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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

The Gemara asks: But if this<sup>1</sup> is so, then in the case of [the mixture] of meat and milk, why should it be said that the reason that it receives tumah is because, at one time, it was fit for the tumah relating to food? Why not derive this from the fact that it is a food which you can give to idolaters? For it has been taught: Rabbi Shimon, the son of Rabbi Yehudah says in the name of Rabbi Shimon: [The mixture of] meat and milk is forbidden to be eaten but it is permitted for general use since [Scripture says]: For you are a holy people to Hashem your God.<sup>2</sup> And, in another place, Scripture says: And you shall be holy men unto Me. As in that case, it is forbidden to be eaten but it may be used generally, so here [in connection with the mixture of meat and milk] it is forbidden to be eaten but it may be used generally! — Rabbi Shimon gives one [reason] and still another [reason]. One [reason] why it should receive the tumah of food is because it is a food which can be given to idolaters. And still another [reason], because for [the Jew] himself, too, there was a time [before its boiling] when it was fit to receive tumah.<sup>3</sup>

Now, if there is any substance in the opinion that after the donkey's neck is broken it is permitted according to Rabbi Shimon to be used, let the above [Baraisa] state: But Rabbi Shimon agrees in connection with the firstborn of a donkey and [the mixture of] meat and milk that they receive the tumah relating to food?<sup>4</sup> — [No]. If one had formed the intention [of using the donkey as food], it would be so [as you argue]; we are dealing here, however, in a case where he had not formed such an intention.<sup>5</sup>

And what is then the reason that [the majority of] the Rabbis, [Rabbi Shimon's disputants], make it receive tumah? — Rabbis said the following in the presence of Rav Sheishes: [The reason is that] its prohibition [by Scripture] renders it important [to be regarded as food].<sup>6</sup> But, do we say according to the Rabbis that the reason is, since its prohibition renders it important? Have we not learned [in a Mishnah]: Thirteen things were said with reference to the carcass of a kosher bird, and this is one of them: it requires the intention [to be used as food],<sup>7</sup> but it does not need to be rendered fit [to

<sup>1</sup> That any food which is permissible for benefit is susceptible to tumah according to Rabbi Shimon.

<sup>2</sup> Which is followed by the prohibition of cooking a kid in its mother's milk.

<sup>3</sup> Unlike the case of the ox and heifer mentioned above, since they have a forbidden status when alive.

<sup>4</sup> Since it can be given to idolaters for food. Hence Rabbah concludes that even Rabbi Shimon admits that a donkey whose neck was broken because its owner failed to redeem it, is forbidden to be used.

<sup>5</sup> And that is the reason why the Baraisa does not include the case of a donkey in the statement of Rabbi Shimon as receiving the tumah of food, for ordinarily, without expressing the intention of regarding it as food, it is not considered as such.

<sup>6</sup> The very prohibition which Scripture imposes upon it indicates that it is food fit for idolaters to eat, otherwise, Scripture would not have considered it of sufficient importance to forbid it and, therefore, it receives the tumah relating to food even without the express intention of using it as such.

<sup>7</sup> And if a dead sheretz touched it and, in turn, it touched other food, it renders the latter tamei. This intention of using it as food is necessary, as the carcass of a kosher bird has no tumah of touch, for it conveys tumah only in the gullet in the process of eating. Or, in the case where it is less in size than an olive and consequently there is no tumah as regards neveilah, it combines with other foods to make up the required size of an egg, in order to receive food tumah when it comes in contact with a dead sheretz.

receive tumah].<sup>8</sup> Now, if its prohibition signalizes it [as food] [to receive tumah], what need is there for the intention of using it as food? — [The Mishnah just quoted] represents the opinion of Rabbi Shimon.

