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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

### **Defining a Shechitah**

The *Mishna* had stated: If a thief slaughtered it and it was found to be *tereifah*; or if he slaughtered a non-consecrated animal in the Temple Courtyard, he pays the fourfold or fivefold payments.

Rav Chavivi from Mechoza said to Rav Ashi: It can be proven from the *Mishna* that a *shechitah* is only at the end of the slaughtering process (*precisely after the trachea and the esophagus have been cut beyond the halfway mark*), for if the entire process would be regarded as a *shechitah* (*including the initial cut*), once the thief has cut it a little, the animal is already forbidden for benefit (*since he slaughtered a non-consecrated animal in the Temple Courtyard*), and consequently, when he cuts the remainder, he is not slaughtering an animal of the original owner (*and the liability for the fourfold or fivefold payments are incurred only upon the conclusion of the slaughtering*)!

Rav Huna the son of Rava said to him: He is liable for the fourfold or fivefold payment for the little portion (*at the beginning*) of the slaughtering.

Rav Ashi said to him: Do not push away that which Rav Chavivi said, for it is written: *and he slaughters “it,”* which would seem to indicate that he must

slaughter the animal completely (*in order to be liable for the fourfold or fivefold payment*), and here that is lacking (*for he can only be liable for the initial cut*).

The *Gemora* asks: How is the difficulty answered? [*If you hold that the shechitah is from the beginning to the end, how can the thief be liable for the extra payments if the animal is rendered forbidden for benefit at the onset?*]

Rav Ashi replied: Rav Gamda said the following in the name of Rava: The *Mishna* is referring to a case where he slaughtered a portion (*the majority*) of the *simanim* (*the trachea and the esophagus*) outside the Temple Courtyard, and he finished it inside. [*It only became forbidden for benefit at the conclusion of the shechitah; he is therefore liable for the extra payments, for it belonged to the owner until the end.*]

The *Gemora* presents an alternative version to the previous discussion: Rabbi Shimon said in the name of Rabbi Levi the Elder: A *shechitah* is only at the end of the slaughtering process. But Rabbi Yochanan said: The entire process would be regarded as a *shechitah*.

Rav Chavivi from Mechoza said to Rav Ashi: Should we say that Rabbi Yochanan holds that the prohibition against benefitting from a non-

consecrated animal which was slaughtered in the Temple Courtyard is not Biblical? For if you would think that it is Biblical, then why, according to Rabbi Yochanan, does our *Mishna* rule that a thief would be liable to pay the extra payments for slaughtering a non-consecrated animal in the Temple Courtyard? Once the thief has cut it a little, the animal is already forbidden for benefit (*since he slaughtered a non-consecrated animal in the Temple Courtyard*), and consequently, when he cuts the remainder, he is not slaughtering an animal of the original owner (*and the liability for the fourfold or fivefold payments are incurred only upon the conclusion of the slaughtering*)!

Rav Acha the son of Rava said to him: He is liable for the fourfold or fivefold payment for the little portion (*at the beginning*) of the slaughtering.

Rav Ashi said to him: Do not push away that which Rav Chavivi said, for it is written: *and he slaughters "it,"* which would seem to indicate that he must slaughter the animal completely (*in order to be liable for the fourfold or fivefold payment*), and here that is lacking (*for he can only be liable for the initial cut*).

The *Gemora* asks: How is the difficulty answered? [*If you hold that the shechitah is from the beginning to the end, how can the thief be liable for the extra payments if the animal is rendered forbidden for benefit at the onset, unless you answer that the prohibition against benefitting from a non-consecrated animal which was slaughtered in the Temple Courtyard is only Rabbinical?*]

Rav Ashi replied: Rav Gamda said the following in the name of Rava: The *Mishna* is referring to a case where he slaughtered a portion (*the majority*) of the *simanim* (*the trachea and the esophagus*) outside the Temple Courtyard, and he finished it inside. [*It only became forbidden for benefit at the conclusion of the shechitah; he is therefore liable for the extra payments, for it belonged to the owner until the end.*] (72a – 72b)

### **Mishna**

If according to two witnesses he stole (*an ox or a sheep*) and according to them he slaughtered or sold it and they were found to be *zomemin*, (*when witnesses offer testimony and other witnesses refute them claiming that the first set of witnesses could not possible testify regarding the alleged crime since they were together with them at a different location at the precise time that they claimed to witness the crime somewhere else; The Torah teaches us that we believe the second pair in this instance; the first witnesses are called "eidim zomemim" "scheming witnesses," and they receive the exact punishment that they endeavored to have meted out to the one they accused*) they pay everything. If according to two witnesses he stole, and according to two others, he slaughtered or sold it, the *halachah* is as follows: if they both were found to be *zomemin*, the first set of witnesses pay *kefel*, and the second set must pay a threefold payment. If only the second set were found to be *zomemin*, the thief pays *kefel*, and they (*the second set*) must pay a threefold payment. If only one of the witnesses in the second set were found to be a *zomeim*, the second testimony is invalidated. If only one of the witnesses in the first



set were found to be a *zomeim*, the entire testimony is invalidated (*even the second set*); for if there was no theft, there was no slaughter or sale. (72b)

### **The Disqualification of the Zomemin**

It was stated: Abaye said: A *zomeim* witness is disqualified (*for any other testimony*) retroactively (*from the time that he testified*). Rava said: He is only disqualified from the time that he is found to be a *zomeim*.

