

12 Nissan 5778
March 28, 2018



Avodah Zarah Daf 72

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Daf Notes is currently being dedicated to the neshamot of

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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

Right of First Refusal

There was a man who said to his friend: If I sell this property, I will sell it to you (*they proceeded to do a kinyan to this effect*). Instead, he ended up selling it to someone else. Rav Yosef said: The first person acquired the property. Abaye says: They never agreed on an amount! [*How can we say this is valid kinyan when there never was an actual agreement on the price?*]

The *Gemora* notes: How do we know that a *kinyan* without agreement on a price is invalid? The *Mishna* had stated: If someone sells wine to an idolater, if he agreed on a price before measuring out the wine, he may benefit from the money. If he measured out the wine before establishing a price, the money is forbidden.

The *Gemora* asks: What is the law?

The *Gemora* replies: What do you mean, “What is the law?” It is as we said (*as indicated in this Mishna*)!

The *Gemora* answers: One cannot bring a proof from the *Mishna*, as the *Mishna* might only be stating this law in a stringent manner because we are stringent regarding *yayin nesech*. [*However, this might not apply to other kinyanim.*]

The *Gemora* attempts to prove that agreement on price is a prerequisite for a valid *kinyan* from the following statement. Rav Idi bar Avin says: There was an incident involving this question that was brought to the house of Rav Chisda, and Rav Chisda brought this question to Rav Huna. Rav Huna answered this from a *braisa*, which states: If a buyer led his donkey drivers or workers, who were holding merchandise, into his house, the sale is not effective, and both buyer and seller can back out

(*despite the fact that the buyer pulled the donkey driver and worker bearing the goods into his house*). This is true whether they only settled on a price without measuring, or measured without settling on a price. If the buyer or seller unloaded the merchandise, and then brought it into the buyer’s house, and they agreed on a price, the sale is effective, and neither can back out. If the merchandise was only measured, but they didn’t agree on a sale price, the sale is not effective. [*This clearly shows that without agreement on price, there cannot be a kinyan.*]

There was a person who said to his friend: If I sell this land, I will sell it to you for one hundred *zuz* (*and they made a kinyan*). The owner of the land proceeded to sell it to someone else for one hundred and twenty *zuz*. Rav Kahana says: The first person acquired the land. Rav Yaakov from the Pekod River asked him: The extra money forced him to sell!?! [*He only sold because he was offered one hundred and twenty *zuz*; otherwise, he indeed would not have sold it to anyone!*] The law is like Rav Yaakov from the Pekod River. (72a)

Arbitrators

If a person says that he will sell a property to someone for a price that will be based on the *appraisal* of three people, this means that it is based on the opinion of two out of the three people doing the appraisal (*if one does not agree on the same amount; this is because he used the term “appraisal,” meaning a beis din*). If the person says that the value will be based on the amount that three people will say, all three people must agree on the value. If he says that the value will be based on the *appraisal* of four people, all four people must agree. [*Rashi explains that if he wants more people than a standard beis din, it is an indication that he wants them all to agree on a price.*]



This is certainly true if he wants the value to be based on what four people will say.

If he says that it should be based on the appraisal of three people, and they indeed appraise it, and the buyer then says that he wants it to be based on the appraisal of three other people who are more expert appraisers, Rav Pappa says that he has the right to do so. Rav Huna the son of Rav Yehoshua says: How does he know that this group knows prices better than the other group? Perhaps the three people in the first group are greater experts! The law follows Rav Huna the son of Rav Yehoshua. (72a)

Mishna

If a Jew took a funnel and measured the wine through the funnel into the flask of the idolater, and he then used the same funnel to measure wine into the flask of a Jew, if there is a residue of wine left over from the first pouring (*if there is a little wine on the edge of the funnel which remained from the wine he had measured into the idolater's flask*), that wine is forbidden. If a (*gentile, see Gemora below*) poured from one vessel into another, what (*remains in the vessel*) he poured from is permitted, and what was poured into the (*lower*) vessel is prohibited. (72a)

