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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

### **Change**

Abaye said: Rabbi Shimon ben Yehudah, Beis Shamai, Rabbi Eliezer ben Yaakov, Rabbi Shimon ben Elozar and Rabbi Yishmael all maintain that a change leaves the article in its previous status.

That Rabbi Shimon ben Yehudah holds like this was proven above. How do we know that Beis Shamai holds like this? For it was taught in the following *braisa*: If a man gave a harlot wheat as her payment (*which cannot be used for a korban*), and she made them into flour, or olives and she made them into oil, or grapes and she made them into wine, it was taught in one *braisa* that the produce is still forbidden to be used as an offering, whereas it was taught in a different *braisa* that it is permitted. And Rav Yosef said: Guryon of Aspurk learned: Beis Shamai is the one who prohibit the produce (*for a change remains in its place*), whereas Beis Hillel permits it. The *Gemora* cites the Scriptural sources for both of their opinions.

How do we know that Rabbi Eliezer ben Yaakov holds like this? For it was taught in the following *braisa*: Rabbi Eliezer ben Yaakov says: If one stole a *se’ah* of wheat and he grinded it into flour, kneaded it and baked it and set aside a portion of it as *challah*, how would he be able to recite the benediction? He would surely not be pronouncing a blessing but blaspheming Him (*for although it has changed, it is still regarded as the stolen object*), as to such a one could be applied the words: *The*

*robber pronounced a blessing but in fact blasphemed Hashem.*

How do we know that Rabbi Shimon ben Elozar holds like this? For it was taught in the following *braisa*: Rabbi Shimon ben Elozar laid down the following rule: In respect of any improvement carried out by the robber, he would have the upper hand; if he wants, he can take the improvement, or if he wants, he may say to the owner, “What is yours is before you.”

The *Gemora* asks: What is meant by this last statement (*why would the robber say this if the object appreciated in value*)?

Rav Sheishes explains: This is meant: Where the object has been improved, the robber may take the increased value, but where it has depreciated, he may say to the owner, “What is yours is before you,” as a change leaves the article in its previous status.

The *Gemora* asks: But if so, why should it not be the same even in the case where the object was improved?

The *Gemora* answers: It is because of an enactment in order to make matters easier for the robber to repent.

How do we know that Rabbi Yishmael holds like this? For it was taught in the following *braisa*: Rabbi Yishmael says: The *mitzvah* of *pe’ah* requires that it should be set aside from standing crops. If, however, the owner did not set it aside from standing crops, he should set it aside from the

sheaves. If he did not set it aside from the sheaves, he should set it aside from the pile of kernels so long as he has not evened the pile. But if he had already evened the pile, he must first take *ma'aser* from it (*for although pe'ah and all gifts to the poor are exempt from ma'aser, once the pile has been evened and pe'ah has not been removed from it, the ma'aser obligation takes effect*) and then set aside the *pe'ah* for the poor. Moreover, in the name of Rabbi Yishmael it was stated that the owner would even have to set it aside from the dough and give it to the poor (*for even after it was baked into bread, it is still the same item and there is still an obligation to give pe'ah from it*).

Rav Pappa asked Abaye: Why was it necessary for all these *Tannaim* to teach a *halachah* in accordance with Beis Shamai? He replied: It was for the purpose of telling us that Beis Hillel and the Beis Shamai did not differ at all on this matter.

Rava asked: On what basis do you have for saying that all these *Tannaim* follow one view? Why not perhaps say that Rabbi Shimon ben Yehudah meant his statement there to apply only to the case of dyeing on account of the fact that the color could be removed by soap? And perhaps Beis Shamai mean their view there to apply only to an offering to the Most High because it looks repulsive!? And perhaps Rabbi Eliezer ben Yaakov meant his statement there to apply only to a blessing because it is a *mitzvah* performed by the means of a transgression (*the brocha on the stolen object*)!? And perhaps Rabbi Shimon ben Elozar meant his view there to apply only to a deterioration which can be reversible!? And perhaps Rabbi Yishmael meant his view there to apply only to the law of *pe'ah*, on account of the repeated expression: *You shall leave*!?

And if you will ask that we should derive the law (*that a change does not effect acquisition*) from the case of *pe'ah*, we can surely answer that gifts to the poor are different (*and you cannot compare it to other halachos*).

Rava proves that Rabbi Yishmael's *halachah* (*that pe'ah is given from dough*) is based upon the extra "*you shall leave*" from that which Rabbi Yonasan inquired. For Rabbi Yonasan inquired about the reason of Rabbi Yishmael: Was it because he held that a change does not transfer ownership, or does he as a rule hold that a change would transfer ownership, but here it is different on account of the repeated expression, "*you shall leave*"?

