

Daf Notes

Insights into the Daily Daf
Temurah Daf 7

29 Shevat 5772

February 22, 2012

Daf Notes is currently being dedicated to the neshamah of
HaRav Refoel Dov ben HaRav Yosef Yechezkel o"h.
May the studying of the Daf Notes be a zechus for his neshamah and may his
soul find peace in Gan Eden and be bound up in the Bond of Life.

Visit us on the web at <http://www.daf-yomi.org/>,
where we are constantly updating the archives from the entire Shas.
Produced by Rabbi Avrohom Adler
To subscribe, please send email to: aneinu@gmail.com

Daily Daf

Consecrating a Blemished Animal

The *Gemora* cites a *braisa*: It is written: *Whatever has a blemish you shall not offer.* Now, what does the verse teach us? If it means that you shall not slaughter (a blemished animal), is this not stated below? Why then does the Torah state: *You shall not offer?* It must mean: You shall not consecrate. From here they said: He who consecrates blemished animals for the altar (and burns them) has violated five prohibitions:

1. Do not consecrate
2. Do not slaughter
3. Do not sprinkle its blood on the altar
4. Do not burn all of it
5. Do not burn part of it

They said in the name of Rabbi Yosi the son of Rabbi Yehudah: He has also violated the prohibition against accepting its blood.

The *Gemora* proceeds to explain the *braisa*: The master said: If it means that you shall not slaughter (a blemished animal), is this not stated below?

The *Gemora* asks: Where is this stated?

The *Gemora* answers by citing a *braisa*: *An animal which is blind or broken or with a split eyelid or a wart, you shall not offer.* What is the Torah teaching us here? If it means not to consecrate, that was already stated above! Then what does the Torah mean by saying: *You shall not offer?* It must mean that you shall not slaughter. And the verse which states: *Nor*

shall you place any of them as a fire offering, refers to the burning of these sacrifices on the fires of the altar. From this I could only prove that there is a prohibition against burning the entire sacrifice; from where would you know that the same applies to a part of a sacrifice? It is because it is written: *any of them.* From where would you know that it is forbidden to sprinkle the blood (of blemished animals)? It is written: *Upon the altar. To Hashem* includes the case of the he-goat that is sent to Azazel (on Yom Kippur – there is a prohibition against consecrating a blemished animal to be used for this service). (6b)

Azazel Goat

The *Gemora* asks: But are the words 'to Hashem' coming to include something? Has it not been taught in a *braisa*: *Or a sacrifice* indicates that one is even liable for sacrificing outside the Temple even animals that were dedicated to the Temple maintenance. This is as the verse states: *And we will offer the sacrifice of Hashem (and this seemingly is called the sacrifice of Hashem).* This is why the verse states: *And to the entrance of the Tent of Meeting he did not bring it.* This refers to a sacrifice that is fit to be brought to the Tent of Meeting, and excludes an animal merely dedicated to the Temple maintenance, which does not go there. One would think we should exclude these animals, but not the Azazel goat, which is fit to be brought to the Tent of Meeting (and only after it is chosen s it sent out to Azazel). This is why the verse states: *To Hashem,* excluding the goat to Azazel, which is not offered in the Temple to Hashem. [Evidently 'to Hashem' is being used as an exclusionary phrase!]

Rava answers: There we go according to the context (*and here we go according to the context*). There (*regarding the prohibition of slaughtering of sacrifices outside of the Temple*), since the verse, 'to the entrance (of the Tent of the Meeting)' includes (*all unblemished animals*); therefore the text, 'to Hashem' in that connection excludes (*the Azazel goat*). Here (*regarding the prohibition of offering a blemished animal*), however, as the text 'fire offering' excludes, therefore the text, 'to Hashem' in that connection includes (*the Azazel goat*).

[Two goats are taken on Yom Kippur to the Temple. A lottery is performed to see which one is offered as a sacrifice, and which one is the Azazel goat.] The *Gemora* notes from the *braisa* mentioned above that the reason why a blemished he-goat is not sent to Azazel is because of the verse: *to Hashem*. But if the Torah had not included this case with that verse, I might have thought that it was acceptable to offer a blemished he-goat. But let us consider, however: The lottery designates only such animals that are fit (*to be offered as the goat 'to Hashem'*; and since the blemished one cannot be used for that offering, it cannot be used for the Azazel as well; why then is a verse necessary to teach us that one cannot consecrate a blemished goat for Azazel)?

