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Shekalim Daf 3

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Tending to Public Matters

The Mishnah had stated: [On the fifteenth of Adar] they would be sent out to repair the roads, fix the streets, measure the mikvaos (*ensuring that they contained forty se’ah of water, and fix them*) and attend to all the needs of the public.

A Baraisa is stated: These are the public matters: 1) judging monetary arguments in Beis Din, as well as capital cases and cases involving lashes, 2) redeeming *erech* vows, *charamin*, and *hekdesh* (items which have been consecrated,) 3) causing a *sotah* to drink the bitter waters, 4) burning the *porah adumah*, 5) decapitating an *eglah arufah*, 6) piercing the ear of an *eved ivri*, 7) purifying a *metzora*, and 8) removing the lock from the cisterns of water, and we do not return it (until after the summer time).

We learned in a Mishnah: We may water an irrigated field [on Chol haMoed] and we mark the graves.¹

The Gemora asks: If the graves were marked on Adar, why do they need to be marked again [during Chol haMoed Pesach]? The Gemora answers that it's possible that the marks were washed away during a rainstorm between Adar and Pesach.

[We learned in a Mishnah:] and they go out [on Chol haMoed Pesach] for kilayim. The Gemora asks: Did they not go out in Adar? The Gemora answers that the Mishnah refers to a case where the crops grew late during that year (so the inspectors

did not go out then; the Mishnah teaches that they do go out during Pesach to search for the *kilayim*). (3a1 – 3a2)

Marking of Graves

From where is it derived that marking graves is required? Rabbi Berechyah and Rabbi Yaakov the son of Yaakov's daughter said in the name of Rabbi Chunya of Beras Chavrin, Rabbi Yosah said it was Rabbi Yaakov bar Acha, in the name of Rabbi Chunya of Beras Chavrin, while Rabbi Chizkiyah and Rabbi Uziel, son of Rabbi Chunya of Beis Chavran, said it in the name of Rabbi Chunya of Beis Chavran: It is written: [And the metzora in whom the plague is, his clothes shall be rent, and the hair of his head shall go loose, and he shall cover his upper lip,] and shall call out: “Tamei, tamei!” – “contaminated, contaminated!” The Gemara explains: This is so the tumah, calls to you verbally, as it were, and tells you: Separate yourself from it.²

Rabbi l’la in the name of Rabbi Shmuel bar Nachman (he cited a different verse in this regard): And when the passerby shall traverse the land, and when he sees a bone of a man, he shall build a marker by it³ [until the buriers have buried it in the valley of Hamon-gog].⁴

[The Gemora analyzes the numerous words in the verse of Yechezkel, and derives the following *halachos*:]

¹ So that the Kohanim don't step over them.

² Just as the metzora warns everyone that he is ritually impure, one must likewise mark graves to warn passersby of their impure status.

³ Yechezkel Hanavi prophesied that in the aftermath of the *Gog u'Magog* war, the Jews will mark the burial spots of the corpses (in order to avoid bringing *tumah* to vessels and food.)

⁴ This verse explicitly states that there is a need to mark graves.

- “Bone” – From here it is derived that we build a marker for bones (although the flesh from the corpse has decomposed).⁵
- “A man” – From here it is derived that we build a marker for the bone if it is the spinal column or the skull.⁶
- Only a stationary rock (that is situated atop of a grave) can be marked. If we were to mark off rocks that are detached from the ground, they may roll to another location, misleading people to believe that *tumah* exists there too (thereby causing them to burn terumah and other sanctified foods in vain).
- “By it” – in a place of purity [i.e., the marker is placed next to the grave.]
- “A marker” – From here it is derived that we require a marker.

The Gemara cites a Baraisa: And if one found one marked stone, even though one should not establish it in this manner,⁷ nevertheless, one who forms a roof over it, i.e., places some part of his body in the space above it, is rendered *tamei*. In such a case I say, i.e., one ought to assume: There was a dead body marked here, and it was located underneath this stone. But if two stones are found marked off,⁸ one who forms a roof over either one of them is *tahor*, but between them is *tamei*. However, if the area between these two stones is plowed,⁹ the two stones are considered independent of each other, and over the stones themselves is *tamei*.¹⁰

⁵ This must be referring to a case where it would transmit *tumah* through “roof” – either it consisted of a quarter-kav of bones, or the bones comprised a majority of the corpse’s frame, or they are the numerical majority of bones from the body.

⁶ For then it transmits *tumah* through “roof”.

