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Kiddushin Daf 56

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Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**

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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

### **Ma’aser Sheini Money**

The Gemora cites a braisa: One may not buy an animal (outside of Yerushalayim) with *ma’aser sheini* money. [This is forbidden either because *ma’aser* money can only be redeemed with other money, or because we are concerned that the journey to Yerushalayim might weaken the animal.] If he did buy an animal, the *halachah* is as follows: If he did this unknowingly, the money should be returned to the buyer (the sale is void, for if the buyer would have known that it was *ma’aser sheini* money, he never would have purchased an animal, for it burdensome to bring it to Yerushalayim). If he bought it knowingly, he must bring the animal to Yerushalayim and eat it there. Rabbi Yehudah says: This *halachah* is true if his intention was to use the animal as a *shelamim*; however, if he intended to deconsecrate the *ma’aser* money (and he was planning on eating the animal outside of Yerushalayim), the money should be returned to the buyer (we penalize the seller).

The Gemora asks: But we learned in our Mishna that if someone knowingly misappropriates *hekdes* money, and betroths a woman with the money, the *kiddushin* is valid!?

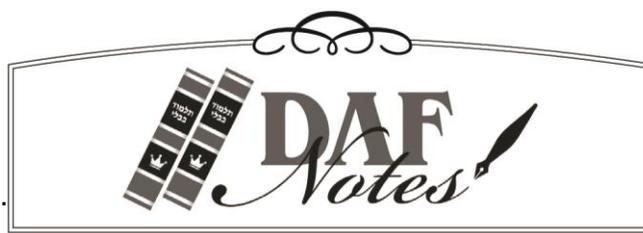
Rabbi Elozar answers: The woman knows that the *ma’aser sheini* money does not become deconsecrated through her acceptance of them and she intends to bring it up to Yerushalayim and spend the money there (therefore, there is no reason to penalize her). [However, the seller of the animal knows that the money becomes deconsecrated

through this purchase, and he is violating the prohibition of placing a stumbling block in front of the purchaser, for he knows that the buyer intends to eat from the animal outside of Yerushalayim; we therefore penalize him.]

Rabbi Yirmiyah asked: But with respect to an unkosher animal, slaves or land, where the seller knows that the *ma’aser sheini* money does not become deconsecrated through the sale (for these items cannot be eaten, and obviously, the seller intends to bring the money to Yerushalayim), but nevertheless, we learned in a Mishna: One may not buy an unkosher animal, slaves or land with *ma’aser sheini* money, even inside of Yerushalayim. And if he did buy any of these things, he must eat other foods as *ma’aser sheini*, equal to the amount that he spent. [The buyer must designate money and declare that the money which is in the possession of the seller should be redeemed with these coins. He then brings these coins to Yerushalayim and spends them there. Here, we do not assume that the seller will bring the money up to Yerushalayim; so why do we assume that the woman will bring the money up to Yerushalayim?]

Rather, the Gemora answers that we are referring to a case where the woman is a learned person, who knows (that the money was not deconsecrated, and she must therefore bring it up to Yerushalayim).

Mar (the Mishna) said: And if he did buy any of these things, he must eat other foods as *ma’aser sheini*, equal to the amount that he spent.



The *Gemora* asks: Why is this the *halachah*? Why don't we rule that the money should be returned to the buyer (and the sale is void) just as we learned above (with respect to the purchase of a kosher animal)?

Shmuel answers: This *Mishna* is dealing with a case where the seller ran away (and we therefore cannot retrieve the money).

The *Gemora* asks: If he would not have fled, we would penalize the seller (by voiding the sale); why wouldn't we penalize the buyer (and he should be required to eat other foods as *ma'aser sheini*, equal to the amount that he spent)?

The *Gemora* answers: It is not the mouse who is the thief; it is the hole (where the mouse can escape to; so too, it is the seller who is held responsible; not the buyer).

The *Gemora* asks: But if not for the mouse, what would the hole do (and similarly, it is the buyer who is sinning)?

The *Gemora* answers: It is logical that wherever the prohibited item is (in the possession of the seller), that is where we impose the penalty. (55b – 56b)

### **Mishna**

If one marries a woman with fruits of *orlah* (the fruit that grows from a tree; the first three years of its life, they are forbidden for all benefit), with *kilayim* of the vineyard (the prohibition against planting together different species of vegetables, fruit or seeds; *kilayim* of a vineyard is forbidden for all benefit), with an ox that has been sentenced to be stoned (for killing a person), with a decapitated calf (*eglah arufah* - the law is that upon finding a corpse, and being unable to solve the murder, the leaders of the city closest to the corpse are required to

bring a calf to an untilled valley, decapitate it, wash their hands over it, and then they must recite a verse, declaring publicly that they did not kill the person), with the birds of a *metzora* (a person with a certain skin disease which makes him *tamei*; in order to become pure, he is required to bring two birds – one is slaughtered and the other is set free), with the hair of a *nazir* (he shaves off all his hair upon completion of his *nezirus*), with a firstborn donkey (*petter chamor* - it must be redeemed with a sheep or a goat; if not, it needs to be decapitated), with meat cooked with milk, or with a *chullin* animal which was slaughtered in the Temple Courtyard, she is not *mekudeshes* (for all these items are forbidden to derive benefit from; they therefore do not possess any monetary value). If he sold these items, and married her with the money, the *kiddushin* is valid. (56b)

### **Forbidden for Benefit**

The *Gemora* cites the Scriptural sources proving that one is prohibited from deriving benefit from *orlah* and *kilayim* of the vineyard.