The *Gemora* asks: But if you assume that the reason of Rabbi Yishmael was because a change does not transfer ownership, why then did the Torah repeat the expression "*you shall leave*"? And furthermore, according to the Rabbis (*who disagree with Rabbi Yishmael*), why did the Torah repeat the expression "*you shall leave*"?

The *Gemora* answers: This verse was necessary for that which was taught in the following *braisa*: If a man declares his vineyard *hefker* and rises early on the following morning and picks his fruit, he is obligated in *peret* (*one or two grapes that fall off from the cluster during the cutting, which must be left for the poor*), *oleilos* (*a small, underdeveloped cluster of grapes*), *shich'chah* (*one or two vines which were forgotten while harvesting are left for the poor*) and *pe'ah* (*leaving over a corner of the field for the poor*); but he is exempt from giving *ma'aser*.

[*The Ra"n in Nedarim explains: Normally, ownerless crops are exempt from all of these; however, since in all these (excluding ma'aser) the Torah uses an extra expression of abandoning (ta'azov), it is inferred that the obligation applies in any case where he is keeping them for himself. But since there is no extra expression by ma'aser, there is no distinction between a case where others harvest it or if he himself harvests it; there is still no obligation for ma'aser.*]

Rav Yehudah said in the name of Shmuel: The *halachah* follows Rabbi Shimon ben Elozar (*who holds that if the stolen object depreciates in value, the thief may still return it to the owner "as is"*).

The *Gemora* asks: Does Shmuel hold like this? But Shmuel said: No assessment was made for a thief or a robber (*if the stolen animal dies by them, they cannot use the carcass as part of the payment – they must pay for the animal in full*). *Beis Din* assesses (*the worth of the carcass*) only in cases of damages. Now, it is understandable according to Rava, who said that Rabbi Shimon ben Elozar maintains his opinion (*that the thief can return the depreciated object "as is"*) when it is a reversible change. Accordingly, we can answer that Shmuel said his *halachah* only regarding a case where the deterioration is irreversible, however, according to Abaye, who holds that Rabbi Shimon ben Elozar maintains his opinion even when the deterioration is irreversible, what is there to say?

Abaye explains the ruling as follows: Rav Yehudah said in the name of Shmuel: They have said that the *halachah* follows Rabbi Shimon ben Elozar, but he (*Shmuel*) does not hold like that.

Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: Biblically, the *halachah* would be that a stolen object which has changed should be returned to the owner "as is," as it is written: *And he shall return the stolen object that he stole*. We derive from here that in all cases the stolen object must be returned. And if you will ask from our *Mishna* (*which states that if one steals wood and makes it into utensils, or wool and he makes of it garments, he pays their value as at the time of the robbery*), the answer is that the Rabbis instituted an enactment in order to help the thieves repent (*so they will not have to lose out on their improvements*).

The *Gemora* asks: Does Rabbi Yochanan actually hold like this? But Rabbi Yochanan said that the *halachah* always

follows an anonymous *Mishna*, and we learned in a *Mishna*: If the owner did not manage to give the first of the shearings to the *Kohen* until it had already been dyed, he would be exempt (*from giving it to the Kohen, for now that it has been changed, it is not regarded as being "the first of his shearings"*)!? [*We see that change can be effective Biblically!?*]

Rabbi Yaakov answered: Rabbi Yochanan was referring to a case where he stole planed wood and made them into utensils. Since it is a reversible change, it Biblically does not effect acquisition. (93b – 94b)

### **Returning Stolen Goods**

The *Gemora* cites a *braisa*: If robbers or lenders of interest repent and wish to return their misappropriated articles, it is not right to accept the money from them, and he who does accept from them does not obtain the approval of the Sages.

Rabbi Yochanan said: It was in the days of Rebbe that this teaching was taught, as we learned in a *braisa*: It once happened with a certain man who was desirous of making restitution (*and return that which he stole*) that his wife said to him, "Empty one! If you are going to repent, even the belt you are wearing would not remain yours," and he thus refrained altogether from making repentance. It was at that time that it was declared that if robbers or lenders of interest are prepared to make restitution, it is not right to accept the money from them, and he who does accept from them does not obtain the approval of the Sages.

The *Gemora* asks that this would be a contradiction to the following *braisa*: If a father left to his children money accumulated from interest, even if the inheritors know that the money was taken as interest, they are not obligated to restore the money to the owners.



Now, does this not imply that it is only the children who are not obligated, whereas the father would be obligated to return the money!?

The *Gemora* answers: The *halachah* might be that even the father himself would not be obligated to return the money, and the reason why the ruling was stated with reference to the children was that since it was necessary to state in the following clause: If the father left them a cow or a garment or anything distinct, they are obligated to return it in order to uphold the honor of the father, the first clause similarly spoke of them.

