

17 Mar Cheshvan 5774
Oct. 21, 2013



Shekalim Daf 3

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Daf Notes is currently being dedicated to the neshamah of

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Tending to Public Matters

Although the mishna started listing the things which are done on Rosh Chodesh Adar, the Gemora lists several similar things which are done both then and on Chol Hamoed. The reason Rosh Chodesh Adar was chosen, is since this date marks the end of the winter season, and certain roads, *mikvaos*, and fields needed to be fixed.

Some other public matters also needed to be done during these times, regardless of the meteorological conditions. The Gemora identifies these matters as: 1) judging monetary arguments in Beis Din, as well as cases of *dinei nefoshos* and *makkos*, 2) redeeming *erchin*, *charomin*, and *hekdesh* (items which have been consecrated,) 3) determining whether or not a wayward-women is considered a *sotah*, 4) burning the *pora aduma*, 5) decapitating an *egla arufa*, 6) piercing the ear of an *eved ivri*, 7) purifying a *metzora*, and 8) (specifically for Chol Hamoed) removing a newly-formed shoe from its mold. (3a)

On Adar and On Chol Hamoed

The Gemora notes that on the Mishna's list - both here for Rosh Chodesh Adar, and in a different *Mishna* for Chol Hamoed - is "marking graves" (so

that the Kohanim don't step over them.). If the graves were marked on Adar, why do they need to be marked again six weeks later during Chol Hamoed Pesach?

The Gemora answers that it's possible that the marks were washed away during a rainstorm between Adar and Pesach.

The Gemora asks the same question regarding the removal of *kilayim*, which is listed both on Rosh Chodesh Adar and Chol Hamoed Pesach.

Here the Gemora answers that perhaps the crops grew late during that year, and on Adar it was difficult to determine which ones are *kilayim*. Therefore we go out again during Pesach to search for the *kilayim*. (3a)

Marking of Graves

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.) The Gemora sees this as a hint that we should also mark all graves, for the same reason. The Gemora dissects the numerous words in the *posuk* of Yechezkel, and derives the following *halachos*:

- Even if one bone is known to be buried there, if it is the skull or the backbone, it requires to be marked.
- 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 destroy food in vain.
- As mentioned, if one stone is marked off, then we assume that a corpse is buried beneath. But if two stones are found marked off, this indicates that only the area between the stones is *tomei*, but the area immediately beneath the stones is *tahor*.
- However, if the area between these two stones is plowed, we assume that no corpse is buried in between, and the two stones are considered independent of each other, and *tumah* is assumed beneath them.
- We do not mark off an area of dead flesh, since perhaps it has been reduced to less than a *k'zayis*, and would not make items *tomei*. 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, then to permanently mark the area as *tomei*, and any future visits to the area would render *tumah* in vain. (3a)

Mishna - What To Do With the Uprooted Kilayim

Originally, the Jews heeding Beis Din's call to uproot *kilayim*, dumped these unwanted plants on the

owner's fields, in order to embarrass the owner, and prevent him from growing *kilayim* once again. However, the "transgressing" owners weren't moved by these actions, and on the contrary, enjoyed the benefit of the "free labor" that their fields were taken care of, and that their animals could now eat these uprooted plants.

Even after the Chachomim instituted that the *kilayim* should be dumped on the roads instead of on the fields, the first benefit was still available to the field owners. Therefore, the Chachomim now said that these fields shall become *hefker*, thus causing a complete unavoidable loss to the owners. (3a)

Hefker Beis Din Hefker

How does Beis Din possess the power to make one's field *hefker*? 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. This is the source for the concept known as "*Hefker Beis Din Hefker*," where Beis Din can declare one's field *hefker*. (3a)

Exemption From Maaser During Shemittah

Once a field is *hefker* (whether due to a Beis Din order, or due to *Shemittah*), its produce is exempt from *maaser*. This halacha is derived from that fact that Beis Din cannot declare a Jewish leap year

(adding an extra Adar month) on the year of *Shemittah* and on the year following *Shemittah*. An extra month cannot be added on *Shemittah*, as it would make it much more difficult for Jews to find produce to eat, and not on the year following *Shemittah*, as the *chodosh* prohibition would be extended an extra month. But, if erroneously an extra month was added during these two years, it is valid. Since *b'di'eved* 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.)

The Gemora notes that the fact that we don't add a month during *Shemittah* was only true before Rabbi permitted bring produce from out of Eretz Yisroel to Eretz Yisroel. Rabbi 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 *tomei*. He later retracted this prohibition, and 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 *chodosh*) was now readily available.

The Gemora refutes this source of *Hefker Beis Din Hefker*. The Torah requires that the month of Nissan (based on the lunar calendar) be 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 can not prove from the leap year that Beis Din can render a field *hefker*.

The final proof that *Hefker Beis Din Hefker* comes from a *Mishna* in Pe'ah that says if a field owner gathered barley sheaths and placed them in a location in the field where the poor people haven't collected yet, the Chachomim said that the barley that touches the ground belongs to the poor, and is considered *hefker*. (3a – 3b)

Mishna - Collecting the Machatzis Hashekel

On the fifteenth day of Adar, money changers would set up shop throughout the land, so that the half Shekel coin would be readily available ahead of the Rosh Nissan date of donation. On the 25th day of Adar, these money changing stations moved to the Beis Hamikdosh, in order to hasten the donations.

Once they moved to the Beis Hamikdosh, the Chachomim began taking items as collateral from any regular Yisroel, Levi, ger, and freed slave who has not yet donated their half Shekel. 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.

Collateral isn't taken from young adults (those under the age of twenty, but who have show physical signs of maturity), but nevertheless they are asked to donate the half Shekel. Similarly, any child whose father has donated on his behalf, is asked to donate, and collateral is taken from him. (3b)

Collecting From Kohanim

The Kohanim felt that they are exempt from donating a half Shekel. Just like the Omer and the *Shte'i Halechem* were purchased from the *shekolim* of the Yisroelim, so too should they be exempt from donating the coin. Someone named Ben Buchri testified that a Kohen who doesn't donate isn't sinning. But Rabban Yochanan Ben Zakkai corrected him and said that the Kohanim purposely understood the posuk in a way that fit their own lifestyles, and any Kohen who does not donate, indeed is sinning. To support Rabban Yochanan Ben Zakkai's position, the Gemora brings a *gimatiya*. The posuk of *shekolim* reads "zeh yitnu..." ("this they shall give") - the word *zeh* (spelled: *Zayin, Hey*) in *gimatriya* equals twelve, corresponding to the twelve *shevotim*, including the Kohanim, who must all donate the *machtzis hashekel*. (3b)

INSIGHTS TO THE DAF

Can We Force the Giving of Tzedoka?

We mentioned earlier 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 Tzedoka. 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 tzedoka he would have given, and force this amount from his account.

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 tzedoka on his own, but the sane person can make his own decision.

The Kesef Mishne however defends the Rambam's view, and says that everyone wishes to perform mitzvos with their money, regardless of their mental status.