Come and hear: The carcass of a nonkosher animal in all places, and the carcass of a kosher bird and the fat [of the carcass of a kosher animal] in the villages,<sup>9</sup> require the intention [of being used as food in order to receive tumah], but they do not need to be rendered fit [to receive tumah]. Now, if you say that its prohibition renders it important [to receive tumah], what need is there for the intention [of using it as food]? — This, [too], represents the opinion of Rabbi Shimon.

Come and hear: The carcass of a kosher animal<sup>10</sup> in all places,<sup>11</sup> or the carcass of a kosher bird, or the fat [of a slaughtered animal] in market places,<sup>12</sup> do not require the intention [of being used as food]. Nor do they need to be rendered fit [to receive tumah of food].<sup>13</sup> This implies that a nonkosher animal does require the intention [of using it as food in order to receive tumah].<sup>14</sup> And should you say that this too represents the opinion of Rabbi Shimon; surely since

the second part [quoted below] is the opinion of Rabbi Shimon, then the first part cannot be according to the opinion of Rabbi Shimon. For the second part states: Rabbi Shimon says: Also a camel, hyrax, hare and the pig, do not require the intention [of using them as food in order to receive tumah], nor need they be rendered fit [to receive tumah]. And Rabbi Shimon [further] explained: What is the reason? Since [these animals mentioned] have marks of a kosher animal!<sup>15</sup> — No, said Rabbah: All [the authorities mentioned] agree that we do not say that its prohibition [by the Scriptures] renders it important [to receive the tumah relating to food]. And [as to your question, what is the reason of the Rabbis]? If the donkey's neck has been broken, it would really be so.<sup>16</sup> But here we are dealing with a case where e.g., he slaughtered [the donkey] to practice therewith,<sup>17</sup> and the difference here corresponds to the difference of opinion of Nimos and Rabbi Eloazar. For it has been taught: Rabbi Yosi said: Nimos the brother of Rabbi Yehoshua HaGarsi told me that if one slaughtered a raven in order to practice therewith, its blood renders food fit [to receive tumah].<sup>18</sup> [Rabbi Elozar] says: The blood of shechitah always renders fit [to receive tumah]. Now is not [Rabbi Elozar's] opinion identical with the first Tanna? We must

<sup>8</sup> Like seeds, by having water poured on it, since it already possesses a more stringent tumah by causing tumah to man and garments by eating it.

<sup>9</sup> In the villages, where the inhabitants are poor and are not accustomed to eat birds or fat, the intention of using these as food to be given to idolaters is necessary before it can receive the tumah relating to food. With reference also to the carcass of a forbidden animal, the intention of using it as food is also necessary, for the reason that it is loathsome and, ordinarily, is not considered food even for idolaters.

<sup>10</sup> I.e., one which had not been slaughtered.

<sup>11</sup> It is usually given to idolaters as food, for it is not loathsome and therefore it does not require the intention of using it as food.

<sup>12</sup> I.e., the towns, containing many people of means who are accustomed to eat birds or fat so that these are usually considered food.

<sup>13</sup> The carcass of a kosher animal, because its tumah is of a more stringent character, and the fat, because the very act of shechitah has made it fit to receive tumah, since the intention of using it as food is not required.

<sup>14</sup> And we do not maintain that its prohibition renders it important to receive food tumah, without the intention being expressed using it as food.

<sup>15</sup> Therefore the first passage with reference to the carcass of a nonkosher animal etc. requiring the intention of being used as food, must be in accordance with the view of the Rabbis., Hence we infer that the Rabbis do not hold that its prohibition marks it out as fit to receive food tumah and therefore the Baraisa quoted above by Rabbah, where the Rabbis say that the firstborn of an donkey receives the tumah relating to food, must deal with a case where he expressed the intention of using it as food. And Rabbi Shimon maintains that it does not receive tumah, because it is food which cannot be given to an idolater to eat, i.e., it is forbidden to be used. Rabbah consequently is able to deduce from this that a donkey which had its neck broken because it was not redeemed is forbidden to be used.