Connections

It was taught in a *Mishna*: A jet of liquid from a jug (*nitzok*), or liquid flowing down a slope (*katafreis*), or liquid enough to moisten (*mashkeh tofe'ach*) does not form a connection for *tumah* or for *taharah*. [*The explanation that they are not a connection for tumah: Nitzok – if one pours liquid from a tahor vessel into a tamei one and the flow of the liquid is uninterrupted between them, it is not regarded as a connection to make the upper vessel tamei. Katafreis – if a liquid from a pool flows down a board on a slope into a pool of liquid which is tamei, the upper pool remains tahor. Mashkeh tofe'ach – a moist trough has two pools of liquid on opposite sides; one of them tamei and one of them tahor. Although the trough is damp enough that it can moisten anything that touches it, the tamei pool does not*

*contaminate the tahor one. The explanation that they are not a connection for taharah: A mikvah must contain forty se'ah of water in order to be valid. If there are two mikvaos and neither of them contain forty se'ah and they are connected through any one of the three ways mentioned above, they are not considered halachically connected to form one large valid mikvah.] Settled liquid form a connection for *tumah* or for *taharah*.*

Rav Huna says: A jet of wine from a jug (*nitzok*), or wine flowing down a slope (*katafreis*), or liquid enough to moisten (*mashkeh tofe'ach*) is considered a connection with respect to *yayin nesech*.

Rav Nachman asked Rav Huna: How do you know this? If you want to deduce from the *Mishna* above that they are not considered a connection for *tumah* or for *taharah*, implying that they are a connection for *yayin nesech*, one could say the second part of the *Mishna* contradicts this. We could say that when the *Mishna* says that settled liquid is considered a connection for *tumah* or for *taharah*, it implies that it is not a connection regarding *yayin nesech*. It is therefore obvious that one cannot draw inferences from this *Mishna*.

Our *Mishna* states: If he took a funnel and measured the wine through the funnel into the flask of the idolater, and he then used the same funnel to measure wine into the flask of a Jew, if there is a residue of wine left over from the first pouring, that wine is forbidden. How does this wine remaining in the funnel become forbidden? It must be because it is considered connected through *nitzok* (*a straight flow*), showing that this is a connection regarding *yayin nesech*!

Rabbi Chiya taught: The case of the *Mishna* is where the idolater's flask of wine overflowed into the funnel. [*It therefore was not the flow that forbade what was in the funnel, but the actual backing up of the idolater's wine into the funnel.*]

The *Gemora* asks: This implies that if the gentile's wine would not have entered the funnel, the wine in the funnel would not be forbidden. This should prove that a straight flow is not a connection for *yayin nesech*!?

The *Gemora* answers: It merely shows that overflowing causes prohibition, and that we are uncertain regarding a straight flow.

The *Mishna* had stated: If an idolater poured from one vessel into another, what (*remains in the vessel*) he poured from is permitted. This implies that the wine that was not in this vessel (*even if it did not end up in the lower vessel*) is prohibited. This implies that a straight flow is a connection for *yayin nesech*!

The *Gemora* counters: If this is so, then even what is in the upper vessel should be forbidden!?

The *Gemora* answers: It is possible that he could have poured the wine in short spurts (*meaning that there was never a direct connection from the gentile's vessel to the vessel being poured from*).

The *Gemora* notes: Either way, this implies that a straight flow is a connection!

The *Gemora* asks: According to this reasoning, how do we understand the second part of the *Mishna*? The *Mishna* says: If someone pours from one vessel into another, what (*remains in the vessel*) he poured from is permitted, and what was poured into the (*lower*) vessel is prohibited. This implies that the wine that was not in this vessel (*even if it did not end up in the lower vessel*) is permitted. Rather, one cannot draw inferences from this *Mishna*.

The *Gemora* attempts to prove this from a *braisa*. The *braisa* states: If someone pours kosher wine from a barrel to a vat, what goes down from the edge of the barrel (*that which is still in midair*) is forbidden.

Rav Sheishes explained: The case is where an idolater is pouring, and therefore the wine that descends is forbidden on account of his force (*as opposed to it being due to a straight flow*).

The *Gemora* asks: If this is poured by an idolater, what is left in the barrels should also be forbidden!?

The *Gemora* answers: The wine that is forbidden due to the force of the idolater is only forbidden according to Rabbinic law (*when we have reason to assume that he is not pouring it for idolatry purposes, as discussed at length by the Rishonim*). The Rabbis therefore only prohibited what was poured, not what remained inside the barrel.