⁷ I.e., one should not mark a place of ritual impurity atop the grave, but rather, next to it.

⁸ This indicates that only the area between the stones is *tomei*, but the area immediately beneath the stones is *tahor*.

⁹ We assume that no corpse is buried in between.

¹⁰ As we assume the corpse beneath them.

The Gemara cites a Baraisa: We do not mark off an area of dead flesh, since perhaps it has decomposed.¹¹ Rabbi Yusta bar Shuneim asked before Rabbi Mana: But will it not emerge that foods will be rendered *tamei* retroactively? He said to him: It is preferable that some will be ruined (by the unmarked grave) for a short time, rather than be ruined forever.¹² (3a2 – 3a4)

Mishnah

Rabbi Yehudah said: Originally, the inspectors (for *kilayim*), uprooted [the *kilayim* found] and threw it before the them [i.e., the farmers].¹³ However, once “transgressing” owners proliferated, they uprooted and threw the *kilayim* onto the streets. Later, they instituted that the inspectors should declare the entire field to be *hefker* – ownerless. (3a4 – 3a5)

Rabbi Yehudah said etc. The Gemara cites a Baraisa: Rabbi Yehudah said: Originally, the inspectors (for *kilayim*), uprooted [the *kilayim* found] and threw it before the them, and those owners would doubly rejoice. One reason for their happiness was that the inspectors were weeding their fields for them, and the other reason was that they would derive benefit from the *kilayim*.¹⁴ When the number of transgressors increased, they would cast the uprooted crops onto the roads.¹⁵ Even so, the owners still rejoiced that those inspectors were weeding their fields. Therefore, the Sages instituted that the entire field should be declared ownerless. (3a5)

¹¹ I.e., it has been reduced to less than a *k'zayis*, and would not make items *tomei*.

¹² Although an argument can be made that if the size is indeed greater than a *k'zayis*, any food or vessels carried over it will become *tomei*, it is nevertheless better to forgo this temporary possibility, than to permanently mark the area as *tamei*, and any future visits to the area would render *tumah* in vain.

¹³ This was done in order to embarrass the owner, and prevent him from growing *kilayim* once again.

¹⁴ As the *kilayim* would now be used as feed for their animals

¹⁵ So that passersby should trample on them and render them unfit for any use.

Hefker Beis Din Hefker

From where is it derived that something declared ownerless by Beis Din is in fact ownerless? It is written: [During the times of Ezra Hasofer, there were many Jews who were intermarried. Ezra mourned this tragedy, and called for a public gathering, where he demanded that they release their non-Jewish wives and children. The announcement said that anyone who doesn't attend this gathering, all his possessions will be confiscated.] And that whoever does not come within three days, according to the counsel of the princes and the elders, all his property shall be confiscated, and he shall be separated from the congregation of the exile. [This is the source for the concept known as "*Hefker Beis Din Hefker*," where Beis Din can declare one's field *hefker*.]

Once a field is *hefker* (whether due to a Beis Din order, or due to *Shemittah*), its produce is exempt from *maaser*. How is this derived? Rabbi Yonasan son of Rav Yitzchak bar Acha said: Let us learn it from this Baraisa: Beis Din cannot intercalate (i.e., declare a Jewish leap year by adding an extra Adar month) on the year of *Shemittah* and on the year following *Shemittah*. But, if erroneously an extra month was added during these two years, it is valid.¹⁶ And the month that is added, is it [the produce] not exempt from the tithes? [Of course it is!] Now, it is understandable why they do not intercalate a month during the *Shemittah* year,¹⁷ but what is the reason for the year following *Shemittah*? Rabbi Avun said: So as not to increase [the time] for the prohibition of eating the new grain.

¹⁶ Since *b'dieved* the extended year is valid, we see from there that Beis Din can extend *Shemittah*, and make the fields *hefker* an extra month. The Torah made it *hefker* during the twelve regular months of *Shemittah*, but Beis Din added the extra month.

¹⁷ An extra month cannot be added on *Shemittah*, as it would make it much more difficult for Jews to find produce to eat.

¹⁸ Rebbe prohibited this since the physical land of *chutz l'aretz* contains *tumah*, and an "imported" piece of earth would render food and vessels in Eretz Yisroel *tamei*.

