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Pesachim Daf 24

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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

Said Abaye: After all [it is deduced] from the first verse, but reverse [the argument]; for let Scripture write, ‘it shall be burnt with fire,’ so that ‘it shall not be eaten’ will be superfluous; why then is ‘it shall not be eaten’ written? If it is irrelevant for itself, seeing that it is deduced by Rabbi Elozar's [exegesis],¹ apply its teaching to all [other] interdicts of the Torah. And if it is irrelevant in respect of eating, apply its teaching to the prohibition of benefit. If so, just as here [it must be destroyed] by burning, so all the forbidden things of the Torah must be destroyed] by burning? — Scripture said: ‘the [nossar] remainder’; ‘nossar’ requires burning, — but all [other] forbidden things of the Torah do not requires burning. Rav Pappa said to Abaye: Yet say that it comes to assign a negative injunction [specifically] for itself? For if [we learn] from Rabbi Elozar [‘s dictum], we do not administer lashes for an implied negative injunction!² — Rather, said Rav Pappa: [It is deduced] from this: And the flesh that touches any tamei thing shall not be eaten: it shall be burnt with fire. Now, ‘shall not be eaten’ need not be stated; why then is ‘shall not be eaten’ stated? If it is irrelevant for itself, seeing that it may be deduced through a kal vachomer from tithe, which is lighter, [thus:] if tithe, which is of a

lesser sanctity, yet the Torah said, neither have I consumed it while being tamei,³ how much the more sacred flesh, which is more stringent! And should you say: We cannot give a warning [of lashes] as a result of a logical inference,⁴ but this is a hekkesh,⁵ for it is written: You may not eat within your gates the tithe of your corn, or of your wine, or of your oil, or the firstlings of your herd or of your flock, nor any of your vows which you vowed, nor your freewill-offerings etc. Then why is ‘shall not be eaten’ stated? If it is irrelevant in its own case, apply its teaching to all [other] prohibitions of the Torah. And since it is irrelevant in respect of eating, apply it to benefit. If so, just as here [it must be destroyed] by burning, so all the forbidden things of the Torah require burning? — Scripture said: ‘the [nossar] remainder’; nossar requires burning, but all [other] forbidden things of the Torah do not require burning. (24a2 – 24a4)

Ravina said to Rav Ashi: Yet perhaps [it teaches that] he transgresses two negative injunctions on its account? Didn’t Abaye say: if he ate a putisa,⁶ he incurs lashes four times; [for] an ant, he incurs lashes five times; [for] a hornet, he incurs lashes six times?⁷ — Said he to him:

¹ Without Rabbi Elozar's deduction, ‘it shall not be eaten’ would be necessary in spite of the statement ‘it shall be burnt with fire’, to show that it is subject to a negative injunction, which involves lashes. But now that Rabbi Elozar has deduced a negative injunction in respect of all unfit sacrifices from, ‘it shall not be eaten because it is holy’, this is superfluous.

² I.e., where the action is not explicitly forbidden but only by an injunction stated in general terms, which includes a number of other actions too.

³ This refers to maaser sheini, which was eaten by its Israelite owner in Jerusalem, and who had to declare that he had not eaten it ‘being

tamei’, which shows that this was forbidden. The sanctity of tithes is of course lighter than that of sacrifices.

⁴ This is a general principle. Hence this argument does not suffice to make it an offence punishable by lashes, and so ‘shall not be eaten’ is here required.

⁵ An analogy between two laws which rests on a Biblical intimation or on a principle common to both. Lashes are inflicted on the basis of a hekkesh.

⁶ A small water reptile.

