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Bava Kamma Daf 38

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Gentile’s Ox

The *Mishna* had stated: If an ox of a Jew gored the ox of a gentile, he is exempt from paying.

The *Gemora* asks: If the verse “*Your friend*,” is to be taken literally, even the ox of a gentile that gores the ox of a Jew should be exempt! If “*Your friend*” is not to be taken literally, even the ox of a Jew that gores the ox of a gentile should have to pay!

Rabbi Avahu said: It is written: *Hashem stood and judged the earth; He saw and released the nations*. This indicates that Hashem saw the seven commandments which were accepted by all the descendants of Noach, but since they did not observe them, He rose up and declared their money to Israel (*with respect to damage done to cattle by cattle*). [It emerges that the verse is to be taken literally and gentiles are not included in “*your friend’s ox*.” However, they were penalized and if their animal damages a Jew’s animal, they are liable to pay full damages.]

Rabbi Yochanan said that the same could be inferred from the following verse: *He revealed Himself from Mount Paran (after the other nations refused to accept the Torah)*, implying that He “revealed” their money to Israel.

The *Gemora* cites a supporting *braisa*: If the ox of a Jew gores an ox of a gentile, there is no liability, but if an ox of a gentile gores an ox of a Jew, whether the ox that did the damage was a *tam* or whether it had already been a

mu’ad, the payment is to be in full, as it is said: *Hashem stood and judged the earth; He saw and released the nations*, and again, *He revealed Himself from Mount Paran*.

The *Gemora* asks: Why are both verses necessary?

The *Gemora* answers: Otherwise, you might have thought that the verse *Hashem stood and judged the earth* refers exclusively to statements on other subjects made by Rav Masnah and by Rav Yosef; come therefore and hear: *He revealed Himself from Mount Paran*, implying that from Paran, he “revealed” their money to Israel. (38a)

Mitzvos for a Gentile

Rav Masnah had said: *Hashem stood and judged the earth; He saw and released the nations*. What did He see? Hashem saw the seven commandments which were accepted by all the descendants of Noach, but since they did not observe them, He rose up and exiled them from their land.

Rav Yosef had said: *Hashem stood and judged the earth; He saw and released the nations*. What did He see? Hashem saw the seven commandments which were accepted by all the descendants of Noach, but since they did not observe them, He rose up and released them from their obligation to observe these commandments.

The *Gemora* asks: It would emerge that a sinner gains from his transgression!?

Mar the son of Ravina answers: This is teaching us that even if they fulfill the *mitzvos*, they will not receive reward for it.

The *Gemora* asks: But did we not learn in a *braisa* that Rabbi Meir said: How is it known that a gentile who studies Torah is comparable to a *Kohen Gadol*? It is written (*with respect to the Torah's laws*): *that man shall perform and by which he shall live*. It does not say: *Kohanim, Leviim* or *Yisroelim*. Rather, it says "man." This teaches us that a gentile who studies Torah is comparable to a *Kohen Gadol*. [*It emerges that they do receive credit for observing the Torah!?*]

The *Gemora* answers: They do not receive reward as if they were commanded to do so, but they do receive reward as one who performs a *mitzvah* even though he has not been commanded. This is as Rabbi Chanina says: A person who is commanded to do *mitzvos* and does it is greater than one who is not commanded to do it and he does it anyway (*for one has to fight with his yetzer hara, and the other does not*).

The *Gemora* cites a *braisa*: The Government of Rome had sent two officers to the Sages of Israel with a request to teach them the Torah. It was accordingly read to them once, twice and three times. Before taking leave, they made the following remark: We have gone carefully through your Torah, and found it all true with the exception of that which you say that if an ox of a Jew gores an ox of a gentile that there is no liability, whereas if the ox of a gentile gores the ox of a Jew, whether it is a *tam* or *mu'ad* compensation has to be paid in full. In no case can this be right. For if the verse "*Your friend*," is to be taken literally, even the ox of a gentile that gores the ox of a Jew should be exempt! If "*Your friend*" is not to be taken literally, even the ox of a Jew that gores the ox of a gentile should have to pay!? We will, however, not report this matter to our Government.