¹⁹ From then on Beis Din could declare a leap year during *Shemittah* and the following year, as food from *chutz l'aretz* not subject to *Shemittah* or *chadosh* was now readily available and

Rabbi Zeira said in the name of Rabbi Elozar: That which you stated (that we don't add a month during *Shemittah*) is only true before Rebbe permitted to bring greens from out of Eretz Yisroel to Eretz Yisroel.¹⁸ [He later retracted this prohibition.] Once Rebbe permitted the bringing of greens from out of Eretz Yisroel into Eretz Yisroel, the *Shemittah* year is the same as every other year.¹⁹ A Baraisa was taught in support of this: The house of Rabban Gamliel intercalated a month in the year immediately following the *Shemittah* year. (3a5 – 3a6)

[The Gemora refutes this source of *Hefker Beis Din Hefker*.] Rabbi Avun said: If your proof is from this (that Beis Din didn't intercalate a month in the year of *Shemittah* or the year following it), you cannot learn anything from it, because it is written: Guard the month of ripening – which means: guard it that it (the ripening season) should fall out in the moon's renewal (the month of Nissan).²⁰

Then where is it derived from? It was taught in a *Mishna* in Pe'ah: With regard to a pile of grain under which *leket*²¹ has not been gathered by the poor, all the ears of grain that are touching the ground belong to the poor.²² And about this *Mishnah* Rabbi Ami said in the name of Rabbi Shimon ben Lakish: It is in accordance with the opinion of Beis Shammai [who maintain that it is possible to declare an article ownerless exclusively with respect to the poor]. For if the *Mishnah* is in accordance with the opinion of Beis Hillel [who hold that something cannot be declared ownerless unless it is for the poor and rich alike], then the poor would be allowed

could counter balance the food shortage from within Eretz Yisroel.

²⁰ The Torah requires that the month of Nissan (based on the lunar calendar) should occur during the spring season (based on the solar calendar.) Therefore, every few years, in order that Nissan not fall behind and occur in the winter, we add the extra month. This is *d'Orayssa* and not *d'Rabbonon*, so we cannot prove from the leap year that Beis Din can render a field *hefker*.

²¹ The poor people are entitled to the lone stalks – gleanings – that fall during a harvest.

²² The Rabbis added to the regular halachah of *leket*, and declared these ownerless and belonging to the poor.

to eat the grains touching the ground only after tithing.²³ And Rabbi Yosi said to him: We learned²⁴ that everyone agrees that this produce is exempt from tithes because the Sages imposed a penalty [on one who was careless enough to pile his grain on top of gleanings.]²⁵ (3a6 – 3b1)

Mishnah - Collecting the Machatzis Hashekel

On the fifteenth day of Adar, money changers would sit in the province.²⁶ On the 25th day of Adar, they sat in the Temple.²⁷ Once they moved to the Temple, the court began taking items as collateral. From whom do they extract pledges? From any Leviim²⁸ and Yisroelim, converts, and freed slaves. Collateral is not taken from women, slaves and young adults (those under the age of twenty, even if they have shown physical signs of maturity). Any minor whose father has begun to donate on his behalf, may no longer stop. We do not extract pledges from Kohanim as a way of promoting peace. Rabbi Yehudah said: Ben Buchri testified at Yavneh that a *Kohen* who donated a *shekel* has not committed a sin. Rabban Yochanan ben Zakkai said to him: Not so, but rather a *Kohen* who did not donate the *shekel* has committed a sin. The *Kohanim*, however, used to expound the following verse to their advantage: *And every minchah offering of a Kohen shall be completely burned; it shall not be eaten. [Now, if they would donate as well, a communal minchah would be partly theirs, and therefore, it would need to be completely burned.]* Now, since the *omer* offering and

²³ The Rabbis could not establish it to be full-fledged hefker; rather, it is hefker in regards to the poor eating it, but it is not hefker to the extent that it would be exempt from ma'aser.

²⁴ A different explanation whereby it is not necessary to attribute the Mishnah to Beis Shammai.

²⁵ He forfeits any stalks touching the ground, as they are rendered ownerless, and ownerless food is exempt from ma'aser. If the Mishnah is understood in accordance with Rabbi Yosi's opinion, it serves as evidence that the Sages can in fact declare property ownerless to the extent that its produce is exempt from tithes.