Rav Chisda said to various wine sellers: When you pour wine, pour it in short spurts, or throw it from afar (*so that there will never be a constant flow of wine into his vessel, which will then be connected to the wine in the Jew's vessel*).

Rava said to various wine sellers: When you pour wine, do not allow the idolater to assist you, as you might tire and it will emerge that the entire vessel rests upon him to pour, and the wine being poured by his force will become forbidden.

There was a Jew who was siphoning wine from one barrel to another using multiple straws (*that would draw the wine from the first barrel into the second barrel; this was done by lowering one straw into the barrel and connecting another straw to that one; he would begin to suck from one end until a flow of wine went up the first straw and descended through the other; when he removes his mouth from the straw, the wine will continue to flow out until the first barrel is empty*). An idolater placed his finger over one of the straws (*touching the wine*). Rava forbade all of the wine. Rav Pappa or Rav Ada bar Masna or Ravina asked Rava: Why is all of the wine forbidden? It must be because of the stream (*all of the wine is connected*), proving that a stream is a connection!

The *Gemora* answers: This case is different, as all of the wine is being drawn through the straws. [*Being that the straws are causing the wine to go up through the straws from the first barrel, and then down into the second barrel, when the idolater has his finger at the top of the straw where the wine is coming up, it is considered an extension of the barrel, and all the wine is forbidden.*]

Mar Zutra the son of Rav Nachman says: A *kenishkanin* barrel is

permitted (for a Jew and idolater to drink at the same time). [This is where there are a few straws protruding upwards from a barrel at different heights, and the wine fills up the straws automatically. They can drink together, for while the idolater is drinking, the wine that touches the idolater's lips and becomes forbidden does not return into the barrel.] However, this is only if the Jew stops drinking first, not if the idolater stops drinking first. [If the idolater stops drinking first, the wine which was touching his mouth goes back into the barrel.]

Rabbah bar Rav Huna came to the house of the Reish Galusa. He permitted them to drink from such a barrel. Others say that Rabbah bar Rav Huna himself drank from such a barrel. (72a – 73a)

INSIGHTS TO THE DAF

Katafreis Connection

The Gemora cites a Mishna in Taharos: A jet of liquid from a jug (*nitzok*), or liquid flowing down a slope (*katafreis*), or liquid enough to moisten (*mashkeh tofe'ach*) does not form a connection for *tumah* or for *taharah*. [The explanation that they are not a connection for *tumah*: *Nitzok* – if one pours liquid from a *tahor* vessel into a *tamei* one and the flow of the liquid is uninterrupted between them, it is not regarded as a connection to make the upper vessel *tamei*. *Katafreis* – if a liquid from a pool flows down a board on a slope into a pool of liquid which is *tamei*, the upper pool remains *tahor*. *Mashkeh tofe'ach* – a moist trough has two pools of liquid on opposite sides; one of them *tamei* and one of them *tahor*. Although the trough is damp enough that it can moisten anything that touches it, the *tamei* pool does not contaminate the *tahor* one. The explanation that they are not a connection for *taharah*: A *mikvah* must contain forty *se'ah* of water in order to be valid. If there are two *mikvaos* and neither of them contain forty *se'ah* and they are connected through any one of the three ways mentioned above, they are not considered halachically connected to form one large valid *mikvah*.]

The Vilna Gaon asks: Even without the connection through *katafreis*, why don't we say that each droplet of *tamei* water should contaminate another drop, and ultimately, the water in the upper pool should be rendered *tamei*?

He answers that the *halacha* of *katafreis* would be necessary in a case where a *tevul yom* (one who was *tamei*, but has immersed himself in a *mikvah*; he is considered a *tevul yom* until nightfall) touched the liquid, for he cannot contaminate a food item with the capability of contaminating something else (and therefore, one droplet will not cause the other to become *tamei*). Through the principle of *katafreis*, it could be regarded that the entire flow is regarded as one body of liquid, and the upper pool could become *tamei* (if it would be considered connected).

Reb Shimon Shkop asks on his answer from the Rambam, who rules that these *halachos* would apply by *tumas sheretz* as well, and a *sheretz* can contaminate one drop to render the others *tamei*!?