Rav Yosef answers: This represents the opinion of Chanan the Egyptian, for he said: (*regarding the two goats of Yom Kippur, where the slaughtering of the chatas goat and the sprinkling of its blood is not valid unless the goat being sent to Azazel is still alive*): Even if the blood (*of the chatas goat*) is in the cup (*before it was sprinkled, and the Azazel goat died*), he brings another goat and pairs it (*with this one; we do not say that the blood is permanently rejected*). [*The verse would be necessary for a case where the Azazel goat was chosen without a lottery.*]

The *Gemora* asks: Granted that you can understand from Chanan the Egyptian that there is no rejection; but have you heard that he said that there is no casting of lots? Perhaps he brings two new goats and casts lots? [*It will be done in the following manner: He brings two new goats and casts lots as to which shall be 'to Hashem' and which for Azazel. The animal which is designated 'to Hashem' he leaves to graze until it develops a blemish, and the other one, on which the lot for Azazel has fallen, he brings and pairs it with the slaughtered goat. Now since he must cast lots, the second animal, in order to be used for Azazel, must be unblemished.*]

Rather, said Rav Yosef: This will represent the opinion of Rabbi Shimon, for it has been taught in a *braisa*: If one of the two goats died (*after the lottery*), he brings the other without casting lots. [*The verse would be necessary for this case where the Azazel goat was chosen without a lottery.*]

Rava answers: The text is necessary for the following case: The Azazel goat developed a blemish after the lottery and they redeemed it upon another animal which also possessed a blemish. [*All would agree here that a new lottery is not necessary, for the second animal is receiving its sanctity from the first one – and that animal already underwent the lottery. The novelty is that one will incur lashes here just as one who consecrated a blemished animal from the outset.*] One might have thought that we can well understand why at the outset (*we require both animals to be unblemished*) because we do not know which one will be designated 'to Hashem,' but here, since the animal designated 'to Hashem' is identifiable, there would be no lashes; the text 'to Hashem' therefore informs us that this is not so. (6b – 7a)

Sources for Prohibitions against Offering Blemished Sacrifices

The master had stated: They said in the name of Rabbi Yosi the son of Rabbi Yehudah: He (*who consecrates and offers a blemished animal*) has also violated the prohibition against accepting its blood.

The *Gemora* explains the reason of Rabbi Yosi the son of Rabbi Yehudah: it is written: *An animal whose testicles are squeezed or crushed or detached or cut* etc. [*you shall not offer to Hashem*]. This (*you shall not offer – the third time such a verse is mentioned*) refers to the receiving of the blood mentioned by Rabbi Yosi the son of Rabbi Yehudah.

The *Tanna Kamma*, however, explains that this verse is necessary for the prohibition for the sprinkling of the blood of a blemished animal.

The *Gemora* notes that this prohibition cannot be derived from the verse, 'on the altar,' for that is simply the Torah's manner of speaking.

Accordingly, the *Gemora* asks, that Rabbi Yosi the son of Rabbi Yehudah as well cannot use the verse, 'on the altar' for the prohibition of sprinkling the blood of a blemished animal, for

that is simply the Torah's manner of speaking; he therefore needs the verse, 'you shall not offer' (mentioned above) to derive this prohibition. If so, how does he derive the prohibition against receiving the blood of a blemished animal?

The *Gemora* answers: It is written: *And from the hand of a stranger you shall not offer.* This (you shall not offer – the fourth time such a verse is mentioned) refers to the receiving of the blood mentioned by Rabbi Yosi the son of Rabbi Yehudah.

The *Tanna Kamma*, however, explains that this verse is necessary, for you might have thought that since the Noahites were only commanded concerning the offering of animals missing limbs (and only such a defect disqualifies a sacrifice for their altar, but a mere blemish is no disqualification); it therefore is no difference whether the sacrifice is offered on their altar or ours (and perhaps we may offer up a blemished animal belonging to an idolater on our altar, as long as it is not missing a limb); the verse therefore informs us that this is not so.

The *Gemora* cites another version: They said in the name of Rabbi Yosi the son of Rabbi Yehudah: He (who consecrates and offers a blemished animal) has also violated the prohibition against accepting its blood.

The *Gemora* explains the reason of Rabbi Yosi the son of Rabbi Yehudah: it is written: *An animal whose testicles are squeezed or crushed or detached or cut etc.* [you shall not offer to Hashem]. This (you shall not offer – the third time such a verse is mentioned) refers to the receiving of the blood, and the prohibition of sprinkling (the blood of a blemished animal) is derived from the verse, 'on the altar'.