<sup>16</sup> That the Rabbis would agree that it does not receive the tumah relating to food, since he had not intended to use it as food.

<sup>17</sup> But not for the purpose of eating from it.

<sup>18</sup> If the blood fell on food or vegetables. And certainly this would be the case if he slaughtered it in order to eat from it; its blood would render itself and other food fit to receive tumah.

suppose then that the difference between them is whether its prohibition<sup>19</sup> renders it important [as fit to receive tumah]? The first Tanna holds: Its blood renders it fit [for conveying tumah] to other [food], but as regards [the raven itself], it requires the intention [of being used as food].<sup>20</sup> Upon which [Rabbi Elozar] remarks: The blood of shechitah always renders it fit [to convey or receive tumah] and as regards the [raven] itself too, it does not require the intention [of using it as food] in order to receive [tumah]. But how do you know [this]? Perhaps the reason of Rabbi Elozar there, is because the case of a raven is different, since it has marks of being kosher.<sup>21</sup> And how do we know that marks of being kosher are of importance? — Because it says in connection with the Baraisa above: Rabbi Shimon said: What is the reason? Since it has marks of being kosher. And should you object that if the reason is because of the marks of being kosher, why should it say [according to Rabbi Elozar] [that he killed the raven] in order to practice, since even if he unintentionally slaughtered it, the case should also be identical; the answer is, yes, it is so, but it is on account of Nimos [that it does not state this].<sup>22</sup>

Abaye raised the following objection. If he did not wish to redeem [the donkey], he breaks its neck with a hatchet from the back and buries it, and it must not be used. These are the teachings of Rabbi Yehudah. But Rabbi Shimon permits it [to

be used]? — Explain [in the following manner]: When alive it is forbidden to use [the firstborn of a donkey], but Rabbi Shimon permits this. But since the second part [of the above passage] refers to it when alive, then the first part must refer to it when it is not alive? For the second part states: He must not kill [the donkey] with a cane, nor with a sickle, nor with a spade, nor with a saw. Nor may he let it enter an enclosure and lock the door on it, in order that it may die. And it is forbidden to shear it or to work with it. These are the teachings of Rabbi Yehudah. But Rabbi Shimon permits this! — The first and the second parts [we may explain] both refer to a donkey when alive. The first part, however, refers to monetary benefit,<sup>23</sup> and the second part refers to the benefit derived from its body.<sup>24</sup> [And both parts] require [to be stated]. For if we had only the part referring to monetary benefit, I might have assumed that in that peculiar case Rabbi Shimon permits, whereas with regard to the benefit derived from its body, I might have said that he agrees with Rabbi Yehudah. And if we had only the part referring to the benefit derived from its body, I might have supposed that Rabbi Yehudah forbids in that particular case, whereas in the case of monetary benefit, I might have said that he agrees with Rabbi Shimon. [Therefore both parts] are necessary.

And so Rav Nahman reported in the name of Rabbah, the son of Avuha: Rabbi Shimon agrees that after the neck has been

<sup>19</sup> The prohibition referred to here in the context must be understood to mean the fact that it was not a proper shechitah, in the sense that it was not being killed for eating purposes but merely in order to practice.

<sup>20</sup> For its prohibition does not render it fit to receive tumah and its shechitah here is of no importance to cause it to be considered as food. Rabbi Shimon, therefore, holds as regards the firstborn of a donkey which was slaughtered, according to the view of Nimos that it does not receive the tumah of food, and the Rabbis agree with the opinion of Rabbi Elozar that the shechitah, in itself, causes it to be regarded as food, without the express intention of regarding it as such.

<sup>21</sup> A raven has a crop, which is one of the signs of a kosher bird, and, therefore, it is considered as food as regards tumah. But in the case of the firstborn of a donkey, which does not possess any marks of being kosher, unless he intended to use it as food, the Rabbis would not hold that it receives the tumah pertaining to food, and Rabbi Shimon would maintain that even if he had thought of it as food, it receives no tumah,

owing to the fact that it is forbidden to be used after its neck has been broken.

