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Kiddushin Daf 17

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Daf Notes is currently being dedicated to the neshamot of

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

A Sick Servant

The master had stated: One might think that even if the servant was sick, he should have to make up for the time he was sick (*and not go out in the seventh year*). The verse therefore states, “*And in the seventh he should go out,*” implying that even if he was sick all six years, he goes free in the seventh.

The *Gemora* asks: Doesn’t the *braisa* state that if the servant was sick three years and healthy three years that the servant does not have to make up the years, but if he was sick all six years, he must make it up?

Rav Sheishes answers: The *braisa* that states that he does not have to make it up is when the servant was able to do light work, such as sewing.

The *Gemora* asks: The *braisa* itself is difficult. It states that if the servant was sick three years and healthy three years that the servant does not have to make up the years. This implies that if he was sick four years, he must make it up. However, the second part of the *braisa* says that if the servant was sick the whole time, he must make it up. This implies that if he was sick for only four years, he would not have to make it up!?

The *Gemora* answers: The *braisa* means that if the servant was sick for four years, it is as if he was sick for all six years and he must make it up. (17a)

The Gifts

The *braisa* states: How much are the (*severance*) gifts? Five *sela* of each type (*mentioned in the Torah, namely sheep, grain, and grapes*), totaling fifteen *sela*; these are the words of Rabbi Meir. Rabbi Yehudah says: Thirty *sela* must be given total, like the fine taken from someone whose ox gores and kills a Canaanite slave. Rabbi Shimon says: Fifty *sela* must be given, like the fifty given for someone who is in his prime and his value is dedicated to be given to *hekdesh* (*using the term “erachin”*).

The *braisa* stated: Five *sela* of each type (*mentioned in the Torah, namely sheep, grain, and grapes*), totaling fifteen *sela*; these are the words of Rabbi Meir.

The *Gemora* asks: Why did Rabbi Meir have to say, “totaling fifteen?” Does he have to tell us how to add?

The *Gemora* answers: He is telling us that the total cannot be less than fifteen *sela*, but he could substitute more of one type and give less of another.

The *Gemora* asks: What is Rabbi Meir's reasoning?

The *Gemora* answers: He derives this from a *gezeirah shavah* (one of the thirteen principles of Biblical hermeneutics; it links two similar words from dissimilar verses in the Torah) using the word "reikam" -- "empty" written by *pidyon haben* (the redemption of the firstborn). Just as there it was referring to five *sela*, so too here, it is referring to five *sela* (for each type).

The *Gemora* asks: Why don't we understand that this refers to a total of five *sela* from all three types together?

The *Gemora* answers: If the word "reikam" would have been said at the end of the verse, it would indeed indicate a total of five *sela*. However, being that it is said at the beginning, it means five of each type.

The *Gemora* asks: Why don't we derive a *gezeirah shavah* of "reikam" from the *olah* sacrifice brought on the festival when being seen in the Beis Hamikdash (which only costs two silver pieces)?

The *Gemora* answers: The verse concludes, "That which Hashem, your God, blessed you" (implying that a larger amount should be derived, rather than a smaller amount).

Rabbi Yehudah says: Thirty *sela* must be given total, like the fine taken from someone whose ox gores and kills a Canaanite slave. Why? He learns a *gezeirah shavah* of "nesinah" from a slave. Just as there the amount is thirty, so too here, it is thirty.

The *Gemora* asks: Why don't we derive "nesinah" from *erachin* (which indeed seems to be Rabbi Shimon's opinion), and say that just as there the amount is fifty, so too here, it is fifty?

The *Gemora* answers: Firstly, if someone takes a large amount, he will not retain it, but if he has taken a smaller amount, he will retain it. [This is known as the rule, "Tafasta merubah lo tafasta, tafasta muat tafasta."] Additionally, it is more fitting to derive a law regarding servants from another law regarding servants.

