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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

1. There is an alternative version regarding the dispute between Abaye and Rava.

We have learned that regarding a forbidden benefit that comes to a person against his will, Abaye maintains that it is permitted and Rava maintains that it is prohibited. An alternative version of the dispute is as follows: When it is possible to avoid the act completely and he does not avoid the act but he does not intend to derive benefit from the act performed, Rabbi Yehudah will maintain that it is forbidden to perform the act whereas Rabbi Shimon will permit it. If it is impossible to avoid the act and he does not intend to derive benefit from the act, everyone agrees that he can perform the act. The dispute between Abaye and Rava is in a case where one can avoid the benefit but he intends to enjoy the benefit. Both Abaye and Rava agree that according to Rabbi Shimon who maintains that we look at one’s intent, the act will be forbidden. Abaye and Rava disagree according to Rabbi Yehudah who maintains that there is no distinction whether the person intends for the forbidden result or not. Rabbi Yehudah maintains that if one can avoid the act then it is forbidden. Abaye agrees with Rabbi Yehudah when one cannot avoid that act but intended the forbidden result that it will be permitted, because according to Rabbi Yehudah, the issue is not intention but where one can avoid the act, and if he cannot avoid that act, it is

permitted. Rava, however, maintains that Rabbi Yehudah does not differentiate between intention and lack of intention only regarding stringency, but Rabbi Yehudah draws a distinction regarding intention when we are referring to a leniency. (25b 26a)

2. Abaye and Rava debate why Rabban Yochanan ben Zakai was permitted to sit in the shadow of the Heichal and teach Torah.

Rabban Yochanan ben Zakai would sit and teach Torah in the shadow of the Bais HaMikdash, as the open area in front of the Bais HaMikdash was large enough to accommodate all the students who came to hear Rabban Yochanan ben Zakai expound the laws of the festivals. Abaye maintains that this was a case where it was unavoidable to perform the act, as the people had to be taught the laws of the festival, yet they intended to benefit from the shade of the Heichal. We see that according to Rabbi Yehudah, if it is unavoidable but one intended for the benefit of the act, it is permitted. Rava, however, disagrees, because deriving benefit from the shadow of the Heichal is different than a regular benefit from hekdesch, as the Heichal is primarily built for protecting what is inside it, and one who benefits on the outside of the Heichal from its shadow is not considered to be deriving the normal benefit. (26a)



3. Abaye and Rava debate why the laborers in the Bais HaMikdash had to be lowered in boxes so as not to benefit for the Holy of Holies.

The Mishnah states that there were hatches that were opened in the upper level of the Holy of Holies in the Bais HaMikdash, and laborers would make repairs in the walls of the Holy of Holies. The laborers were lowered through the hatches in boxes, in order that they would not gaze unnecessarily at the Holy of Holies, as this would constitute meilah. In this case, even if the laborers would enter the Holy of Holies without a box, since they had to make repairs in the Holy of House, such a situation is considered unavoidable and one does intend to derive benefit. Yet, we see that the laborers were required to enter in boxes to avoid a situation where they would definitely benefit from their gazing at the Holy of Holies. According to Rava, this would prove that Rabbi Yehudah agrees that something that cannot be avoided but is intended is forbidden. Abaye counters that we know that one is not subjected to meilah biblically for deriving benefit from the sound of musical instruments in the Bais HaMikdash, from the appearance of the Bais HaMikdash, and from the fragrance of the incense that was burned on the Mizbeiach HaPnimi, the inner altar of the Bais HaMikdash. Although forbidden rabbinically, the Chachamim would have permitted them in a situation such as laborers making repairs in the Holy of Holies. The reason the Chachamim required the laborers to be lowered in boxes into the holy of Holies was just to raise the standard with regard to the Holy of Holies. (26a)

