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Pesachim Daf 88

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Daf Notes is currently being dedicated to the neshamah of

**Tzvi Gershon Ben Yoel (Harvey Felsen) 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

1. An orphan whose caretaker had him in mind as part of the group for his korban pesach is automatically included in the group, even without his knowledge.

The Gemora at first questions the Mishna’s statement that an orphan can automatically be part of his caretaker’s group, even without his knowledge. However, the Gemora explains that this is derived from the verse, “a sheep for the house,” implying that the people of one’s household are automatically assumed to be part of his group if that is his intent, and this does not need their knowledge (more on this below).

2. A person can have in mind that his korban pesach should be for the minors and kenani servants and maidservants against their will, but others who are part of his household cannot be “forced” to be part of his group.

The braisa states that children are part of their father’s group if their father wishes, even if they do not want to be. Rashi explains this is because he has an obligation to educate them in mitzvos. Kenani servants are owned by him, and are therefore part of his group. However, his wife and

adult children cannot be forced to be part of his group.

3. A Kenani half-slave who is half free (meaning half Jewish) must be freed by his master.

Beis Shamai and Beis Hillel originally argued about the law of a slave who was owned by partners, and was freed by one of them. Beis Hillel ended up retracting their ruling, and agreed to Beis Shamai that the slave must be freed by the owner (and the slave writes an IOU to the remaining partner for half of his value).

4. If a servant was told by his master to bring a korban pesach for him, he may do so.

While this is simple, the Mishna also discusses what happens if a servant was told specifically to slaughter a goat or a sheep, but forgot which one. He should take one of each, and say that if it was a goat, the goat is for his master and the sheep is for him (see below). Otherwise, the opposite should be true.

5. While a servant generally does not own anything that his master does not own, there are exceptions to the rule.

The Gemora asks how it is possible that a servant is bringing his own korban pesach that does not belong to his master. After all, whatever a servant owns is owned by a master! The Gemora answers that he must go to a shepherd who wants to ensure that his master will fulfill his obligation, and ask him to give him an animal on condition that his master does not own it. In such a case, the master indeed does not own the animal.

## INSIGHTS TO THE DAF

The *braisa* states: If someone is half slave and half free-man (*he was jointly owned by two men, and one of them set him free*), he serves his master for one day and then is free for one day (*and so on*). Beis Shammai says: You have fixed the problem for his master, but you have not solved his own problem. He cannot marry a Canaanite slavewoman (*as his free side is a freeman, who is forbidden to marry a slavewoman*) and he cannot marry a regular Jewish girl (*who cannot be with his slave half*)! Should he simply not marry? The world was created to be populated, as the verse says: *The world was not created by G-d to be empty; it was created to be populated!* Rather, we force his master to free his other half as well, and we have the slave write for the master a document stating

that he owes the master the rest of his value. Beis Hillel retracted their opinion, and agreed with Beis Shammai.

The Sfas Emes discusses the verdict regarding a half-slave and half free person that he must go free, and the slave writes a document to the remaining partner for half of his value. This is because the slave has no money. Essentially, by the first partner's freeing his half, the second partner lost his slave as well, as the law is that he must set him free. Can the second partner demand that the first partner should take the bond from the slave, while the first partner should pay him the monetary equivalent?

The Sfas Emes concludes that being that the damage is not direct, as it is only a consequence of the first person's action, *Beis Din* will not force the first owner to pay the second owner. [*However, it should be noted that usually indirect damage makes a person liable to pay according to "Heavenly law (meaning what is viewed as right and wrong by Hashem)," despite the fact that Beis Din will not make him pay. Accordingly, if the person freed his half of the slave knowing full well that this would indirectly damage the second owner, he should compensate him to ensure Heaven (Hashem) will not hold it against him.*]