²⁶ This refers to Jerusalem, or, according to others, all cities in Eretz Yisroel outside of Jerusalem; they sat here so that the half Shekel coin would be readily available ahead of the Rosh Nissan date of donation.

the two loaves and the *lechem hapanim* are ours, how can they be eaten? [*They therefore did not donate.*] (3b1 – 3b2)

GEMARA: The Mishnah taught that the court does not seize collateral from minors for the half-shekel. The Gemara infers: This indicates that with regard to demanding the half-shekel from minors, the court does demand the money. The Gemara qualifies: This *halachah* that you say (i.e., that the court demands the money), applies to a minor who has grown two pubic hairs.²⁹ However, if he did not grow two hairs, the *halachah* does not apply to this case (and we do not demand from him at all to contribute a half-shekel). And as for extracting a pledge, the court does not extract a pledge from a minor,³⁰ until the age of twenty. (3b2)

[The Mishnah taught that we do not extract a pledge from Kohanim because of the ways of peace.] The Gemara cites a Baraisa: We do not extract a pledge from Kohanim because of the way of honor.³¹ (3b3)

Rabbi Yehudah said: [Ben Buchri] testified etc. Rabbi Berachyah said: Rabbi Yochanan ben Zakkai's source is the following verse: This [*zeh*] they shall give [everyone who passes among them that are numbered, half a shekel after the shekel of the Sanctuary...]. The word *zeh* has a numerical value of twelve, from which it is derived: Twelve tribes shall give (including the tribe of Levi, of which the Kohanim are members).

²⁷ Either a place in the Beis haMikdash, or in Jerusalem; they moved here in order to hasten the donations.

²⁸ The reason why Leviim have to be stated is that normally Leviim are not counted in the Torah's census. Since the Torah writes concerning Shekolim that "those who are counted" must give the half Shekel, one may have thought that the Leviim are exempt here too. Kohanim, are in fact excluded from this requirement.

²⁹ And therefore is legally an adult in other respects, but he is not yet twenty years old.

³⁰ Before he is twenty he is obligated to donate the half-shekel only by Rabbinic law, and for that, the court does not extract a pledge.

³¹ I.e., Kohanim must be treated with respect.

Rabbi Tavi said in the name of Rav Hamnuna that the Sages respond in this way to Rabbi Yehudah: [How can you say that a *Kohen* who did not donate the *shekel* has committed a sin?] The *halachah* is that the sin-offering³² of an individual [which for some reason cannot be sacrificed], must be left to die.³³ However, a communal sin-offering is not left to die. A similar distinction applies to meal-offerings:³⁴ The meal-offering of an individual is entirely sacrificed on the altar.³⁵ But a communal meal-offering³⁶ is not entirely sacrificed (but is always eaten). [If the Kohanim are allowed to contribute the half-shekel, these meal-offerings will partly belong to them, and it is prohibited to eat the meal-offering of a Kohen!]

The Gemara interjects a question: But this is difficult. How could this question be presented against the opinion of Rabbi Yehudah? Can one raise a difficulty against a person from a matter with which he does not agree? As we learned in a Mishnah that a communal sin-offering is not left to die, and yet Rabbi Yehudah says: It is left to die.³⁷

The Gemara presents Rabbi Yehudah's reply to the initial challenge: And he, Rabbi Yehudah, responds to the difficulty of the Rabbis against his opinion: This half-shekel given by a Kohen is not an individual donation!³⁸ And the Rabbis respond to him that since the Kohen's half-shekel has been handed over to the community, it [any offering purchased with those donations] is considered a public offering.³⁹

³² A chatas.

³³ By confining the animal in an enclosure and withholding food and drink from it.

³⁴ A minchah.

³⁵ When it belongs to a Kohen.

³⁶ I.e., the *omer*, the two loaves, all of which come from the collection of shekels.

³⁷ According to Rabbi Yehudah there is no distinction between a communal sin-offering and an individual sin-offering in this regard. If so, there should likewise be no difference between communal and individual meal-offerings, and it should be possible to sacrifice the communal meal-offerings in their entirety.

It is written: [This they shall give] everyone who passes through the census [half a shekel]. Rabbi Yehudah and Rabbi Nechemyah disputed the meaning of this verse. One of them said that the verse means that all who passed through the Reed Sea must give a half-shekel, i.e., the entire Jewish people.⁴⁰ And the other said that all who passed before Moshe for the census must give the donation.⁴¹ The Gemara comments: The one who said that all who passed through the Reed Sea must give a half-shekel supports the opinion of Rabbi Yochanan ben Zakkai,⁴² whereas the one who said that all who passed through the census must give the donation supports the opinion of ben Buchri. (3b3 – 3b4)

INSIGHTS TO THE DAF

Can We Force the Giving of Tzedakah?