4. Sound, appearance, and fragrance do not fall under the prohibition of meilah.

The sound of the musical instruments in the Bais HaMikdash, the appearance of the bais HaMikdash, and the fragrance of the incense burned on the mizbeiach HaPnimi were not subject to the laws of meilah. Rav attempts to prove from this statement that although there is no meilah, the act of listening, gazing or smelling would be forbidden. One would assume that this prohibition applies to those standing within the Bais HaMikdash during the service, and even though this is a situation where it is unavoidable, yet one intends to derive benefit from the sound of the music and the fragrance of the incense, and it is forbidden. Abaye counters that the prohibition refers to those standing outside the Bais HaMikdash, who can certainly avoid the benefit, and although there is no meilah, they are still forbidden to derive benefit from the listening, gazing, or smell. The Gemara concludes that the sound of the musical instruments and the appearance of the Bais HaMikdash are not subject to the laws of meilah because they are intangible, whereas the fragrance of the incense, after its column of smoke rises, will not be subject to the laws of meilah, because the mitzvah performed with the incense is already completed. (26a)

5. Terumas HaDeshen is subject to the laws of meilah even after the procedure has been performed.

It is said: and he shall separate the ash... and he shall place it next to the altar, and we derive from this verse that one may not scatter the ash when placing



it next to the mizbeiach, and the words he shall place it teaches us that one cannot receive benefit from the ash. This indicates that there is something whose procedure has been performed, because the ash was placed next to the mizbeiach, yet it is still subject to the laws of meilah, because one cannot benefit from it. Regarding the column of smoke that rises from the incense we said that the fragrance is no longer subject to the laws of meilah, and we do not apply the logic that we use regarding the Terumas HaDeshen (separation of the ash). The reason for this is because the commandment regarding the Terumas HaDeshen and the commandment regarding the Kohen Gadol wearing linen garments on Yom Kippur are two biblical verses that teach the same ruling and the rule is that any two biblical verses that teach the same ruling cannot be used to teach that same ruling for other laws. Regarding Terumas HaDeshen it is said and he shall place it, and regarding the garments of the Kohen Gadol it is said: and he shall leave them there, and that verse teaches us that the garments of the Kohen Gadol must be put away. (26a)

6. There is a dispute whether the vestments of the Kohen have to be put away or not.

Regarding the white garments that the Kohen Gadol wears on Yom Kippur it is said: and he shall leave them there. The Chachamim maintain that this teaches us that the garments of the Kohen are put away. Rabbi Dosa, however, maintains that the white garments worn by the Kohen Gadol on Yom Kippur are fit for an ordinary Kohen to wear, and the verse that states and he shall leave them there means that a Kohen Gadol cannot use them for a future Yom Kippur. . According to Rabbi Dosa, this verse does not

teach the ruling that an item of hekdesch still has sanctity even after its mitzvah has been fulfilled, because Rabbi Dosa maintains that another Kohen can still use the garments, and thus the mitzvah has not been fulfilled. (26a)

7. The calf used for Eglah Arufah must be one that had no work done with it at all.

If one attached his calf to a team of cows so that the calf should suckle from its mother, and she threshes the grain along with the team of cows, the calf can still be used for an Eglah Arufah. This is because it is said regarding Eglah Arufah that the calf should be one with which work has not been done, which has not pulled with a yoke. Although the calf performed threshing, it is still deemed as not having performed work, because the owner of the calf did not intend that the calf should perform the work. If the owner's intention when attaching the calf to the team of cows was that the calf should suckle and also thresh, then the calf cannot be used for Eglah Arufah. This is certainly a case where it is unavoidable, as the calf must suckle, but the owner intends to derive benefit from the calf threshing, and the Halacha is that the calf cannot be used as an Eglah Arufah, so we see a benefit that is unavoidable and one intended to derive benefit from is forbidden. This would be a support to Rava. The Gemara answers that this is different, because regarding Eglah Arufah it is said that the calf must be one with which work was not done, and this means work performed even if the owner did not intend for the calf to work is forbidden. (26a)