When Rav Shmuel the son of Yehudah lost a daughter, the Rabbis said to Ulla: Let us go in and console him. But he refused, saying: What have I to do with the consolation of the Babylonians, which is like blasphemy? For they say, "What could have been done," which implies that were it possible to do something (*to reverse Hashem's decree*), they would have done it. He therefore went alone to the mourner and said to him: It is written: *And Hashem spoke to me (Moshe), Do not oppress the Moabites and do not contend with them in battle*. Now we may well ask, could it have entered Moshe's mind to wage war without Hashem's permission? We must suppose that Moshe reasoned a *kal vachomer* as follows: If in the case of the Midianites, who came only to assist the Moabites, the Torah commanded us *Oppress the Midianites and smite them*, in the case of the Moabites, should not the same commandment apply even more strongly? But the Holy One, blessed be He, said to him: The idea that you have in your mind is not the idea I have in Mine. Two fine pigeons have I to bring forth from them: Ruth the Moabite and Naamah the Ammonite.

Now cannot we base on this a *kal vachomer* argument as follows: If for the sake of two fine pigeons (*virtuous descendants*), the Holy One, blessed be He, showed compassion to two great nations so that they were not destroyed, may we not be assured that if my teacher's daughter had indeed been righteous and worthy to have virtuous descendants come from her, she would have continued to live? [*He was saying that Hashem's decree is a just one.*]

Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: How do we know that Hashem does not even hold back reward for using proper terminology? The eldest daughter of Lot who called her son Moab (*implying "from my father"*) caused the verse to state: *Do not oppress the Moabites and do not contend with them in battle*. This implies that while it was forbidden to go to war with

them, it was permitted to tax them (*through forcing them to supply the Jews with bread and water*). However, regarding the descendants of the child from the youngest daughter named “Amon” (*son of my people*), it is written: *Do not oppress them and do not contend with them*, implying that it was forbidden to confront them at all.

Rabbi Chiya bar Abba said in the name of Rabbi Yehoshua ben Korchah: At all times a man should try to be first in the performance of a *mitzvah*, as on account of the one night by which the elder daughter preceded the younger daughter (*in having relations with their father Lot*), she preceded her by four generations in having a descendant join the nation of Israel: Oved, Yishai, David and Solomon. For the younger had no descendant join Israel until Rechavam (*son of Solomon*), as it is written: *And the name of his mother was Naamah the Ammonite*. (38a – 38b)

Cutheans

The *Gemora* cites a *braisa*: If an ox of a Jew gored the ox of a Cuthean (*converts to Judaism after an outbreak of wild animals in Eretz Yisroel and their conversion was debated as to its validity; they observed some commandments, but not others*), he is exempt. If a Cuthean’s ox gored a Jew’s ox, if it was a *tam*, he would pay half damages, and if it was a *mu’ad*, he would pay full damages (*for they were valid converts and therefore have the same halachah as a Jew*).

The *Gemora* asks from a *Mishna* where it is evident that Rabbi Meir maintains that the Cutheans were valid converts!?

Rabbi Avahu answered: In truth, he holds that they were valid converts; the only reason that a Jew is exempt if his ox gores a Cuthean’s animal is because the Rabbis decreed that the Cutheans should not be paid, for they were afraid that the Jews would intermarry with them.

Rabbi Zeira asked from a *Mishna*: These are the *na’aros* (*girls who have reached maturity; generally at twelve years old until they become a bogeres at twelve and a half*) who are entitled to a fine (*if a man violates an unmarried woman, he must pay a penalty of fifty shekalim to her father*): If one cohabits with a *mamzeres*, a *nesinah*, or with a Cuthean. Why didn’t we penalize them and rule that they should not receive the fine?

Abaye answers: We did not want the sinner (*the man who violated her*) to gain.

The *Gemora* asks: Why didn’t we rule that the fine should go to the poor?