⁷ In Vayikra 11:43, it is stated: You shall not make yourselves detestable with any swarming thing that swarms, neither shall you make

Wherever we can interpret we do interpret, and not apply it to additional injunctions. Now what is the purpose of 'and the flesh' [that touches any tamei thing shall not be eaten] of the commencement of the verse? — It is to include wood and frankincense.⁸ What is the purpose of, 'And as for the flesh, every one that is tahor shall eat from it' of the end [of the verse]? — It is to include eimurim.⁹ [But] eimurim are learnt from elsewhere, for it was taught: But the soul that eats of the flesh of the sacrifice of shelamim, that pertain to Hashem [having his tumah upon him]; this is to include the eimurim? — There [the reference is to] the tumah of the person, [which is punishable] with kares, [whereas] here [we treat of] the tumah of the flesh, [which is subject to] a negative injunction.¹⁰ (24a4 – 24b2)

Rabbi Avahu said in Rabbi Yochanan's name: [With regard to] all the prohibited articles of the Torah, we do not administer lashes on their account save [when they are eaten] in the normal manner of their consumption. What does this exclude? - Said Rav Shimi bar Ashi: It is to exclude [this. viz.,] that if he ate raw cheilev, he is exempt [from punishment]. Others say: Rabbi Avahu said in Rabbi Yochanan's name: [With regard to] all the prohibited articles of the Torah, we do not administer lashes on their account save [when they are used] in the normal manner

yourselves tamei with them. This is a twofold injunction. and since it does not specify 'that swarms upon the earth', it applies to both water reptiles and land reptiles. Further v.11, referring to tamei fish, states: and they shall be a detestable thing unto you; you shall not eat of their flesh. This is a third injunction against water reptiles. And finally. in Devarim 14:10, there is a fourth injunction: and whatever doesn't have fins and scales you shall not eat. The ant is a land reptile ('swarming thing'); hence the two injunctions of Vayikra apply to it. There are also the following three: (i) Vayikra 11:41: And every swarming thing that swarms upon the earth ... shall not be eaten; (ii) ibid. 42: even all swarming things that swarm upon the earth them you shall not eat, for they are a detestable thing: And (iii) ibid. 44: neither shall you defile yourselves with any manner of swarming thing that moves upon the earth. The hornet is a 'winged swarming thing' and also moves upon the earth. Hence it is subject to these five injunctions and also to that of Devarim 14:19: And all winged swarming things are tamei unto you:

of their usage. What does this exclude? Said Rav Shimi bar Ashi: It is to exclude [this, viz.,] if he applied the cheilev of the ox which is stoned upon his wound, he is exempt;¹¹ and all the more so, if he eats raw meat, he is exempt. It was stated likewise: Rav Acha bar Rav Avyah said in Rav Assi's name in Rabbi Yochanan's name: If he applies the cheilev of the ox which is stoned upon his wound he is exempt, because [in the case of] all the interdicts of the Torah, we do not administer lashes on their account save [when they are, used] in the normal manner of their usage.

Rabbi Zeira said, We too learned [thus]: 'One does not receive forty [lashes] on account of 'orlah, save for that which issues from olives or from grapes alone': but [for that which issues] from mulberries, figs and pomegranates [there is, as implied,] no [lashes]. What is the reason? Is it not because he does not eat them in the normal manner of their usage?¹² Said Abaye to him: That were well if he informed us of the fruit itself, where he did not eat it in the normal manner of its usage; but here [the reason is] because it is mere moisture.¹³

Abaye said: All agree in, respect of kil'ayim of the vineyard, that we administer lashes on its account even [when one does] not [enjoy it] in the normal manner of its usage.

they shall not be eaten. Thus eating one forbidden thing can involve more than one penalty, and the same may apply here.

⁸ Used in the sacrificial service; though these are not eatables, they nevertheless become tamei.

⁹ Teaching that if they are defiled and a Kohen eats them he transgresses the injunction against tamei flesh. The verse accordingly is read thus: and the flesh that touches any tamei thing shall not be eaten... and the flesh, viz., the eimurim. Since the eimurim must be offered on the altar, the Kohen is a zar (stranger) in relation to it, and transgresses on that account also.

¹⁰ The inclusion of eimurim in the former would not prove its inclusion in the latter case, since the former is a graver offence, as proved by the greater penalty attaching to it.

¹¹ Because cheilev is generally used for lighting and softening hides.

¹² For they are not generally pressed for their juice.

¹³ Lit., 'sweat'. I.e., he did not eat fruit of orlah at all. Thus this does not support Rabbi Yochanan.