The Gemara mentioned that collateral was taken from people if they didn't donate their Machtzis Hashekel in a timely manner. The Minchas Chinuch (Mitzva 105, paragraph 3) delves into whether this is because the person's money is bound to the mitzva, and therefore Beis Din can actually force him to donate (by methods such as physically entering his house and taking valuable items,) or maybe it is like other mitzvos (such as *ribis*, interest) where a person needs to repay on his own.

This is very similar to the mitzva of giving Tzedaka. The Shulchan Aruch (Choshen Mishpot, siman 190, end of seif 15) writes that if a wealthy individual became mentally deranged, Beis Din can assess how much tzedaka he would have given, and force this amount from his account.

³⁸ Since he is not obligated to donate the half-shekel, the contribution of a Kohen is not considered an individual donation, but rather, it is conveyed to the public, which separates it from the money of the rest of the community. For that reason, the communal offerings are not considered the property of the Kohanim.

³⁹ And not regarded as an individual donation at all; therefore the Kohanim are obligated to donate and it is no sin at all.

⁴⁰ This would include Kohanim and Levi'im.

⁴¹ Whereas those who were not counted with the rest of the Jewish people, i.e., Kohanim and Levi'im, need not provide a half-shekel.

⁴² Who maintains that the Kohanim must also contribute.

The Shach argues on this *psak* of the Shulchan Aruch, and based on the Ran's interpretation of the Rambam's original words, says that this is only true by a deranged person, and not by someone who's sane. The reason is that it's assumed that the deranged person would have wished to give tzedaka on his own, but the sane person can make his own decision. The Kesef Mishneh however defends the Rambam's view, and says that everyone wishes to perform mitzvos with their money, regardless of their mental status.

Adar, A Time for Community Service

In the first Mishna of Maseches Shekalim, we find that Beis Din would tend to many community needs during the month of Adar: "On the first of Adar [Beis Din] announces that Shekalim must be brought and *kelayim* (mixed seeds) must be destroyed. On the fifteenth of Adar, the Megilla is read in walled cities, and [Beis Din appoints workers] to fix the roads, streets and mikvaos, attend to the needs of the community, mark the graves to warn people of their impurity, and set out to destroy *kilayim*." It is well understood that Shekalim were collected during Adar, since they were needed to purchase korbanos starting from the subsequent month of Nissan. It is also well understood why Beis Din tended to the destruction of *kelayim* during Adar, since the new sprouts begin to appear in Adar. However, why were the other public services, such as fixing the roads and mikvaos, performed specifically during the month of Adar? The Rashash notes with interest that on the very day of Purim for the walled cities, when they were already busy with the many of mitzvos the day, attention was given to fixing roads and mikvaos, and uprooting *kelayim*. Why specifically then?

R' Shlomo HaKohen of Vilna (Binyan Shlomo, 55) explains that the month of Adar, and specifically Purim day, are specifically appropriate to tending the needs of the community. We find in Maseches Shabbos (33b) that when R' Shimon bar Yochai was released from his thirteen year stay in the cave, he sought to do some service for the sake of the community, in thanksgiving for his miraculous survival. Therefore, he set himself to determine which areas of Tiberias were ritually impure due to lost graves buried deep

underground. He thereby allowed the kohanim to travel freely around, knowing which areas were permitted and which were forbidden. The Gemara tells us that R' Shimon learned this from Yaakov Avinu. When Yaakov returned to Eretz Yisrael from his stay at the house of Lavan in Charan, he built bathhouses and markets for the good of the community, and minted for their use a standard coin. Yaakov did this as a show of gratitude to Hashem, Who protected him during his travels.

Printing seforim for public use: The Poskim cite from this Gemara that when a person experiences a miraculous salvation, he should do something for the benefit of his city (Magen Avraham 218 s.k. 2; Mishna Berura ibid, s.k. 32). The Sefer Chassidim (cited in Kaf HaChaim ibid, s.k. 6) suggests as an example to print seforim of which the community has need.

DAILY MASHAL

Communal thanksgiving: R' Shlomo HaKohen learns from here that when a community experiences a miracle together, they also should do something for the public good. In the month of Adar the miracle of Purim occurred, and the Jewish people were saved from certain death. Therefore, our Sages saw fit to tend to the community's needs during Adar, and specifically on the day of Purim. The community services listed in our Mishna parallel the services performed by Yaakov Avinu and R' Shimon bar Yochai. Yaakov Avinu minted coins, and we collect Shekalim. Yaakov Avinu built marketplaces and bathhouses, and we fix roads and mikvaos. R' Shimon located the lost burial places, and we mark graves for the good of the kohanim, that they not unwittingly become impure.