The *Gemora* notes that the Rabbis also use the verse, 'on the altar' to teach the prohibition of sprinkling (the blood of a blemished animal), and the verse, 'you shall not offer' stated in connection with, 'squeezed or crushed' comes to teach us the case of a private *bamah* (that it is forbidden to offer up a blemished animal on a private altar).

Accordingly, the *Gemora* asks, that Rabbi Yosi the son of Rabbi Yehudah as well uses this verse to teach us the case of a private *bamah*. If so, how does he derive the prohibition against receiving the blood of a blemished animal?

The *Gemora* answers: It is written: *And from the hand of a stranger you shall not offer.* This (you shall not offer – the

fourth time such a verse is mentioned) refers to the receiving of the blood mentioned by Rabbi Yosi the son of Rabbi Yehudah.

The Rabbis, however, explains that this verse is necessary, for you might have thought that since the Noahites were only commanded concerning the offering of animals missing limbs on their altar (but a mere blemish is no disqualification); perhaps we may accept a blemished animal belonging to an idolater on our altar (as long as it is not missing a limb); the verse, 'from any of these' therefore informs us that this is not so. (7a)

Blemished when?

[The braisa above had stated that one who consecrates a blemished animal incurs lashes.] Rish Lakish asked: Perhaps this (transgression) is stated only in connection with the case of an unblemished animal (at birth) which (later) became blemished (as one might be under the impression that since it was once fit to be offered on the altar, the fact that it subsequently became blemished should not disqualify it from being offered up on the altar, and his intention is to consecrate it for the altar), but if it is an animal that was blemished from birth, it is then a mere palm tree (and he had no intention of consecrating it for the altar; rather, his intention was to consecrate it for its value – its proceeds should be used to purchase a valid sacrifice, and therefore, he should not be subject to the punishment of lashes)!?

Rabbi Chiya bar Yosef said to him: It is written: *An animal that has one limb longer than the other, or unsplit hooves (you shall not offer)*, and these are originally blemished animals (and yet, one is subject to lashes for these type of animals).

Rish Lakish responded: Perhaps we have learned this (that there are lashes for consecrating an animal with deformed limbs) only with reference to a *temurah* (where the substituted animal is blemished), for we have learned in a *Mishna*: There is a stringency in the law regarding *temurah* which does not apply to regular sacrifices, in that sanctity can take effect upon an animal permanently blemished! [Perhaps due to its effectiveness there is the penalty of lashes, but if he consecrated an animal originally blemished, where the sanctity does not take effect, he will not be subject to lashes?]

Rabbi Yochanan replied to him: Have you not heard that which Rabbi Yannai said: A vote was taken by a group of scholars and

it was decided that one who consecrates a blemished animal for the altar violates five transgressions. Now, if the verse deals with a case of *temurah*, then there are six, for there is also the prohibition of making a *temurah*!

Rish Lakish asked: But if it is referring to a case of an animal originally blemished, then why should there be the punishment of lashes, since it is merely a palm tree (*and he has no intention of consecrating it for the altar*)?

Rabbi Yochanan replied: There is nothing degrading about a palm tree, for it is a kind of wood (*and wood is never offered up on the altar*), but in consecrating an originally blemished animal, there is something degrading, since he ignored an unblemished animal and consecrated a blemished one, and therefore he is liable (*even if his intention was to use its value for an offering*).

The *Gemora* cites another version (*of R' Yochanan's answer*): Rabbi Yochanan said to him: Even so, the act of consecrating (*an originally blemished animal*) is degrading; for the consecration of a palm tree, as there is nothing of its type (*fit for the altar*) there is no punishment of lashes. This excludes a blemished animal, since there exists in its type (*those fit for the altar*), and he is therefore liable.

Rava said: Now that you say that the reason why one who consecrates a blemished animal incurs the punishment of lashes is because the act is degrading, then even if one consecrates it for the value of libations (*the blemished animal should be sold and its proceeds should be used to purchase libations*), one should incur the punishment of lashes.

The *Gemora* cites a *braisa* to support Rava's ruling: It is written (*regarding a blemished animal*): *You shall make it a donation*. This refers to a donation for the Temple maintenance. Now this teaches us only the case of a donation (*nedavah*); from where do we derive that the same applies to a vow (*a neder, i.e., if one says, "I vow to bring an animal for its value to the Temple maintenance" that it is his obligation to set aside a blemished animal*)? It is written: *And for a vow*. One might think that a blemished animal may be sanctified even for the altar; the verse, however, states: *And for a vow it shall not be accepted*. This refers to dedications for the altar. From where can we derive that it is the same with reference to a donation? The verse states: *A donation (or a vow will not be accepted)*. Rebbe said: *It shall not be accepted*. The Torah refers to the accepting of itself.