The *Gemora* quotes a *braisa* which cites the Scriptural source for the ox that is sentenced to stoning: Since it is written, *the ox shall be stoned*, we obviously know that it is a *neveilah* (the carcass of an animal that was not slaughtered properly) and it is forbidden to eat from a *neveilah*. Why then does the Torah find it necessary to write, *and its flesh may not be eaten*? This teaches us that if the ox was slaughtered after it had been sentenced to stoning, it is forbidden to be eaten. And from the fact that the Torah writes, *and the owner of the ox is clean*, this teaches us that it is forbidden for benefit as well. Shimon ben Zoma explains this to mean like when a person would tell his friend (regarding someone who lost all of his possessions), "So-and-so has been 'cleaned out' of his possessions and he cannot benefit from them at all."

The *Gemora* asks: How is it known that the verse *and its flesh may not be eaten* teaches us that if the ox was slaughtered after it had been sentenced to stoning, it is forbidden to be eaten? Perhaps, if it slaughtered then, it is permitted, and the verse *it may not be eaten* is teaching us that it is forbidden for benefit after it is stoned. This would be following that which Rabbi Avahu said in the name of Rabbi Elozar, for Rabbi Avahu said in the name of Rabbi Elozar: Wherever it is said in the Torah *one shall not eat, you (singular) shall not eat, you (plural) shall not eat*, the implication is that one can neither eat nor benefit from the item, unless the Torah specifies otherwise, as the Torah does regarding a carcass of a non-kosher animal. [*It is said: you shall not eat any carcass (neveilah) to the stranger who is within your gates you shall give it that he may eat it, or sell it to a heathen etc. we derive from here that ordinarily, a prohibition against eating would include prohibiting other benefits as well.*]

The *Gemora* answers: Rabbi Avahu's rule only applies when the prohibition against eating is derived from the verse *it may not be eaten*. Here, the prohibition is derived from the term *it shall be stoned*.

Mar Zutra asks: Let us say that the prohibition against eating its meat only applies where he checked a stone (*to ensure that it is smooth and valid for shechitah*) and *shechted* with it (*for then it would resemble stoning*); however, if he *shechted* it with a knife, it would be permitted!?

The *Gemora* answers: Does it say "a knife" anywhere in the Torah with respect to slaughtering? And furthermore, it was taught in a *braisa*: One may use anything for slaughtering. It will be valid with a stone, glass or a stalk of reed (*evidently, slaughtering with a stone is regarded as a shechitah, and not as stoning*).

The *Gemora* states that one is not permitted to derive benefit from the hide as well. This is either learned from

the verse *and the owner of the ox is clean*, or from the word "*es*" when the Torah writes *its flesh*.

The *Gemora* notes that some opinions do not expound the word "*es*." This would be in accordance with the following *braisa*: Shimon Ha'amsoni, and others say that it was Nechemia Ha'amsoni, would expound on every word *es* that was written in the Torah. (*This means that he would teach what the word es was coming to include.*) When he reached the verse that states *you shall revere es Hashem your G-d*, he stopped expounding on the word *es*. Shimon Ha'amsoni felt that it is impossible to equate the reverence of Hashem to anything else, so he retracted from all of his previous interpretations of the word *es*. When questioned by his students what would happen to all the words *es* that he had expounded upon previously, Shimon Ha'amsoni replied, "Just as I received reward for expounding on those words, I will receive reward for retracting my interpretations. Rabbi Akiva arrived later and expounded the verse to mean *you shall revere es Hashem your G-d*, to include Torah scholars. Just like one is obligated to revere Hashem, so too, one must revere Torah scholars. (56b – 57a)

## DAILY MASHAL

### *Es Includes the Torah Scholars*

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all the words *es* that he had expounded upon previously, Shimon Ha'amsoni replied, "Just as I received reward for expounding on those words, I will receive reward for retracting my interpretations. Rabbi Akiva arrived later and expounded the verse to mean *you shall revere es Hashem your G-d*, to include Torah scholars. Just like one is obligated to revere Hashem, so too, one must revere Torah scholars.

The Pardes Yosef (Vayechi) explains Rabbi Akiva by citing the *Gemora* in *Nedarim*, which states: Rav Yehudah said in the name of Rav: What does the verse mean when it says: *Who is the man who is wise and can understand this?* This (*the reason for the destruction of the Second Temple*) was asked to scholars and prophets and they could not explain it, until Hashem explained it Himself, as it says: *And Hashem said that it is because they left my Torah.* Isn't the phrase "*and they did not listen to My voice*" the same as the phrase "*and they did not go in its ways*"? Rav Yehudah explains in the name of Rav: This means that they did not recite a blessing before learning Torah.

Rabbi Akiva was saying: The word *es* is including the Torah scholars. The Holy One, Blessed be He said: *it is because they left "es" my Torah.* They left that which was included from the word *es*, for they were not honoring the Torah scholars.

However, it can be asked that the Torah scholars should have been *mochel* the respect that they deserved!? We have learned that if a Torah scholar is *mochel* on the honor due to him, it is valid!

This is why Hashem continued with the verse, *it is because they left my Torah.* Hashem is saying: The Torah is Mine and the Torah scholar cannot be *mochel*. Why is the Torah Mine? It is because *Klal Yisroel* did not recite the blessing before learning Torah. The *Gemora* Brochos asks: It is written: *The entire world belongs to Hashem.* But it is also

written: *And the land was given to the people!*? The *Gemora* answers: It depends if they recite a blessing first or not. Since they didn't recite the blessing before learning Torah, it is regarded as Hashem's Torah, and the Torah scholars could not be *mochel* on the obligation to honor the Torah.