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### **Mishna**

All sacrifices that became mixed up with *chataos* that must be left to die (*there are five such examples: the offspring of a chatas, a chatas of which its owner has died, the temurah of a chatas, a chatas of which its owner has already received atonement for his original chatas got lost, and one that was over a year old*) or oxen that were supposed to be stoned by *Beis Din* (*for it killed a person*), even if only one *chatas* became intermingled with ten thousand of those (*forbidden*) animals, all of these animals should be put to death. [*Rashi explains that at this point the Mishna indicates that the case is where one valid sacrifice is mixed up with many such chataos or oxen. However, the Gemora later explains that the case is even where one such chatas or ox was mixed up with many valid sacrifices.*]

If they became intermingled with an ox that had a sin committed with it, or killed a person by the account of one witness or the owner (*where it is not put to death*), or with an animal that sodomized a person or with an animal that had been sodomized by a person (*also based on the account of one witness or the owner*), or if it was set aside to be a sacrifice for idolatry, or if it was worshipped as an idol, or if it was exchanged for the services of a prostitute, or if it was exchanged for a dog, or if it was an offspring of a cross between animals of two different species, or if it was a *tereifah*, or if it was born from Caesarean section, the animals should be put out to graze until they develop a blemish and then they should be sold, (*as a redemption; they cannot be sold as is, for kodashim cannot be sold; they cannot be sacrificed because it might be a disqualified animal; they*

*cannot be used for private purposes, for it might be kodashim*). He should bring a sacrifice with the proceeds that is equivalent to the value of the best animal in the group (*as this might have been the sacrifice*).

If these animals (*mentioned above*) became intermingled with unconsecrated, unblemished animals, all of the animals should be sold for the purpose of bringing that type of sacrifice (*whatever was mixed in with these animals*).

If many of the same type of sacrifices were mixed together, and they had different owners, each should be offered for one of the owners. If many sacrifices of different types were mixed together, they should be left out to graze until they develop a blemish. He should offer the value of the best animal for each sacrifice, and the difference in price (*as not every animal is the most expensive animal*) he must pay from his own money.

If sacrifices (*such as an olah*) became intermingled with a *bechor* or *ma’aser* (*beheimah*), they should be put out to graze until they develop a blemish, and they can then be eaten like a *bechor* and *ma’aser*. [*Rashi explains that the dilemma is that an olah must be totally burned, while bechor and ma’aser are eaten. Therefore, there is no common ground to be able to offer them as sacrifices.*]

Every sacrifice can become mixed up with another sacrifice, besides for a *chatas* and *asham* (*as one can tell them apart, as explained in the Gemora*). (70b – 71b)

### **Mixtures**



The *Gemora* asks: Why does the *Mishna* say even if there was only one animal (see note in the beginning of the *Mishna* above)?

The *Gemora* answers: The *Mishna* means as follows. All sacrifices that became intermingled with *chataas* that must be left to die or oxen that were destined to be stoned by *Beis Din*, even if there was only one of these types of animals in the mix, all of these animals should be put to death.

The *Gemora* asks: We already learned this lesson in a *Mishna* in *Temurah*!? The *Mishna* states: Any animal that is forbidden to be brought on the altar prohibits other animals in a mixture – even in any amount. Examples would be an animal that sodomized a person or with an animal that had been sodomized by a person. [This clearly teaches us that such animals prohibit groups that they are mixed into from being offered on the *mizbe'ach*!?!]

Rav Ashi said: I said this over before Rav Shimi, and I explained that both *Mishnayos* are required. If only the *Mishna* in *Temurah* would have been taught, I would think that this means they are forbidden to be brought as sacrifices, but can be eaten by a regular person. [Our *Mishna* teaches that if the animal is forbidden from benefit, all of the animals cannot even be eaten by a regular person.] If only our *Mishna* would be stated, I would think that the ruling of our *Mishna* is due to the fact that the animals are forbidden from benefit. However, if they are animals that are forbidden to be offered as sacrifices but permitted for benefit, one would think that if they are mixed up with a majority of ordinary animals, they should all be permitted to be offered. This is why the *Mishna* in *Temurah* is necessary.

The *Gemora* asks: Our *Mishna* does state cases of animals that are not forbidden from benefit!?