Rav Mari answers: It is because money of the poor is considered money that has no claimant (*and the violator can push off a poor man who wishes to collect from him by saying, “I want to give the fine to another poor person”*). (38b – 39a)

INSIGHTS TO THE DAF

TEACHING TORAH TO AN IDOLATER

Rabbi Ami said (Chagigah 13a): One is forbidden from teaching Torah to a non-Jew. This is derived from the verse [Tehillim 147: 19 – 20]: *He declared His word unto Yaakov, His statutes and ordinances unto Israel. He has not done so with any nation; and as for His ordinances, they have not known them*.

Tosfos asks: The *Gemora* in Sanhedrin (59a) states explicitly that a non-Jew who studies Torah is liable for death; accordingly, one should be forbidden to teach him Torah because he is transgressing the prohibition against placing a stumbling block in front of a blind man? The

idolater cannot study Torah, so the Jew should not be able to teach him Torah, why is this new verse necessary?

Tosfos states: The gentile is permitted to study the seven Noahide laws as the Gemora Sanhedrin (ibid) states: Rabbi Meir said: A gentile who engages in the study of Torah is like a Kohen Gadol and the Gemora explains that this is referring to the seven laws which are incumbent upon him to adhere to. A Jew has an obligation to teach him these halachos.

Tosfos answers: Our Gemora is referring to a case where the idolater has another idolater who is willing to teach him Torah and therefore there would be no prohibition (based on the Gemora in Sanhedrin) of teaching him Torah; our Gemora teaches us that nevertheless, a Jew is forbidden from teaching a non-Jew Torah.

The Meor Veshemesh (Parshas Chukas) writes that it is permitted to teach the Written Law to an idolater as we find that Moshe wrote the Torah in seventy languages. The prohibition of teaching Torah to a gentile applies only to the Oral Law.

The Divrei Chaim (Chanukah) rules similarly: The Torah was written on the stones and the nations of the world copied it over. The Medrash states that the Holy One, Blessed is He did not protest and allowed them to study the Written Law. It is forbidden to teach them even one word of the Oral Law.

There are many commentators who disagree with this vehemently and they maintain that it is evident from many sources that it is even forbidden to teach the Written Law to a non-Jew.

In the sefer, Beis Pinchas (I P. 169) from Rabbi Pinchas HaLevi Horowitz, he writes that all are in agreement that it is forbidden to teach even the Written Law to a non-Jew; the aforementioned commentators are merely

stating that we are not obligated to protest and prevent a non-Jew from studying the Written Law. This is derived from the Medrash which stated that Hashem allowed the idolaters to copy over the Written Law. It is incumbent on us, however, to ensure that the gentiles do not study the Oral Law.

This explanation is seemingly inconsistent with a ruling issued by Reb Moshe Feinstein in Igros Moshe (Y"D II: 132): He states that it is forbidden to directly teach Torah to a gentile; however, if he happens to be in the room when one is teaching Torah to other Jews, the teacher is permitted to continue teaching Torah since it is not his intention to teach the gentile.

If there is an obligation to ensure that the gentile does not study the Oral Law, it should follow that one would be compelled to cease his discourse and wait for the non-Jew to leave before continuing with the teaching of Torah.

TEACHING TORAH TO A GENTILE PLANNING ON CONVERTING

The Rambam (Issurei Bi'ah 14:2) writes that we inform the prospective convert the essentials of the faith, which is the unity of God and the prohibition of idolatry, and they go on at great length about these matters.

The Machaneh Chaim (Y"D II, 45) asks: Why isn't this forbidden on account of a gentile studying Torah? The Gemora in Sanhedrin (59a) states explicitly that a non-Jew who studies Torah is liable for death.

He answers by citing a Medrash Tanchuma in Parshas Vayelech: The numerical value of Torah is six hundred and eleven. The remaining two mitzvos which complete the six hundred and thirteen are the two mitzvos which were given by Hashem directly at Har Sinai. This is the explanation of the verse: The Torah that Moshe commanded us to observe. Moshe instructed us



regarding six hundred and eleven mitzvos; the other two were from Hashem.

