Rabbi Yehudah. Why, then, does Rabbi Elozar say that if someone separated a *korban chatas* for (the eating of) *cheilev* on behalf of his friend, he has not done anything at all?

The Gemora inquires further (*and is essentially answering the above question by saying that a chatas brought for an insane wife is not referring to a regular chatas, but rather to a chatas of a woman who has given birth that enables her to eat kodashim*). What is the case where one separates a chatas for his insane wife? If the case was that she ate (*accidentally forbidden food mandating a chatas, such as forbidden fats*) when she was insane, she is not subject to an offering at all! And if she ate it when she was sane and then became insane, this seems to contradict a statement of Rabbi Yirmiyah that was said in the name of Rabbi Zeira in the name of Rabbi Yochanan: If one ate cheilev, separated a korban to atone, and afterward became insane, and then regained his sanity, the korban is disqualified, as once the animal has already been rejected from being brought (while he was insane), it remains rejected (even after he regains his sanity).

The Gemora asks: But if so, a person should be able to bring a korban pesach for his friend (without his knowledge), just as he can bring a korban (pesach) for his sons and daughters who are minors! Why, then, did Rabbi Elozar say that if someone separated a korban pesach on behalf of his friend, he has not done anything at all?

Rabbi Zeira answers: The (principle derived from the verse) *a sheep for each father's house* (meaning that each member of the household must be registered to be part of the korban pesach) is not a Torah mandate (regarding minors, who can eat the korban pesach that their father brings for them; therefore, their knowledge is not required). [We therefore cannot extrapolate any laws regarding an adult from here.]

And how do we know this (*that a sheep for each father's house is not a Torah mandate regarding children*)? It is from that which was taught in a Mishna: If someone told his sons, "I will slaughter a korban pesach for the first one of you that ascends to Yerushalayim," the halachah is: Once the first son enters with his head and the majority of his body, he acquires his portion, and acquires the portions for his brothers along with him. Now, if the concept of "a sheep for each father's house" is a Biblical requirement (*even regarding one's minor children*), can the son who is standing near the meat that has already been slaughtered now acquire for the other brothers a portion? [No; he cannot! It must be that the "a sheep for each father's house" is not a Biblical requirement for minors.] And why did the father tell them (that "I will slaughter a korban pesach for the first one of you that ascends to Yerushalayim")? It was in order to encourage them to do mitzvos zealously.

The Gemora provides support to this from the following braisa: There was an incident where the daughters came (*to Yerushalayim*) before the sons. The daughters appear to be zealous and the sons lazy. [*Being that the braisa does not say that the daughters acquired a portion and the sons did not, this implies that they indeed all had a portion from before, and the father was merely trying to motivate them.*] (36a2 – 36a3)

### **Taking Terumah Without Permission**

The Mishna had stated: And he (*the one who was prohibited to grant benefit*) may set aside his *terumah* and his *ma'asros* with his knowledge.

They inquired: If someone takes *terumah* (*tithe given to a kohen*) from his produce in order to exempt the

produce of his friend as well, does he need to have permission from his friend to do so or not?

The Gemora explains: Do we say that being that his friend is essentially gaining from this act (*as he will not have to take off this tithe from his own produce*), his consent is unnecessary? Or do we say that it is his friend's mitzvah (to remove his own terumah), and his friend would be pleased to perform this on his own (*and his consent would therefore be needed in order for the terumah to be effective*)?

The Gemora tries to resolve this from our Mishna: And he (*the one who was prohibited to grant benefit*) may set aside his *terumah* and his *ma'asaros* with his knowledge. Now, what is this dealing with? If we say that it is referring to a case where the terumah was separated from produce belonging to the owner of the untithed heap for the purpose of fixing the produce belonging to the owner of the untithed heap, then, let us ask: Whose consent is needed? If we will say that it is his own consent (would the terumah be effective), who made him (the separator) an agent (to remove the terumah)? Rather, it must that it is referring to a case where the terumah was separated with the owner's consent. But (how can that be) he is benefitting the other by performing his mission (and this should be forbidden on account of the vow)!