<sup>22</sup> To inform us that according to Nimos, although there was a deliberate slaughtering for practice purposes, nevertheless the raven itself does not receive the tumah relating to food. But as regards Rabbi Elozar, it is true that even if the raven was killed unintentionally, (the intention having been to cut some other object), the blood renders other food fit to receive tumah, and the raven itself also receives tumah. Consequently, you cannot explain the difference between the Rabbis and Rabbi Shimon on the basis of the difference of Nimos and Rabbi Elozar. Therefore, the difference of the former disputants refers to the case where the donkey's neck was broken, and the reason why Rabbi Shimon maintains that it is not tahor is because, as Rabbah explains, it is forbidden to be used.

<sup>23</sup> If he hired or sold it to others.

<sup>24</sup> I.e., the shearing and the working with it.

broken it is forbidden to be used. And Rav Nachman said: On what evidence do I say this? Because it has been taught: [Scripture says]: Then you shall break its neck. Here [the word] 'arifah' is used and above [the word] 'arifah' is used; just as above it is forbidden to be used, so here also it is forbidden to be used.

Whose opinion does this represent? Shall I say it is according to the opinion of Rabbi Yehudah? Surely he prohibits it even when alive, must you not therefore admit that it is the opinion of Rabbi Shimon?<sup>25</sup> — Said Rav Sheishes to him: Safra our fellow-student interpreted it as follows: [The above Baraisa] can still be the opinion of Rabbi Yehudah, and yet there is need [for stating it]. I might have assumed that since 'arifah' stands in the place of redemption, as redemption makes it permissible [to be used], so 'arifah' is permitted. He consequently informs us [that it is not so].

Said Rav Nachman: On what evidence do I say this?<sup>26</sup> From what Rabbi Levi taught: The Jew causes a monetary loss to the Kohen;<sup>27</sup> therefore he should suffer a monetary loss.<sup>28</sup> Whose opinion does this represent? Shall I say that it is the opinion of Rabbi Yehudah? Surely his loss is of long standing!<sup>29</sup> [Must we not therefore admit] that it is the opinion of Rabbi Shimon? — If you choose I may say it is the opinion of Rabbi Yehudah, and, if you choose, I may say that it is the opinion of Rabbi Shimon. If you choose I may say that it is the opinion of Rabbi Yehudah, and he speaks of the loss entailed in the difference.<sup>30</sup> And if you choose I may say that

<sup>25</sup> We therefore see here that Rabbi Shimon agrees that it is prohibited after its neck is broken.

<sup>26</sup> That Rabbi Shimon agrees that it is forbidden for all use after its neck is broken.

<sup>27</sup> By not redeeming the donkey with a lamb and giving it to the Kohen.

<sup>28</sup> The Beis din should therefore compel him to have its neck broken after thirty days.

<sup>29</sup> Even when the donkey was alive it was forbidden to be used according to Rabbi Yehudah.

<sup>30</sup> Between its value when alive and dead. For whereas when it was alive, although forbidden to be used, it could be redeemed, now he loses everything.

it is the opinion of Rabbi Shimon, and he speaks of the loss incurred by its death.<sup>31</sup>

And so did Rish Lakish say: Rabbi Shimon agrees that the donkey after its neck has been broken is forbidden to be used. But Rabbi Yochanan, (or as some say, Rabbi Elozar) says: The difference between the Rabbis and Rabbi Shimon still prevails even in such circumstances.<sup>32</sup>

Some report Rav Nachman's ruling,<sup>33</sup> in connection with the following: If one betrothed a woman with the firstborn of a donkey, she is not betrothed. Are we to say that the Mishnah is not according to the opinion of Rabbi Shimon? — Rav Nachman reported in the name of Rabbah the son of Avuha: [The Mishnah refers to a case] where the neck had been broken and therefore agrees with all the authorities concerned.