The prohibition against teaching an idolater Torah is only applicable to the six hundred and eleven mitzvos that Moshe taught us. The other two, I am Hashem your God and the Unity of God; one would be permitted to teach to them. This is where the Rambam derived his ruling from; we can go on with great length discussing the unity of God and the prohibition of idolatry.

The Maharsha (Shabbos 31a) writes that it is permitted to teach Torah to an idolater who wishes to convert. He proves this from the incident with Hillel and the convert.

Reb Akiva Eiger (41) disagrees and maintains that it is forbidden to teach Torah to an idolater even if he is planning on converting. Hillel taught the convert Torah only after he converted.

ADAM - UNITY

The *Gemora* cites a *braisa* that Rabbi Meir said: How is it known that a gentile who studies Torah is comparable to a *Kohen Gadol*? It is written (*with respect to the Torah's laws*): *that man shall perform and by which he shall live*. It does not say: *Kohanim, Leviim* or *Yisroelim*. Rather, it says "man." This teaches us that a gentile who studies Torah is comparable to a *Kohen Gadol*.

Tosfos asks from a *Gemora*: Rabbi Shimon ben Yochai said (*Yevamos* 61a): The graves of idolaters do not transmit *tumah* through the roof (*if the tumah source and a person or object is under the same roof*). He cites a Scriptural source to prove this point. It is written [Yechezkel 34:31]: *Now you my sheep, the sheep of my pasture; you are adam*. You, Israel, are referred to as "Adam," man, but an idolater is not regarded as "Adam." (*The word "Adam" is the term used in the Torah regarding the laws of tumah*

by way of a roof; thus we see that the grave of an idolater does not transmit this tumah.)

Rabbeinu *Tam* answers that there is a distinction between the word "adam" and "ha'adam."

The Ol'los Efraim says that there are four names for man; Adam, Gever, Enosh and Ish. Each of them can be written in a singular form as well as in a plural form. However, the term "Adam" can only be written in a singular form. He explains this with our *Gemora*. Only a Jew is referred to as Adam, not an idolater. Klal Yisroel has the quality of *achdus*, uniting as one; therefore only we can be called Adam.

Using this principle, we can answer a famous question. It is written [Koheles 12:13]: *The end of the matter, all having been heard: fear God, and keep His commandments; for this is the whole man*. The *Shalah* comments that the verse *fear God* is referring to the negative prohibitions; the verse *and keep His commandments* is referring to the positive commandments; and the verse *for this is the whole man* is the essence of man, the two hundred and forty eight limbs and the three hundred and sixty five veins, which are corresponding to the two hundred and forty eight positive commandments and the three hundred and sixty five negative prohibitions.

There are those that ask: If so, it is impossible for any single individual to be complete; it is impossible to fulfill all six hundred and thirteen *mitzvos*. Some *mitzvos* are only applicable to a *Kohen*; some are unique to a *Levi*; others are only to a *Yisroel*; men have *mitzvos* that are only relevant to them, and women have their special *mitzvos*. How can a person be considered complete?

Perhaps the answer is because Klal Yisroel is Adam. We are all united. One person's performance of a *mitzvah*



effects everyone else. If everyone does their particular *mitzvah*, Klal Yisroel can be regarded as being complete.

The Beilis Blood Libel

The following story is printed in the Sefer Margaliyos HaShas amongst others and the text of the entire story can be found here: [shemayisrael](http://shemayisrael.com).

The Beilis Affair shook the ground under those Jews who had thought that the modern world was a more rational one, a world in which outrageous accusations might be levied but would certainly not gain credence. When Mendel Beilis was brought to trial for a blood libel accusation, it seemed that the progress of a century would be completely wiped away in an instant.

Jews around the world were stirred to action. There was also an outpouring of sympathy from non Jews who recognized the injustice and absurdity of the accusations. A progressive newspaper in Germany reported that libels that echo with the style and content of the darkest medieval times are being hurled against the Jewish minority in Russia. Diplomats, statesmen and other men of prominence urged the Russian government to retreat from this bizarre enterprise. But against this flood of outrage, the anti-Semites of the world only strengthened and increased their own accusations.