Rabbi Shimon says: Fifty *sela* must be given, like the fifty given for someone who is in his prime and his value is dedicated to be given to *hekdesh* (using the term "erachin"). Why? He derives a *gezeirah shavah* of "nesinah" from an *erach* evaluation. Just as there the amount is fifty, so too here, it is fifty.

The *Gemora* asks: Why doesn't he derive the least amount that applies to *erachin*?

The *Gemora* answers: The verse concludes, "That which Hashem, your God, blessed you" (implying that a larger amount should be derived rather than a smaller amount).

The *Gemora* asks: Why don't we derive a *gezeirah shavah* of "nesinah" from a servant (as does Rabbi

Yehuda)? This is preferable, as if someone takes a large amount, he will not retain it, but if he has taken a smaller amount, he will retain it. Additionally, it is more fitting to derive a law regarding servants from another law regarding servants!?

The *Gemora* answers: Rabbi Shimon did not have a tradition to derive “*nesinah*” in a *gezeirah shavah* fashion. He only had a tradition to understand “*michah*” in a *gezeirah shavah* fashion (*regarding servants*).

The *Gemora* asks: According to Rabbi Meir, it is understandable why it says “sheep, grain, and grapes.” [This is to say that five sela should be given from all three.] However, according to Rabbi Yehudah and Rabbi Shimon, why are these said?

The *Gemora* answers: This is as taught in the following *braisa*. The *braisa* states: One might think one can only give from “sheep, grain, and grapes.” The verse therefore states, “*That which Hashem, your God, blessed you.*” Why, then, did the Torah specify these things? This is to teach that just as these things are blessed (*they grow or multiply*), also anything that grows or multiplies can be given. This excludes money, according to Rabbi Shimon. Rabbi Elozar ben Yaakov says: This excludes mules. Rabbi Shimon does not exclude mules, as the bodies of the mules keep growing. Rabbi Elozar ben Yaakov does not exclude money, as money can be used in business (*for profit*).

The *Gemora* explains: All three terms are needed in the verse. If the verse would merely say sheep, we would think that only animals can be given. This is

why grain was stated. If it would have only stated grain, the verse would indicate that only things that grow from the ground can be given, not animals. This is why it said sheep. Why did it have to say grapes? According to Rabbi Shimon this excludes mules, while according to Rabbi Elozar ben Yaakov, this excludes money.

The *braisa* states: “*That which Hashem, your God, has blessed you.*” One might think that if a blessing was apparent in the house since he arrived, he should be given a severance gift. If not, he does not have to be given a gift? The verse therefore states, “*You should surely grant,*” implying no matter whether there was a blessing or not. Why, then, does the verse say, “*That which He blessed you*”? It means that one should give according to the blessing he bestowed on your house (*give more if your house was blessed more*). Rabbi Elozar ben Azaryah says: If the house was blessed since he arrived, he receives a gift. If not, he does not receive a gift. If so, why does the verse say, “*You should surely grant*”? The Torah merely talks in the way people are accustomed to talking. (17a – 17b)

Servant after the Master's Death

The *braisa* states: A Jewish servant only serves the son of the master (*in the event of the master's death*), not his daughter. A Jewish maidservant does not continue to serve either the son or the daughter. Likewise, a *nirtza* and a Jewish servant sold to a gentile do not continue to serve his son or daughter.

A Jewish servant only serves the son of the master (*in the event of the master's death*), not his daughter.

The *Gemora* asks: How do we know this? The *braisa* says: “*And he will serve you for six years,*” teaches us that the servant is specifically for you, not for your other inheritors (*besides a son*). How do we know it does not include a son? The verse, “*Six years he should work,*” implies even for his son. “*And he will work for you for six years,*” implies not for other inheritors. Why would you think to include the son, but not his brothers (*i.e. other inheritors*)? A son is included because he takes his father’s place for *yiud* (*the option to marry the maidservant*) and regarding an inherited field. On the contrary, why not include a brother, who takes his brother’s place for *yibum*!

The *Gemora* answers: *Yibum* (*i.e. the importance of the brother*) is only when there are no sons.