What is the reason? Because 'eating' is not written in connection with it. An objection is raised: Issi ben Yehudah said: How do we know that meat and milk [cooked together] are forbidden? It is stated here: for you are a holy people [...you shalt not cook a kid in its mother's milk], and it is stated elsewhere: And you shall be holy men unto me; [therefore you shall not eat any flesh that is torn of beasts in the field; you shall cast it to the dogs]: just as there it is forbidden, so here too it is forbidden. Again, I know it only of eating; how do I know it of [general] use? I will tell you: [it follows] through a kal vachomer. If orlah, though no sin was committed with it,¹⁴ is forbidden for use, then meat and milk [cooked together], wherewith a sin was committed, is it not logical that they are forbidden for use? [This can be refuted]. As for orlah, [that may be] because it had no period of fitness;¹⁵ will you say [the same of] meat and milk [cooked together], seeing that they had a period of fitness? Then let chametz during Pesach prove it; though it had a period of fitness, it is forbidden for use. [This again can be refuted]: As for chametz during Pesach, [that may be] because he [the offender] is punished with kares, will you say [the same] of meat [cooked] in milk, where he is not punished with kares? Then let kil'ayim of the vineyard prove it; though he [the offender] is not punished with kares yet it is forbidden for use. Now if this is so, let us refute [it thus]: as for kil'ayim of the vineyard, [that may be] because we administer lashes on its account even [when he does] not [use it] in the normal manner of its usage? And Abaye? — [He can answer] 'will you say' —

with what?¹⁶ 'Will you say [the same] of meat [cooked] in milk, for which we do not administer lashes save [when it is eaten] in the normal manner of its use' — is then 'eating' written in connection with meat [cooked] in milk?¹⁷ And the other who raises the objection holds: for that purpose it is deduced from neveilah: just as neveilah [must be enjoyed] in the normal manner of its usage, so [must] meat [cooked] in milk, in the normal manner of its usage. And Abaye? — [He argues]: for that reason 'eating' is not written in its own case, to teach that we administer lashes on its account even [when one does] not [enjoy it] in the normal manner of its usage. But let us refute it [thus]: as for kil'ayim, [that may be] because it had no period of fitness?¹⁸ — Said Rav Adda bar Ahavah: This proves that [in] kil'ayim of the vineyard, their very stock is forbidden,¹⁹ [and so we cannot refute it thus] since it had a time of fitness before taking root.²⁰ Rav Shemayah objected: If one sets a perforated pot in a vineyard,²¹ if one two-hundredth part is added, it is [all] forbidden;²² thus, only if there is added, but not if there is not added?²³ — Said Rava: Two verses are written: 'the fullness' is written, and 'the seed' is written. How is this [to be reconciled]? That which is sown from the very outset [becomes forbidden] on taking root;²⁴ that which was sown when [partly] grown, if it increased it is [forbidden]; if it did not increase, it is not [forbidden]! (24b2 – 25a2)

¹⁴ When it was planted.

¹⁵ From the time of its planting it was never fit for food.

¹⁶ I.e., how would you conclude this refutation?

¹⁷ It is not! Hence this last assumption would be unwarranted, and could not overthrow the argument.

¹⁸ It is now assumed that when two diverse species are planted together, the interdict of kil'ayim applies only to what grows after they are planted or sown, but not to the stock itself. Thus this added growth was never at any time fit for eating.

¹⁹ Sc. that which was already grown before they were planted as kil'ayim.

²⁰ The stock itself becomes forbidden, but only after it takes root.

²¹ The pot contains cereals, and being perforated it draws its sustenance from the soil of the vineyard, which renders it (the pot) forbidden as kil'ayim.

²² One two-hundredth part is inclusive, i.e., the addition is one two-hundredth of the present total, so that the original is only one hundred and ninety-nine times as much. If kil'ayim is mixed with permitted eatables, it is all forbidden unless the latter is two hundred times as much as the former.

²³ Though it struck root; which shows that the original stock is not forbidden.

²⁴ Since it begins to grow under forbidden circumstances. Nevertheless, before it strikes root it is just as though it were lying in a jug.