The *Gemora* asks: But isn't this opinion (*of Rebbe*) precisely that of the *Tanna Kamma*?

The *Gemora* answers: They must be arguing as follows: The *Tanna Kamma* holds that even if one consecrates it for the value of libations, one should incur the punishment of lashes, whereas Rebbe maintains that the punishment of lashes only applies to the acceptance of it itself (*when he consecrated it for the altar*), but not if the consecration was for the value of libations. This indeed is a proof.

The *Gemora* asks: But why then is the word '*it*' inserted (in the verse, '*you shall make it a donation*')?

The *Gemora* answers: It is needed for that which has been taught in the following *braisa*: *You shall make it a donation*, thus intimating that you may offer '*it*' (*a blemished animal*) as a donation for the Temple maintenance, but you may not offer unblemished animals as a donation for the Temple maintenance. It is from here that they said: He who consecrates unblemished animals for the Temple maintenance transgresses a positive commandment. And from where do we derive that one has transgressed a negative commandment? It is because it is written: *And Hashem spoke to Moshe, saying (lei'mor)*, thus teaching us that the whole section is regarded as having the force of a negative commandment; these are the words of Rabbi Yehudah.

Rebbe said to Bar Kappara: Where is the indication for this?

Bar Kappara replied to him: It is because of the word '*saying*' - (*lei'mor*), which indicates that a negative commandment has been said in connection with these statements (*by splitting the word 'lei'mor' to say 'lo ne'emar' - a negative commandment is stated here*).

In the school of Rebbe they said: The word '*saying*' - (*lei'mor*) means: Tell them, "No!" (*lo emor*). (7a – 7b)

Burning a Blemished Animal

It is stated: If one burns on the altar the limbs of blemished animals, Rava says: He transgresses (*and incurs two sets of lashes*) for the prohibition of '*do not burn all of it*' and '*do not burn part of it*.' Abaye said: One does not receive lashes on account of a generalized prohibition. [*A lav sheb'chlolus - generalized prohibition is one that incorporates several prohibitions. Abaye maintains that one cannot receive lashes*

מום in the שער המשתלח - even after the גורל, so why is a פסול necessary? However, the תירוץ of ר' גמ' that it is following ר' מבורא who maintains that a גורל is not necessary - it is להפיך, for when a שער is brought without a גורל, you would think that it can possess a מום, but if the דין of ר' גמ' teaches us that there is an inherent מום פסול by the שער, what difference does it make that it was brought without a גורל - it still needs to be לשם? It must be that it is merely a דין in the מעשה הגרלה - אויבזוי, the גמ' should have simply answered that the פסול is necessary to פסול a מום after the גורל? The גמ' suggests a second answer and we will be מברר that shortly.

The Brisker Rav is מסביר the סוג' and we will say it over according to our understanding: from the פסוק of וְלִקַּח אֶת שְׁנֵי עֵצִים - שיהיו שניהם שוין we learn, השעירים, we learn that it must be לשם. The גמ' asks: If so, why do we need a פסוק to teach that a מום is פסול by שער? If there is a דין that the שער must be לשם, of course there is a פסוק! ר' יוסף answers that the פסוק is necessary according to שמעון where there is a מום אמינא that without a גורל it can possess a מום. On that, the גמ' asks, נהי דלא בעינן - שיטה מקובצת of גירסא according to ר' שמעון although - הגרלה אלא דלא בעינן גופו דשני חזי maintains that a גורל is not necessary, he still holds that the מום will be לשם and therefore a מום must be לשם בעצם - שער disqualified it even after the גורל.

ר' אבא answers that the פסוק is necessary for the following case: The שער המשתלח developed a מום after the גורל and they מחלל it upon another animal which also possessed a מום. The חידוש of the גמ' is that one will incur מלקות just as one who was מקדיש a מום בעל מום from the outset. Why is this a חידוש? If there is a דין that the שער - בעצם must be לשם - obviously a מום will be פסול; why should we think that there is no מלקות?

The Brisker Rav is מסביר that the מלקות is incurred because he מקדיש an animal that has a מום פסול - a שער המשתלח does not have a מום פסול; there is a הלכה that both שעירים must be שוין and if the שער המשתלח possesses a מום, it will not be identical to its counterpart and that is why it disqualifies the שער - but this is not a סיבה for מלקות. We need the פסוק to teach us that there is מלקות in such a case.

