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Sukkah Daf 30

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Daf Notes is currently being dedicated to the neshamah of

**Tzvi Gershon Ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

1. The *Gemora* notes: The *Mishna* taught unequivocally that a stolen or dried lulav is invalid whether it is on the first day of the festival or on the second day of the festival.

The *Gemora* asks: It is understandable why it is invalid when it is dry, for the Torah states: *hadar* – beauty, and this is required for seven days, and now that it is dry, it is lacking in beauty; but regarding a stolen lulav, it is understandable why it is invalid on the first day, for the Torah states *lachem* – for yourselves, and that means it should be from your own property, but why is it invalid on the second day of the festival (when there is no requirement of “lachem”)?

Rabbi Yochanan answers in the name of Rabbi Shimon ben Yochai: One cannot use a stolen lulav even on the second day of Sukkos because it is a mitzvah that is brought about through the violation of a negative prohibition. This is based on that which is written: *You bring the stolen, the lame and the sick animal.... (shall I accept it, says Hashem?)*. The ‘stolen’ is thus compared with the ‘lame’: just as the lame

can never be rectified (and on account of its blemish, it can never be offered as a korban), so too that which is stolen can never be rectified - that is irrespective of whether the stolen animal is used before the owner despaired of recovering it or afterwards. Now, it is understandable that it is invalid when it is being offered before the owner despaired of recovering it, for the Torah states: *when a man will offer from among yours*, and this animal does not belong to him (the thief); but when it is being offered after the owner despaired of recovering it, why is it unfit, the thief should have acquired it through the owner’s abandonment? Rather, it must be (that it is ruled to be unfit) because it was brought about through the violation of a prohibition. [This principle applies by lulav as well.] (29b4-30a1)

2. Rabbi Yochanan said further in the name of Rabbi Shimon ben Yochai: What is the meaning of that which is written: *For I am Hashem, Who loves justice, I hate robbery in an olah offering?* This may be compared to a human king who passed through his toll booth and said to his

attendants, “Pay the tax to the collectors.” They said to him, “But the entire tax, surely, belongs to you!?” He answered them, “All travelers should learn from me, and they will not try to evade their payments of tax.” So too, the Holy One, Blessed be He, said, “*I am Hashem, Who loves justice, I hate robbery in an olah offering; let My children learn from Me and keep their distance away from robbery.*”

And so, it was also stated: Rabbi Ammi said: A dried lulav is invalid because it is not beautiful; a stolen one is invalid because it is a mitzvah that is brought about through the violation of a negative prohibition.

3. The *Gemora* notes that this disagrees with Rabbi Yitzchak, since Rabbi Yitzchak bar Nachmeini said in the name of Shmuel: This was taught only with regard to the first day of the Festival, but on the second day, just like one could fulfill his obligation with a borrowed lulav, he can also fulfill the mitzvah with a stolen lulav.

Rav Nachman bar Yitzchak asked from our *Mishna*, which states: A stolen or dried lulav is invalid. It follows from here that a borrowed one is valid? Now when is this referring to? If you say that it refers to the first day of the Festival, is it not written for the Torah states *lachem* – for yourselves, and that means it should be from your own property, and this one is not his!?

Consequently, the reference must be to the second day of the Festival, and yet it teaches that a stolen one is invalid?

Rava replied: Indeed, it refers to the first day of the Festival, but the Tanna uses the style of ‘it is not necessary.’ It is not necessary to state that a borrowed one is invalid since it is not his; but in the case of a stolen one, of which I might have said that normally a robbery implies immediate abandonment by its owner and that it is, therefore, like his own; therefore he informs us (that even a stolen one is invalid). (30a1 – 30a2)

4. Rav Huna told the merchants who purchased *hadassim*, myrtle branches, from gentiles that they should ensure that the gentiles cut the branches and give the branches to the merchants. Rav Huna did this because he was concerned that the gentiles had stolen the land from a Jew and land cannot be deemed stolen. This means that even if the original owner of the land despairs of recovering the property, the thief is not considered to be the owner and the original owner retains ownership of the land. Rav Huna intended that the gentiles should cut the branches and give the branches to the merchants so the abandonment of the owner regarding the produce would occur while the branches were in the hands of the gentiles, and there would be a change of ownership when the



merchants received the branches. This procedure would thus allow the merchants to acquire the branches in accordance with the principles regarding acquisition of stolen objects.

There is a principle that allows a thief to acquire stolen property if there is a physical change in the stolen object. The Gemara asks that since according to one opinion, one is required to tie the lulav together with the other two species, the tying should constitute a physical change and thus the merchants should be permitted to acquire the *hadassim* in this manner.

The Gemara answers that Rav Huna follows the opinion that maintains that the lulav does not have to be tied with the other species and therefore no physical change occurs to the *hadassim*.

Alternatively, even if Rav Huna requires the lulav to be tied with the other species, this tying is not deemed to be a change because the change can be reversed and the rule is that a change that can be reversed and the object will revert to its original form is not deemed to be a change.

The *Gemora* asks: But let them acquire it on account of the change in its name, for initially it was called a myrtle twig, and now (when it is tied to the lulav), it is called a hoshana?

The *Gemora* answers: Initially, people referred to the myrtle twig as a hoshana as well. (30b1-31a1)

## INSIGHTS TO THE DAF

### ***Sukkah in a Public Domain***

The Magen Avraham in Orach Chaim 637:3 discusses whether it is permitted for one to construct a Sukkah in a public domain without permission. The Magen Avraham writes that such a Sukkah may be deemed a stolen Sukkah and will be invalid. One cannot say that the local population forgo their rights to the land because the entire populace, including gentiles, have a share in the land.

The Magen Avraham quotes Rashi on Daf 30 who implies that the only concern of a stolen Sukkah is regarding stealing from a Jew but not when stealing from a gentile. Although one is normally forbidden to steal from a gentile, if one steals from a gentile it is not considered a mitzvah that was brought about through a transgression.

The Magen Avraham also quotes the *Yerayim* who posits the exact opposite approach. The *Yerayim* maintains that even according to the opinion that maintains that

stealing from a gentile is permitted, the stolen object does not belong to the Jew.

The Magen Avraham concludes his ruling based on the opinions of the Rashba and the Bais Yosef that one cannot construct a Sukkah in a public domain and if one went and constructed the Sukkah anyway, the Sukkah is invalid and one who recites a blessing in such a Sukkah is reciting the Name of Hashem in vain.

## DAILY MASHAL

### ***Mitzvah Performance with more Intention***

The Gemara discusses the concept of a mitzvah that is brought about through one who violates a prohibition. The Rishonim explain that this principle only applies when the mitzvah cannot be performed unless one violates the prohibition.

This principle teaches us a profound lesson regarding mitzvah performance. Very often we catch ourselves performing mitzvos by rote and we attempt to understand how this could have happened. The Gemara informs us that a mitzvah should be a conscientious effort, not just a mere performance of a daily ritual. If one can invalidate a mitzvah by performing it through a transgression,

certainly one can enhance a mitzvah by performing it with the proper intention.

We have been taught that HaShem rewards one for performing a positive action five hundred times more than for performing a negative action. If we would just improve our mitzvah performance even slightly, we would already be the beneficiaries of a great reward.