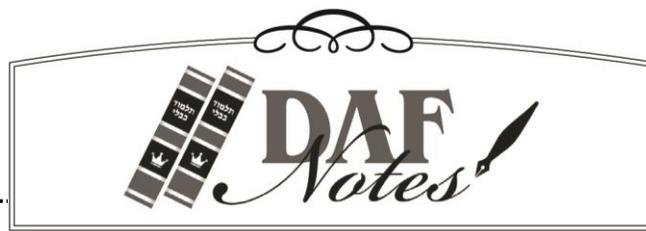
He answers that one drop cannot render the other drops *tamei* because of the principle of *beis hasetarim* (for the drops touching each other are not recognizable).

Rav Elyashiv answers simply that if the liquid would be rendered *tamei* because of its contact with the first droplet, it would only be Rabbinically *tamei*, for that which a liquid is ruled to be a *rishon l'tumah* is only a Rabbinic decree. Hence, *kodoshim* that contracted *tumah* in such a manner could not be burned. However, through the principle of *katafreis*, the entire liquid would be rendered *tamei* on a Biblical level, and if *kodoshim* would be involved, it would be required to be burned.

DAILY MASHAL

The Repairman

Some years ago Rav Felman was delivering a Daf HaYomi *shiur* in Bnei Berak. One evening Moshe, a regular participant, entered the *shul*, followed by a mass of curls on the head of a



sizable young man. “Rabbi, this young man is my repairman and he wants to know what Gemara is all about. May he participate in the *shiur*?” “Of course. No question.”

In the time remaining before the lesson Moshe told me quietly that in the last few days he had employed the young man to make some renovations to his home. “Today, when I asked him to finish the work, he requested another half hour. ‘Just let me finish putting on the faucets.’ Not wanting to leave him alone, I promised him I would do it for him if he would just let me go. He became curious and wondered where I was rushing off to. ‘To a meeting,’ I replied. ‘A meeting? You’re a manager?’ I had no choice but to explain that I learn Gemara in the Daf HaYomi program. Then he asked, ‘What’s the Daf HaYomi? Does Gemara have something to do with Kabbalah? How much do you have to learn to get a diploma?’ ‘You know what?’ I told him, ‘Instead of asking so many questions, come see what it’s all about.’ He agreed, so he’s here.”

“It was 7:00. The participants sat around the long table and the lesson started. At the time we were learning the first chapter of tractate Shabos and *sugyos* about purity (*taharah*) and impurity (*tumah*). The repairman wasn’t bashful. ‘Rabbi, what is *tumah*?’ That was the first of his many questions. He became interested and involved. That day we learnt only two lines of Gemara. Twenty-five minutes of the half-hour lesson were devoted to replies for the repairman. The participants were understanding. His enthusiastic interest was overflowing and we felt a responsibility to help a lost brother taking the first spiritual step in his life and to support and guide him patiently. Slowly but surely, as they say: Rome was not built in a day. I ended the lesson, bid him goodbye and knew intuitively, like the other participants, that we would see him the next day. For a few weeks he came by foot from his distant home in a miserable corner of Bnei Berak to participate in our *shiur*. He enjoyed it, joined in, learnt when to be still, worked hard acquiring general concepts and realized that the Daf was generating a revolution in his soul.”

“One evening, at the end of a lesson, he turned to me and said, ‘Rabbi, I’ll be glad to give you a lift in my car. I have a small

question.’ To my dismay he admitted that for some years he had been engaged in selling second-hand radio-tapes for cars, not always with the consent of the original owners. He wanted to know what he should do with the ones he still had, as he didn’t remember where he got them. Only a small question. I carefully climbed out of the car, double-checking my pockets and, at his request, I connected him with *Rabanim* for guidance. That was the last time I saw him at the *shiur*. He registered with a suitable organization running a course for talented people who want to achieve a lot in a short time.”

“Half a year ago, at the end of a Daf HaYomi lesson, I noticed an obviously Orthodox young man standing in a corner and beckoning to me. ‘Do you recognize me?’ he asked. We embraced. I was speechless. ‘Do you remember that you taught me about *tumah* and *tohorah*?’ he said excitedly. ‘Today I learn those *sugyos* with the Rishonim and Acharonim! For 30 years,’ he wept, ‘I never entered a synagogue. I knew nothing. But one *daf*, sweeter than honey and dearer than gold, completely changed me and gave me back my life!’”

The power of one *daf*!