The *Gemora* asks: But why should they be obligated to return it in order to uphold the honor of the father? Why not apply to them that which is written: *and a prince among your people you shall not curse*, which is explained to mean so long as he is acting in the ways of “*your people*” (*but if he is a sinner, there should be no obligation to honor him*)?

The *Gemora* answers: It is as Rav Pinchas answered elsewhere: We are referring to a case where the father had made repentance.

The *Gemora* asks: But if the father made repentance, why were these monies still left with him? Should he not have returned it?

The *Gemora* answers: It might be that he had no time to return it before he suddenly died.

The *Gemora* asks from a *braisa*: Robbers and lenders of interest, even after they have collected the money, they must return it.

The *Gemora* asks: But what collection could there have been in the case of robbers? If they robbed something, they committed robbery, and if they did not rob anything, they were not robbers at all? It must therefore read as

follows: Robbers, that is to say those who lend with interest, even after they have already collected the money, they must return it. [*This is against the braisa above, which stated that the interest should not be returned!?*]

The *Gemora* answers that although they have to make restitution of the money, it would not be accepted from them. If so, the *Gemora* asks: Why should they return it? The *Gemora* answers: It is to fulfill their duty to Heaven. (94b)

### INSIGHTS TO THE DAF

#### Reciting a Beracha on Forbidden Food

In our daf it is taught that if one has made a dough from stolen wheat one should not say the beracha when performing the mitzvah of separating challa. “This is not a blessing, it is a blasphemy.” The very dough intended for the performance of a mitzvah was acquired in an unlawful manner.

Berachos on Forbidden Food: Does the same principle apply to the beracha we recite when partaking of food, i.e., if someone on his own volition were to eat something that is halachically forbidden should he recite a beracha. Since eating the forbidden food is committing an offense, apparently the beracha would be an abomination. A differentiation can be made: A beracha on a mitzvah gives praise to Hashem upon fulfilling His will and as a person is commanded not to sin, his deeds are contradicting his words. The beracha on food, however, is thanksgiving for sustenance and though the food is forbidden, it is still satisfying. (See Kaf Hachaim §196 S.K. 4) This question is disputed by the Rambam and Ravad (Hilchos Brochos 1:19) According to the Ravad since one is deriving pleasure from the food one must recite a beracha. The Rambam maintains that one should not recite a beracha



and it is this opinion that the Shulchan Oruch follows. (O.C. 196:1).

**A Beracha on Stolen Food:** Even after reaching the above ruling there is an instance in dispute amongst the poskim. Does one recite a beracha on a food that was acquired in an illegal fashion; though by eating per se there is no transgression. The example given is grapes that were stolen and processed into wine. By having undergone this change, the thief has assumed ownership and is not forbidden to drink the wine. Some poskim are of the opinion that he must recite a beracha since there is no transgression involved in the drinking of the wine. Other poskim maintain that since the food was acquired in an illicit fashion one should refrain from making the beracha. (See Mishna Berura 196 S.K. 4). In practice the beracha should not be said, for he might be blaspheming.

**Reciting Kiddush on Stolen Wine:** There is a novel proposal mentioned by the Achronim that if one were to mistakenly make Kiddush on this wine, the mitzvah would be achieved and the beracha would not be a blasphemy. By closely analyzing the beracha recited before performing a mitzvah and the beracha recited before eating, one will observe certain characteristics that turn the blessing into a blasphemy when recited on stolen foodstuff. In the case of the beracha on a mitzvah we proclaim, "Asher kidishanu bemitzvosav v'tzivanu..." The language clearly implies that we are doing Hashem's will. This is blasphemous for it is obviously not His will that we steal in order to fulfill a mitzvah. Similarly, the essence of the beracha that precedes our eating is a thanksgiving to Hashem for providing food. Thanking Hashem for food received in an illegal manner is blasphemous. (See Korban Nesanel Pesachim Ch. 2 18:100 and Dvar Avrohom I 16:28) The beracha of Kiddush is unique in that it has neither of these problems. It is not a beracha uttered to thank for food, nor does it explicitly mention that we are performing a mitzvah. (Tziz Eliezer XIV 41:5).

## DAILY MASHAL

### A Measure for a Measure

It is told that the reason why Sara passed away before Avrohom Aveinu is because she complained that he did not pray for her to have children. The author of Hafla'ah (in Panim Yafos Bereishis 16:5) gives us a fascinating explanation. Since a woman is not obligated by the Torah to bear children, it must be that Sara's desire stemmed from her concern as to who would assist her in her old age, or who would look after her burial. These were legitimate concerns if she would outlive Avraham. So by complaining she was hinting at his early demise. This was therefore the punishment that she received; to die before Avraham.