Rather, it must therefore be referring to a case where the terumah was separated from his own produce for the purpose of fixing the produce belonging to the owner of the untithed heap, then, let us ask: Whose consent is needed? If we will say that it is with the owner of the heap's consent, but (how can that be) he is benefitting the other by performing his mission (and this should be forbidden on account of the vow)!!? Rather, must it not be referring to a case (where the

other fellow is separating the terumah) with his own consent, and it is a case where one is separating the terumah from his own produce for the purpose of fixing the produce belonging to his friend, and if you will say that the one separating the terumah requires consent (from the owner of the heap), but (how can that be) he is benefitting the other by performing his mission (and this should be forbidden on account of the vow)? Rather, does it not prove that he does not require the consent of the owner?!

The Gemora disagrees with the proof: Really, the Mishna is referring to a case where the terumah was separated from produce belonging to the owner of the untithed heap for the purpose of fixing the produce belonging to the owner of the untithed heap (and the owner's consent is required, but the one separating the terumah is not benefitting the owner by acting as his agent, for the following reason). The case is like that which Rava stated (elsewhere): The owner of the produce stated, "Whoever wants to take terumah (*from my produce*) may come and do so," so here as well, it is referring to a case where he said ("*Whoever wants to take terumah from my produce may come and do so*"). (36a3 – 36b2)

Rabbi Yirmiyah inquired of Rabbi Zeira: If someone takes terumah from his produce in order to exempt the produce of his friend as well, who receives the benefit of gratitude (i.e., who has the right to choose which kohen receives the terumah)? Do we say that without the produce of this separator, would the owner's heap be fixed? Or perhaps, do we say that without the owner's heap, the separator's produce would not become terumah?

Rabbi Zeira said to him: The Torah states: [*You shall tithe*] *all of the crop of your planting ... and you will give.*



[This indicates that the choice of which Kohen receives the terumah belongs to the owner of the produce.]

The Gemora asks from our Mishna: And he (*the one who was prohibited to grant benefit*) may set aside his *terumah* and his *ma'asaros* with his knowledge. Now, if you say that the benefit of gratitude belongs to the owner of the produce, but (how can that be) he is benefitting the other by performing his mission (and this should be forbidden on account of the vow)? Rather, derive from here that the benefit of gratitude belongs to the one separating the terumah!

The Gemora disagrees with the proof: They said: No; the Mishna is referring to a case is referring to a case where the terumah was separated from produce belonging to the owner of the untithed heap for the purpose of fixing the produce belonging to the owner of the untithed heap, and the Mishna meant the consent of the owner of the heap (is required). [The one separating the terumah is not benefitting the owner by acting as his agent, for the following reason]. The case is where the owner of the produce stated, "Whoever wants to take terumah (*from my produce*) may come and do so."

The Gemora quotes another source on the matter: Rabbi Avahu said in the name of Rabbi Yochanan: If if someone consecrates an animal (*for his friend's korban*), the consecrator redeems it (*after it developed a blemish*) by paying the full price plus one fifth of its value. The one who receives atonement (*the friend*) can effect *temurah*. And one who separates *terumah* from his grain in order to exempt someone else's grain, he has the benefit of gratitude (*he may decide which Kohen receives the terumah*). (36b2 – 36b3)

## INSIGHTS TO THE DAF

### **Chinuch**

The Ran and Tosfos explain that a minor is not obligated to be included in the korban pesach. Tosfos in Pesachim (88a) adds that even though one is forbidden to feed minors something that is forbidden, it would be permitted to feed from the korban pesach to them, because the prohibition is only applicable to something that is inherently prohibited like neveilos and shekatzim; however, here, where there exists a mitzvah of chinuch to train the child in the mitzvah of korban pesach, it is permitted.

The Magen Avraham (343:3) cites this Tosfos and Rabbeinu Yerucham as the source for the permission to train minors in the mitzvah of blowing a shofar even on Shabbos.

The Maharam Schick (173) justifies the custom of a minor carrying a siddur or chumash for an adult on Shabbos for the purpose of tefillah and kerias hatorah because there is a mitzvah of chinuch.

Tosfos in Rosh Hashanah (33a) rules that a minor is not subject to the prohibition against saying Hashem's Name in vain, and therefore, he is permitted to recite birchas hamazon even though he is exempt. Rabbi Braun infers from this Tosfos that this would be halachically correct even if the minor did not eat the required amount of a k'zayis. He still can bentsch because of the mitzvah of chinuch.