The Jewish world was in turmoil. In congregations around the globe, special daily prayers were instituted for the deliverance of Beilis and all the Jewish people. Community leaders, rabbis, chassidic rebbes and influential activists became involved. The Chazon Ish was an active participant in the fight, as were Rabbi Meir Shapiro, the Lubliner Rav, the Lubavitcher Rebbe and the Chortkover Rebbe. The main thrust of their efforts was ambitious. They sought not only to clear Beilis of the unfounded charges but also to uproot the very idea of the blood libel.

The lawyer that headed the defense team was the legendary Oscar Gruzenberg. He knew that the prosecutions attack was going to be directed against the Talmud and other works of Jewish scholarship and that the expertise in devising a defense would have to be provided by the rabbis. Rabbi Mazeh, Chief Rabbi of Moscow, was chosen to head the rabbinic advisory team for the defense.

On October 8, 1913, right after Yom Kippur, the trial opened. The long-awaited spectacle was now under way. Jew and non-Jew in Russia and around the world awaited the outcome with breathless anticipation.

As the trial began, the indictment accused Menachem Mendel the son of Tuviah Beilis, 39, of having murdered together with other people, not discovered, under duress of mysterious religious obligations and rituals, one Andrei Yustchinsky.

The twelve jurors were carefully chosen; their identities and ideologies had been thoroughly prepared prior to the charade of the trial. The first witnesses testified to such blatant lies that the defense lawyer did not even feel compelled to discredit their testimonies. These preliminary stages were clearly a farce, and the audience, near and far, waited for the real trial to begin. At last, the parade of experts began. And the trial became an examination of the Talmud's view on various issues.

What does the Talmud say about the place from which the soul exits the body?

Is it correct that the Talmud states that stealing from a gentile is permissible?

The constant refrain was about the Talmud. There, in the depths of the main courthouse of Kiev, all one could hear was Talmud. The prosecutor was prepared with an

avalanche of quotes from the Halachic (legal) and the Aggadic (homiletic) portions of the Talmud. Anti-Semites around the world had done their homework and had rallied to the cause of condemning the Jewish people and the Jewish religion in a court of law.

The crucial question was posed: How dare the Jewish sages claim that [the Jewish people] are called adam, man, while the idol worshippers are not called adam?

The illustrious Rabbi Meir Shapiro was then the Rabbi of Galina. (Later, he would establish and serve as the head of the famous yeshivah of Lublin, and he would also institute the Daf Yomi.) When Rabbi Shapiro heard about attacks against the Talmud, he understood that the Talmud was being accused of inciting Jew against non-Jew. Rabbi Shapiro sent off a very clear letter to Rabbi Mazeh dealing with this accusation. He told him to explain to the court that a very important insight into the nature of the Jewish people is revealed in this Talmudic quote.

The Torah states, he wrote, that kol Yisrael areivim zeh lazeh, all Jews are responsible for each other. (Shevuos 39) According to this principle, it stands to reason that the fate of Mendel Beilis, for example, which is in essence the fate of one single Jew, nevertheless touches the entire Jewish people. The Jewish people tremble for his welfare and would do everything in their power to remove the prisoner's collar from him. What would have been the reaction of the gentile world if one specific gentile had been accused of a similar crime and was standing trial in a faraway country? Clearly, no more than the people of his own town would show any interest in the libel. Perhaps, at most, people in other parts of his own country would criticize the proceedings. But people in other countries? They certainly wouldn't take a personal interest in him.

This, therefore, is the difference between the Jewish people and all other peoples. The Jews are considered

adam, the singular form of the word man, an indication of the extreme solidarity of the Jewish people. For us, when one Mendel Beilis is put on trial, the entire Jewish world stands at his side like one man. Not so the other peoples of the world. They may very well be considered anashim, the plural form of the word man, but they cannot be considered adam, a nation that stands together as a single man.

There is no way of knowing which particular effort of which particular rabbis may have had some impact on the trial. All in all, however, the concerted efforts of the Jews bore out the interpretation of Rabbi Meir Shapiro that you [the Jewish people] are called adam, for the Jews did set aside their internal differences and stood together as one man until the verdict of not guilty was returned.