

Daf Notes

Insights into the Daily Daf

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Daily Daf

Prohibitions and Lashes

It was said in the name of Rabbi Yosi the son of Rabbi Chanina that one who separated *terumah* before *bikkurim* (the first ripe fruits of any of the seven species with which the Torah praises Eretz Yisroel, which had to be brought to the Beis Hamikdosh in Yerushalayim) incurs lashes (although it did not entail an action – such as a case where he mentally designated the *terumah*).

The *Gemora* cites the Scriptural verse for this – one should not delay on the designation of the *bikkurim* (by designating *terumah* first).

It was stated: If one designated *terumah* before *bikkurim*, there is a dispute between Rabbi Elozar and Rabbi Yosi the son of Rabbi Chanina. One says that he is punishable with lashes, while the other says he is not punishable with lashes.

The *Gemora* notes that you may conclude that it is Rabbi Yosi the son of Rabbi Chanina who maintains that he is punishable with lashes, since Rabbi Yosi the son of Rabbi Chanina says: Also one who designates *terumah* before *bikkurim* (is punishable with lashes, although it involves no action).

The *Gemora* asks: On the contrary, you may conclude that it is Rabbi Elozar who says that he is punishable with lashes, for we have learned in a *Mishna*: **[One is obligated to separate a tenth of his produce, called *ma'aser rishon*, and give it to a *Levi*. He is then obligated to separate another tenth, called *ma'aser sheini*, and bring the produce or its value to**

Yerushalayim.] If one has before him two baskets of *tevel* (untithed produce) and he says, "The tithes of this basket (one hundred figs) shall be in that one (ten for *ma'aser rishon* and nine for *ma'aser sheini*)," the first basket is considered tithed (although he has not yet designated them). If he says, "The tithes of this one shall be in the other one, and the tithes of the other one shall be in this one," the first is tithed, whereas the second is not tithed (for the first basket is now exempt, and we cannot designate tithes from produce which has already been tithed). If he says, "The tithes for each basket shall be in the other," he has designated them (and we do not say here that he is separating what is exempt from tithes on behalf of something that is subject to tithes, for in both baskets, the separation is regarded as taking place simultaneously - with one declaration). And it was stated: Rabbi Elozar says: He (in the first two cases) is punishable with lashes because he designated *ma'aser sheini* of the basket before *ma'aser rishon* of the other (for although the verse only speaks of delaying with reference to *terumah* and *bikkurim*, the same law applies to the correct sequence of the two *ma'asros* and also to *terumah* and *ma'aser*). This proves it (that R' Elozar holds that one incurs lashes for separating *terumah* before *bikkurim*).

The *Gemora* asks: Accordingly, it is Rabbi Yosi the son of Rabbi Chanina who maintains that he is not punishable with lashes. Shall we say then that there is a contradiction between the two rulings of Rabbi Yosi the son of Rabbi Chanina?

The *Gemora* answers: No. Rabbi Yosi the son of Rabbi Chanina (in the *braisa* mentioned above) was speaking of the "exemption" ruling (of R' Yosi HaGelili), and the *braisa* was

stating as follows: Transgression of a prohibition which does not involve an action is not punishable with lashes. It was said in the name of Rabbi Yosi the son of Rabbi Chanina that one who separated *terumah* before *bikkurim* (*does not incur lashes, for it too does not involve an action*).

The *Gemora* asks: And why is it that one who makes a *temurah* is punishable with lashes? Presumably it is because with his words (*of exchanging one animal for the other*) he performs an action (*that the chullin animal is now consecrated*). Then the case of one who designates *terumah* before *bikkurim* should also be punishable with lashes, since with his words he performed an action (*that the produce is now terumah*)!?

Rabbi Avin answered: It is different there, for the prohibition of not delaying the separation of *terumah* is a negative commandment that is remediable by a positive commandment (*and transgressing such prohibitions do not carry a punishment of lashes*), since it is written: From all of your gifts you shall separate. [*This teaches us that one who separates ma'aser before terumah or terumah before bikkurim is exempt from lashes. This is because it is remedied by a positive commandment.*]

Rav Dimi was once sitting and repeating this tradition. Abaye asked him: And is it true that every prohibition which is remediable by a positive commandment is not punishable with lashes? Is there not the case of one who makes *temurah*, which is a negative commandment remediable by a positive commandment (*that its substitute shall be holy*), and is yet punishable with lashes? For we have learned in our *Mishna*: not that one is permitted to exchange, but that if one did so, the substitute is sacred, and he incurs forty lashes.

The *Gemora* answers: The case of *temurah* is different, for there are two negative commandments (*do not exchange and do not substitute*) and one positive commandment, and one positive commandment cannot uproot two negative commandments.

The *Gemora* asks: But is there not the case of one who violates a woman, for which there is one negative commandment (*of not divorcing her*) and one positive commandment (*of remarrying her*), and yet the positive commandment does not uproot the negative commandment? For it has been taught in a *braisa*: If a violator divorced his victim, he must remarry her to avoid lashes. If he is a *Kohen*

(*who may not marry a divorcee*), he receives lashes and he cannot remarry her.

The *Gemora* answers: You mention the case of *Kohanim*! Their case is different, for the Torah invests them with added sanctity (*and they incur lashes for this prohibition even though it is remedied by a positive commandment*).

The *Gemora* notes that this (*if one incurs lashes for violating a prohibition that does not involve an action*) is a matter of dispute between *Tannaim*: *And you shall let nothing of it (korban pesach) remain until the morning; and that which remains from it until the morning you shall burn with fire*. Now, the Torah follows up a negative prohibition (*of leaving over*) with a positive one (*of burning that which is leftover*), thereby teaching us that one does not incur lashes for it. This is Rabbi Yehudah's view. Rabbi Yaakov said: This is not the real reason (*that he does not incur lashes*), but it is because it is a negative prohibition that involves no action, and one does not incur lashes for violating any negative prohibition that involves no action. This implies that Rabbi Yehudah holds that it is punishable with lashes. The *Gemora* asks: And according to Rabbi Yaakov, what does he do with the verse: *and that which remains from it until the morning you shall burn with fire*?

The *Gemora* answers: It is required for that which we have learned in a *Mishna*: Bones, sinews, and meat leftover from the *korban pesach* are burned on the sixteenth of *Nissan* (*for they cannot be burned on the Tom Tov*). If the sixteenth is *Shabbos*, they are burned on the seventeenth, because the burning of sacred things do not override either the *Shabbos* or *Yom Tov*. And Chizkiyah said, and it was taught in the academy of Chizkiyah: What is the reason? *You shall not leave any of it until morning, and that which is left of it until morning you shall burn in fire*. From the fact that the Torah states the words *until morning* twice, we learn that the *pesach* leftovers are burned on the second morning (*i.e. the first day of Chol Hamoed*). (4a – 4b)