Based upon this מהלך, our קשיא on the רמב"ם returns: Why does the רמב"ם require a new פסוק of ח' יעמד to derive that a שער המשתלח is disqualified from being a שער המשתלח - and even if the גורל is to teach us that the פסול applies after the גורל -

the טריפה based on חולין in גמ' informed us that there is a פסול of טריפה based upon the principle of אלא בראוי לשם, and according to the Brisker Rav, this is an inherent פסול in the שער and will apply even after the גורל?

בהכרח, we must say that the שוין דין does not apply to every פרט of the animal; they must be equal only to those items specifically mentioned by חז"ל. The רמב"ם maintains that the פסוקים do not teach us about the טריפה פסול; for that, he found another מקור of ח' יעמד.

DAILY MASHAL

Two Halachic Questions with the Same Solution

Two different cases were brought to the Maharsham ז"ל, who lived in Galicia and was considered one of the greatest halachic authorities of his generation about 80 years ago. He treated urgent questions from communities in Europe and America and in this article we shall address two questions for which he indicates our *sugya* as a support for his decision.

When the squire granted a cemetery as a gift: An interesting question arose in Brezow, Galicia. The Jewish cemetery became full and the *gabaim* purchased land near the town and began to prepare it as a new cemetery. To their great surprise, the governor noticed the activity and once he found out about their intention, he decided to do them a favor and gave them a big plot of land next to the old cemetery.

Relinquishing the old cemetery disgraces the deceased: The community faced a dilemma. The gift was no good for them. The old cemetery was very far from town whereas the new cemetery that they had planned was nearby. Apparently, they should have thanked the governor for his generosity and explained that they preferred the nearby cemetery. The trouble is that the halachah is that we don't take the deceased from a town with a cemetery to another town "because of the honor of the deceased buried in that town, that they disgrace them that this one should not rest with them" (*Shulchan Aruch*, Y.D. 363, S.K. 4, and the *Shach*, *ibid*) and if so, how could they abandon the old cemetery and disgrace the deceased?

The *get* that couldn't be delivered: Another question concerned a couple who separated. The husband lived in Poland whereas the wife lived in New York. He wanted to divorce her and appointed a representative according to halachah to deliver the *get* to her. However, the wife was beset with various infectious diseases and was committed to an isolated institution and, according to her doctors, she had to stay there for at least two years. The husband's representative utterly refused to deliver the *get* for fear of becoming infected and therefore the only solution was that the wife should also appoint a representative to receive the *get* and that both representatives should meet. However, a halachah of *gittin* troubled the Rabbis dealing with the issue. Some Rishonim rule the halachah according to the Gemara (Gittin 63b), that once the husband appoints a representative, the wife must not appoint one because this disgraces the husband, that she is not interested even to meet his representative, and therefore we doubt the validity of the *get*, lest the husband didn't agree to give her a *get* in such a situation (see *Shulchan 'Aruch, E.H. 141:1*).

The Maharsham offered a long, detailed reply for each question. For the people of Brezow he ruled that they may sanctify the new plot near their town and for the Rabbis of New York he ruled that the wife may appoint a representative to receive the *get*. He based his decisions on many proofs and, among others, refers to our Gemara as an example for support.

The Maharsham (Rabbi Shalom Mordechai HaKohen Shvadron zt"l) tells us to open the Gemara Temurah and discover the definition of disgrace.

Our Gemara says that a person who sanctifies a defective sheep for the Temple transgresses a prohibition – aside from the fact that the sheep cannot be sacrificed – as his act expresses disgrace for the sacrifice. Since a sanctification of a sheep can be done in a more proper way, with a non-defective sheep, this person acted with derision by choosing a defective sheep. However, says the Gemara, he who sanctifies a palm-tree, fish or anything else not fit to be offered on the altar does not transgress a prohibition as his action does not express disdain: “a palm-tree – its type is not sacrificed – and therefore he is not punished, but a defective animal, as its type is sacrificed, he is punished with lashes” – and sanctifying the palm-tree does not express disdain.

The disgrace depends on the possibility facing the person:
The Maharsham says that we thus learn that an action of

disdain is based on making a choice, when the disgracer has another proper way to act and he doesn't choose it, then his action expresses disdain. Therefore, though the community has the choice of two plots and they must choose which of them to sanctify, but since the plots are not equal – one is close and the other is far – there's no disgrace in choosing the close one and it is permitted (*Responsa Maharsham, III, 111*). Also, the sick wife may appoint a representative to receive the *get* as in this case there's no other way to become divorced and the act is not considered disdainful (*ibid, I, 219*).