The *Gemora* explains: Abaye said that he is disqualified retroactively, for it is at that time that he became an evildoer, for the Torah states: *Do not place your hand with an evildoer to be a corrupt witness*. Rava said that he is only disqualified from the time that he is found to be a *zomeim*, for his disqualification is itself a novelty (*so why should we stretch it*). This is because the two sets of witnesses are two against two, so why should we listen to the second set more than the first? Accordingly, we can only apply the disqualification novelty from the time that they become *zomemin*.

The *Gemora* presents an alternative version to explain Rava: In truth, he holds like Abaye that they are retroactively disqualified. The reason why Rava holds that they are only disqualified from the time that they become *zomemin* is because we are concerned for the loss of the purchasers (*any buyer who used these witnesses in the interim to sign on any document*).

The *Gemora* asks: What is the practical difference between the two reasons?

The *Gemora* answers: The difference between them would be in a case where two witnesses testified against one of the initial witnesses, and two other witnesses testified against the other of the initial witnesses. Alternatively, a difference would be in a case where they testified that that the first set of witnesses were thieves and that is why they should be disqualified. There is no novelty in these two cases, but we still should be concerned for the loss of the purchasers. (72b – 73a)

### DAILY MASHAL

#### What Standard of Living Should a Ben Torah Choose?

Several years ago a young talmid chacham from Yerushalayim drew up a “Yissachar and Zevulun” agreement with a self-supported man. Their arrangement stipulated that the talmid chacham would receive a monthly stipend from the workingman to help support him and his family. In return the workingman would receive half the merit of the Torah study. After a certain period of time, the talmid chacham decided to cancel the agreement. Upon considering the matter, he concluded that the *zechus* of studying Torah under pressing financial conditions was preferable over Torah study in comfort. In an extended discussion of this case, HaRav Pinchas Zevichi shlita (Responsa Ateres Paz I, vol. III, C.M. §16) quotes a number of sayings by Chazal in praise of those who engage in Torah study despite serious financial strain. He cites R. Yehudah bar R. Chiya, who says, “The prayers of every talmid chacham who engages in Torah study under pressing

financial conditions are accepted” (Sotah 49a). Likewise, R. Avahu teaches us that Hashem “satisfies his needs with with ziv HaShechinah [the radiance of the Divine Presence]” (ibid.) and R. Acha bar Chanina says, “No curtain [concealing the Divine Presence] is locked before him.” Is it appropriate, asks HaRav Zevichi, to study Torah in poverty even if one has an opportunity to study Torah in relative comfort?

The food a Torah scholar eats: HaRav Moshe Feinstein zt'l (Igros Moshe, Y.D. IV §36) points out that on our daf Rav Nachman said he had not been fully focused in deciding a certain matter because “he had not eaten beef.” Since he had been fasting (Tosefos, s.v. delo), Rav Nachman had gone without the meat he was used to eating and as a result had been unable to devote the attention needed to address the issue at hand. Thus it would seem that a lack of good food has a detrimental effect on the body and mind, thereby lowering the quality of Torah study. Electing to live in poverty, therefore, would be inadvisable.

The advantage of studying Torah in poverty: Although Chazal often praised those who studied Torah under meager conditions, based on Rashi's commentary (Sotah, ibid, s.v. lechem tzar), a Torah scholar should not place himself in a trying financial situation. “To whom is the verse referring? To someone who has a difficult livelihood but is engaged in Torah study nevertheless.” According to Rashi, Chazal's praises really apply to those who are already in a tight financial situation but choose to study anyway.

A talmid chacham is not permitted to fast: Indeed, the Shulchan Aruch (O.C. 571:2) rules, “A talmid chacham is not allowed to fast because this diminishes the work of Heaven.” Also, the Bei'ur Halacha (ibid.) writes that according to “the divine, pious and holy kabbalist, HaRav Y. Luria Ashkenazi zt'l...everything written about asceticism only applies to those who do not toil over the Torah, but someone whose profession is Torah study, and who has acquired knowledge and a fear of Heaven, should not weaken himself [by fasting], which could lead him to set aside his studies and idle away.”

HaRav Chaim of Volozhin zt'l (Ma'aseh Rav, She'ilta 50, pg. 15) advised a talmid chacham to accept the generous support offered to him by an affluent Jew in exchange for a share in his reward for studying Torah. His advice was based on a concern that if the talmid chacham were to decline, the offer might be interpreted as selfishness. People might conclude that he is even prepared to reduce his study to half a day in order to keep the entire reward for to himself. On the other hand, agreeing to the wealthy man's offer would allow him to study a full day, bringing more glory to Hashem's name, which is the main purpose of mitzvos.