There were some there who said: Whose opinion does this represent? Neither the opinion of Rabbi Yehudah nor that of Rabbi Shimon. For if it is the opinion of Rabbi Shimon, let her become betrothed with the whole value of the donkey. And if it is the opinion of Rabbi Yehudah, let her become betrothed with the difference!<sup>34</sup> — Said Rabbah ben Avuha in the name of Rav: [The Mishnah] can still be the opinion of Rabbi Yehudah, e.g., where the donkey was of the value only of a shekel,<sup>35</sup> and he holds according to the view of Rabbi Yosi ben Yehudah. For it has been taught: [Scripture says]: You shall redeem . . . You shall redeem. [One text] 'You shalt|redeem' intimates immediately,<sup>36</sup> [and the other text] 'You

<sup>31</sup> For being dead it can only be given to dogs to eat and therefore, there has been a considerable loss.

<sup>32</sup> Where the neck of a firstborn of a donkey was broken.

<sup>33</sup> That after the donkey's neck had been broken it was forbidden to use it and this was expressed not as separate and independent ruling but with reference to the following Mishnah.

<sup>34</sup> The difference between the donkey of the value of a shekel and a sheep even of the value of a danka i.e., a sixth of a dinar.

<sup>35</sup> And the sheep being not less in value than a shekel as stated below, there is no difference in value between it and the donkey in order that a woman may be betrothed thereby.

<sup>36</sup> Before the period of thirty days has elapsed.

shall redeem' intimates with whatever value.<sup>37</sup> But Rabbi Yosi ben Yehudah says: There can be no redemption with less than the value of a shekel.<sup>38</sup>

The Master said: [Scripture says]: You shall redeem, . . . You shall redeem. [The one text] 'You shall redeem' intimates immediately [and the other text] 'You shall redeem' intimates with whatever value. Isn't this obvious?<sup>39</sup> — It is necessary [to state it]. I might have assumed that since a nonkosher animal is compared with the firstborn of a man; just as in the case of a firstborn of a man the redemption takes place after a period of thirty days and with the sum of five selas, so here also the redemption should take place after a period of thirty days and with the sum of five selas. [Therefore Scripture states]: 'You shall redeem,' viz, immediately, 'You shall redeem', viz., with whatever value.

Rabbi Yosi ben Yehudah says: There is no redemption with less than the value of one shekel. But which way do you take it; if Rabbi Yosi compares a nonkosher animal with the firstborn of a man, then the sum of five selas is required for redemptions and if he does not compare [a nonkosher animal with the firstborn of a man], from where does he derive that the redemption is with a shekel? — In fact he does not compare [a nonkosher] animal with the firstborn of a man); [yet] said Rava: Scripture says: And all thy valuations shall be according to the shekel of the Sanctuary, intimating that any valuations which you assess shall be no less in value than a shekel. And the Rabbis [who differ with Rabbi Yosi], what do they say? — That [verse] refers to the amount of one's means.

Rav Nachman said: The halachah is according to the teachings of the Sages. And how much [must be the value of the lamb]? — Said Rav Yosef: Even a puny lamb worth no more than a danka. Said Rava: We have learned this too: [The

lamb for redemption can either be] large or small, without a blemish or blemished. Is this not evident? — You might have assumed that to that extent [i.e., that of a puny lamb etc.] it is not an adequate redemptions or indeed [which would be better], a puny lamb is not [an adequate redemption at all]. [Rav Yosef consequently] informs us [that it is an adequate redemption].

<sup>37</sup> There is no fixed sum and redemption may therefore be carried out even for less than a shekel or sela.

<sup>38</sup> The sheep must therefore possess at least the value of a shekel, so that there is no surplus left to effect a betrothal.

<sup>39</sup> For Scripture does not mention that redemption commences when the donkey is a month old nor does it say that the lamb must be of some specific value.