



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Rabbi Yochanan and Rish Lakish

[The Gemora had asked: Rabbi Shimon holds (in the Mishna on 70a) that slaughtering which does not make the animal’s meat edible (not re’uyah) is not considered slaughtering. Slaughtering a sacrificial animal outside of the Temple is not allowed, and renders the animal prohibited in eating and benefit. How can Rabbi Shimon obligate the thief for such an act, since he doesn’t consider it slaughtering?

The Gemora gave three answers to this question:

1. Rav Dimi (in the name of Rabbi Yochanan) – He slaughtered it in the Temple for the sake of its owner, but the blood was spilled before being splashed on the altar. (If the sacrifice were completed successfully, the thief would not be liable for dv’h, because he had returned the original animal to the owner.)
2. Ravin (in the name of Rabbi Yochanan) – He slaughtered the animal in the Temple, but not for the sake of the owner. In such a case, the sacrifice is edible, but has not fulfilled the owner’s obligation. It therefore is not considered returned to the owner.
3. Rish Lakish – The animal had a blemish,

making it unfit as a sacrifice. Therefore, the slaughtering outside of the Temple was allowed, and did not make the animal unusable.]

The Gemora asks: It is understandable why Rabbi Yochanan did not explain like Rish Lakish, for he wanted to interpret the Mishna to be referring to a case where the animal had no blemish. But what compelled Rish Lakish not to learn like Rabbi Yochanan?

The Gemora answers: If the thief would be liable (the extra payments) for selling it, he is liable for slaughtering it, but if he would not be liable for selling it, he is not liable for slaughtering it. And by these unblemished korbanos - since he will not be liable for selling them (for they cannot become chulin), he will not be liable for slaughtering them either.

The Gemora notes that they follow their own opinions stated elsewhere, for it was stated: If a thief sells a stolen ox which is a tereifah, according to Rabbi Shimon (who holds that one would not be liable to pay the extra payments if he slaughtered a tereifah, for it is not a slaughtering which renders the meat fit for consumption), Rabbi Yochanan said that he would be liable, whereas Rish Lakish said that he

would be exempt. Rabbi Yochanan, who said that he would be liable, held that although this ox could not be subject to the *halachah* of (*paying for*) slaughtering, it could yet be subject to the *halachah* of selling, whereas Rish Lakish, who said that he would be exempt, maintained that since this ox could not be subject to the *halachah* of slaughtering, it could similarly not be subject to the *halachah* of selling either.

Rabbi Yochanan asked Rish Lakish from the following *braisa*: If a thief stole a hybrid animal (*an offspring of a goat and a sheep*) and slaughtered it, or a *tereifah* animal and sold it, he must pay the fourfold or fivefold payment. Now, does this ruling not follow the opinion of Rabbi Shimon (*and that is why it only mentions "selling" a tereifah, and not slaughtering it*), thus proving that although this animal would not be subject to the *halachah* of slaughtering, it could nevertheless be subject to the *halachah* of selling!?

He replied: No; this is the view of the Rabbis (*who hold that the thief will be liable for slaughtering a tereifah*).

The *Gemora* asks: But if this is the view of the Rabbis, why should a *tereifah* animal be subject only to the *halachah* of selling and not to the *halachah* of slaughtering?

Rish Lakish responds: And if the *braisa* is following Rabbi Shimon's view, why then should a hybrid animal be subject only to the *halachah* of slaughtering and not to that of selling? We must say therefore that though slaughtering is mentioned, the same *halachah* was meant to apply also to selling; so

also according to the Rabbis, although the *halachah* of selling is mentioned in the *braisa*, the same *halachah* was meant to apply to slaughtering as well.

Rabbi Yochanan, however, might say that this does not follow. It is true that if you say that the *braisa* follows Rabbi Shimon, there is no difficulty, for since the *braisa* could only mention liability regarding *tereifah* in only one case (*selling*), it states liability regarding a hybrid animal also in one case only (*slaughtering*). But if you say that this ruling follows the Rabbis, why not join them together, and state as follows: If a thief stole a hybrid or *tereifah* animal and slaughtered or sold it, he must pay the fourfold or fivefold payment!

The *Gemora* concludes: This indeed is a difficulty (*according to Rish Lakish*). (77b)

Hybrid

The *Gemora* asks: Why is a thief liable for slaughtering a hybrid animal? The Torah writes *seh* (*sheep*), and Rava said that this (*according to Rashi, "this" is referring to the verse discussing which animals may be eaten*) teaches us that wherever the Torah writes *seh*, it excludes a hybrid!?

The *Gemora* answers: Here (*by the fourfold and fivefold payment*) it is different, for the Torah writes an extra word "or" (*an ox or a sheep*) to include a hybrid.

The *Gemora* asks: And wherever the Torah writes "or," is it coming to "include"? But we learned in a *braisa*: *An ox or a lamb (are animals that can be used*



as sacrifices) – this excludes a hybrid. Or a goat – this excludes a mutant (a sheep that looks like a goat)!?

Rava answers: It depends upon the context of the verse: Regarding theft, where it is written “an ox or a sheep,” which are two animals that cannot produce a hybrid (for the gestation period of an ox is nine months and the gestation period of a sheep is five months), the term “or” is then coming to “include” a hybrid. However, by *kodoshim*, where it is written “a lamb or a goat,” which are two animals that can produce a hybrid, the term “or” is then coming to “exclude” a hybrid.

The *Gemora* asks: But by *kodoshim*, it is also written “an ox or a lamb,” and these are two animals that cannot produce a hybrid, and therefore the term “or” should be used to “include” a hybrid?

The *Gemora* answers: Since the latter part of the verse is used to exclude, the first part of the verse is also used to exclude.

The *Gemora* asks: Why don’t we say the contrary? Since the first part of the verse is used to include, the latter part of the verse should also be used to include!?

The *Gemora* answers: Two exclusions are necessary, for one verse will exclude a hybrid and the other verse will exclude a mutant. But it would not be necessary at all to have two inclusionary verses. (77b – 78a)

DAILY MASHAL

The Night before Execution

It is an accepted tradition that the lengthy Tosfosim in the seventh perek of Bava Kamma were authored by the Baalei HaTosfos the night before they were murdered *al pi Kiddush Hashem*. While they were imprisoned, knowing that they would be killed the next day, they occupied themselves by delving into the depths of Torah. It is said that they cut their fingers and used the blood for ink. “*Mi k’amcha Yisroel?*”

The Shortest Amud in Shas

The shortest amud in the Shas, Bava Kamma 77a, has just nine words. Once, following a successful fundraising trip to the United States, HaRav Kahaneman zt’l, the Ponevezher Rav, walked into the yeshiva in a particularly good mood. He had missed his talmidim so much during the trip that upon arrival the first thing he did was to step into the beis medrash and announced that anyone who could recite an entire amud of Gemara on the spot would receive a nice gift. One clever boy stepped forward right away and recited this amud—and won the prize.