8. The calf is still permitted to be used as the Eglah Arufah if a bird rested on it.

We have learned that if one attached his calf to a team of cows so that the calf should suckle from its mother, and she threshes the grain along with the team of cows, the calf can still be used for an Eglah Arufah. Although we learned that a calf cannot be used for Eglah Arufah if any work was performed with it, this is compared to the Halacha taught regarding Parah Adumah (the cow whose ashes are used to render pure a person or object that contracted tumas meis, tumah from a corpse). The law is that a Parah Adumah cannot have a yoke placed upon it, yet if a bird rested on the cow, the cow is still fit to be used for a Parah Adumah. If a bull mounted the cow and mated with her, however, then the cow is invalidated from used as a Parah Adumah. We employ a gezeirah shavah to teach us that the laws of Parah Adumah are similar to those of Eglah Arufah. Regarding Eglah Arufah it is said *asher lo ubad bah*, with which work has not been done. If it would be written *avad*, meaning he did not work with her, and it would be read *avad*, then the Halacha would be that the calf can be used as long as the owner did not make her work. If it would have stated *ubad*, meaning work has been done with her, and we would read the word as *ubad*, then the Halacha would be that even if she does work on her own without the owner intending that she works, the calf would be deemed unfit. Now that it is written *avad*, meaning he worked her, and the word is pronounced *ubad*, meaning work has been done with her, we say just like when the owner works her it refers to work that he is satisfied with, so too when we say work has been done with her it refers to work that he is satisfied with. Therefore,

when a bird rests on the cow, the cow is not invalidated because the owner does not care for the bird resting on the cow. With regard to the cow mating, however, the owner is satisfied with this form of work, and this will invalidate the cow from being used as a Parah Adumah. (26a - 26b)

9. One should not spread a lost garment over a bed or a peg for his own needs but he can spread it out over a bed or a peg for its own needs.

One should not spread a lost garment that he is watching over a bed or a peg for his own needs, because this is considered stealing. He may, however, spread the garment over a bed or a peg for the garment's own needs. Since the person who finds a lost article is responsible to care for the article, he may spread it out every so often to avoid the garment being damaged by moths. If guests happened to visit him, then he should not spread the garment over a bed or a peg whether it is for his needs or for the garment's needs. It would seem that this is a case where it is unavoidable, i.e. he must spread the garment out, but he simultaneously desires to benefit from the garment by displaying the garment to his guests. Yet, we see that something that is unavoidable and one derives benefit from it is forbidden. The Gemara answers that normally one may be able to derive benefit from something that is unavoidable, but here it is forbidden because by displaying the garment, it is akin to burning the garment. This is either because displaying the garment allows the guests to be envious of him and this catalyzes an "evil eye," or because one of his guests may be a thief and he is forbidden to display the garment because it may get stolen. (26b)



10. Those who sell garments comprised of shaatnez can sell them in their regular manner, as long as they do not intend to protect themselves in the summer from the sun or from the rain and cold in the winter.

People who sell garments that contain shaatnez can sell garments in the normal fashion, i.e. by donning the garments to display to customers, because he is not wearing the garment for personal enjoyment. This can be done as long as he does not intend to protect himself from the sun in the summer or from the rain and cold in the winter season. Pious people who stay far away from sin, however, will hang their garments on a stick behind them. The Gemara asks that in this case anyone can avoid the prohibition of wearing shaatnez by conducting himself like the pious ones, yet if the garment seller chooses to model the garments and does not derive benefit, he is allowed to wear the garments comprised of shaatnez in a regular fashion. Apparently Rabbi Shimon would permit one to derive benefit from something forbidden even when the benefit is avoidable, as long as the person does not intend to derive benefit, and this would be a refutation of the one who taught the first version of the opinion of Rava mentioned earlier. (26b)

## DAILY MASHAL

### *The Evil Eye*

The Gemara states that one is forbidden to spread out a lost article that he is watching when he has guests because when the guests see the article being displayed, they may be envious and they will cast an evil eye on the article. One must wonder why one should be concerned of someone else's jealousy, especially if it is said: and the rotting of the bones is jealousy. Why should one be concerned that someone else's envy will harm his belongings and property? We find that the gentile prophet Balaam, when blessing the Jewish people, declared, how good are your tents, Yaakov, your dwelling places, O Israel. The Gemara states that Balaam saw that every Jewish tent was aligned in a way that no one could see inside his neighbors' tent. Besides for the issue of privacy, there was another dimension to this blessing. Balaam had an evil eye, and Balaam wished to curse the Jewish People with his influence. By casting an evil eye on a neighbor, one is essentially influencing his Jewish friend with the character of Balaam, and this is detrimental to one's well-being. For this reason one should avoid casting an evil eye on someone else, and one must also be careful to avoid allowing others to cast an evil eye on himself or on his possessions.