The *Gemora* asks: The reason that a son is better is because of the question posed immediately above. This implies that without this, a brother would indeed be better. Why is that true? Didn’t we say that a son is like his father in two things, while a brother is only like his father in one thing?

The *Gemora* answers: The fact that the Torah means that a son, not a brother, should take his father’s place regarding an inherited field is only determined logically because *yibum* is only in a situation where there is no son (*and a son clearly takes over for yiud*).

A Jewish maidservant does not continue to serve either the son or the daughter. How do we know this? Rabbi Pada says: The verse states, “*And even for your maidservant you should do as such.*” The verse is comparing her to a *nirtza*. Just as a *nirtza* does not continue serving the son or daughter, so too, a

Jewish maidservant does not continue serving the son or daughter.

The *Gemora* asks: Does the verse indeed teach us this? Doesn’t the *braisa* say: This verse teaches that she also receives gifts when she leaves. Perhaps it teaches us that she can also become a *nirtza*? When the verse states, “*And if the servant will say,*” it is clearly referring to a *nirtza* (*that only a male servant is a nirtza*). Our verse, “*And even for your maidservant you should do as such,*” implies that you should give her gifts.

The *Gemora* answers: Why would it say, “*you should do*”? It should merely say, “*as such?*” This enables us to learn both lessons.

The *braisa* stated: A *nirtza* and a Jewish servant sold to a gentile do not continue to serve his son or daughter. How do we know this regarding a *nirtza*? The verse states, “*And his master will pierce his ear with an awl, and he will serve him forever (until yovel).*” This implies he will not serve the son or daughter (*only him*). How do we know this regarding a servant who sells himself to a gentile? Chizkiyah answers: The verse states, “*And he will calculate with the one who bought him,*” implying not with the inheritors of those who bought him.

Rava says: According to Torah law, a gentile inherits his father. This is as the verse, “*And he will calculate with the one who bought him*” implies, that he does not work for his inheritors (*but there are inheritors*). A convert only inherits his father according to Rabbinic law. This is as the *Mishna* states: If a convert and gentile inherit their father, the convert can say



to the gentile, “You take idols and I will take money,” or “You take wine poured to idols and I will take fruit.” However, once the convert receives these forbidden items, he cannot do so. If a convert inherited his gentile father according to Torah law, it would be forbidden for him to derive any benefit from these things. It must be that he only inherits him according to Rabbinic law. The *Chachamim* made this enactment in order that the convert should not return to his ways (*as he otherwise would lose his inheritance because he is Jewish*). (17b)

INSIGHTS TO THE DAF

Yovel for a Runaway Servant

Rav Sheishes explained a *braisa* (which ruled that a servant who runs away does not receive gifts) to be referring to a case where the servant ran away, and *Yovel* intervened. The *braisa* is teaching us that he does not receive gifts in this case (*and he is not considered as if the master has freed him*).

The Ramba”m rules that the runaway servant does gain his freedom when *Yovel* intervenes. The Ritv”a explains that there is no servant who remains by the master after *Yovel*.

The Sma”g, however, disagrees, and he bases his ruling upon a Yerushalmi which indicates that a servant who is not under the jurisdiction of his master when *Yovel* intervenes, does not go free by *Yovel*.

The Kesef Mishna asks: Why would the Sma”g rule in accordance with the Yerushalmi when the Bavli (*our Gemora*) rules that he does go free?

The Lechem Mishna explains that the Sma”g will explain our *Gemora* differently. He would learn that the *Gemora’s* conclusion is that the runaway servant does not go free in this case, and that is why he does not receive any severance gifts.

QUESTIONS AND ANSWERS FROM YESTERDAY’S DAF

to refresh your memory

Q: How is it proven that a master owns the body of his Jewish servant?

A: Since an emancipation document is necessary, and merely telling him to go is not sufficient.

Q: Does the gifts of a maidservant belong to her, or to her father?

A: If she goes out upon becoming a *na’arah*, it goes to her father.

Q: Are severance gifts given to a servant who goes out by redemption?

A: It is a *machlokes Tannaim*.