The *Gemora* answers: Our *Mishna* did not say how many of them would be required to prohibit the entire lot (as opposed

to the *Mishna* in *Temurah* which said that even if one animal that is not forbidden from benefit is in the mix, the entire group cannot be offered as sacrifices).

The *Gemora* asks: Just teach that *Mishna*, and our *Mishna* would not be necessary!? [Why do we need the case of animals that are not forbidden from benefit to be stated in our *Mishna*, once it was already stated in *Temurah*?]

The *Gemora* answers: This is because our *Mishna* teaches us how to deal with the situation (as opposed to the *Mishnah* in *Temurah* which merely states the group cannot be brought as sacrifices).

The *Gemora* asks: But the *halachah* that an animal which was forbidden for benefit can prohibit an entire mixture to be used for private use was taught elsewhere, for it was taught in a *Mishna*: These are forbidden (for benefit) and prohibit others in any amount: (a barrel of) libation wine (became mixed with permitted barrels and we cannot recognize which is the forbidden one), and an idol.

The *Gemora* answers: They are both necessary, for if we would have only learned that *Mishna*, we would have thought that we only prohibit unconsecrated animals for private use, but a mixture of consecrated animals, which would cause the Temple a great loss, we do not prohibit all of them. And if we only learned our *Mishna*, we might have thought that we only prohibit the animals to be used as sacrifices, for it is repulsive to offer these forbidden animals (even if they would be nullified); however, with respect of unconsecrated animals, where the private usage of forbidden animals would not be repulsive, perhaps the animals forbidden for benefit should be nullified in the majority of permitted animals. It is for that reason that both teachings are necessary. (71b – 72a)

## INSIGHTS TO THE DAF

### **Bitul BeRov: Criteria and Limits**

Many *sugyos* in our chapter, *Kol HaZevachim*, address the *halachos* of mix-ins of forbidden and permitted articles, such that the Rishonim called our chapter *perek Hata'aroves* "the chapter of mixtures." These *halachos* deal with articles, food and even people whose definition is unclear or unknown and we must rely on the "majority" (*rov*) to determine their definition. For example, if forbidden food becomes mixed up with permitted food and constitutes the majority of the mixture, the mixture is forbidden but if the permitted food is the majority, the mixture is allowed. Our *sugyos* explain many details of this principle, known as *bitul berov*, and the *Gemora* mainly focuses on things that do not become *bateil* – insignificant in a majority, such as a living creature or a "counted thing" (*davar shebeminyan*) – i.e., an article not sold in bulk but in individual units (see the disagreement of the *Tanaim* in our *sugya* and *Shulchan 'Aruch*, Y.D. 110:1) – etc.

**The well with miniscule worms:** In 5648 an important question was brought before the Sochatchover Rebbe zt"l, author of *Avnei Nezer* (Responsa, Y.D. 79). In a certain town the residents discovered that worms infested their wells. The worms were so small that they couldn't be filtered out with a regular cloth but with thick cloth and as a result, the filtering process was long and tiresome. Some claimed that there was no need to filter the worms as they were mixed in the water and because the water was the majority of the mixture, the *halachah* of *bitul berov* applies to them and the water could be drunk without fear. In his reply the *Avnei Nezer* explained the following three topics that forbid drinking the water:

(1) A minority and a majority in only one mixture: In order to relate to part of a mixture as a minority, the minority and majority must be considered as one mixture. Therefore, solid food does not become insignificant in soup, even if it is mixed in it and cannot be separated as the soup and the solid food are not considered a mixture (according to Rambam; see *Beis Yosef*, Y.D. 115). Therefore, the worms are not considered

mixed in the water and we cannot apply the *halachah* of *bitul berov*.

(2) Animals do not become insignificant: Our *sugya* explains that "animals are important and do not become insignificant." In other words, an animal, while still alive, is too important to be considered insignificant in relation to the majority in which it is found. If so, the living worms are not insignificant in the water.

(3) A whole creature does not become insignificant: A well-known rule of the *halachos* of *bitul berov* determines that "a creature (*beryah*) does not become insignificant." In other words, an entire thing as it was created – whose name derives from its wholeness and were it divided, it would lose its name – does not become insignificant. This rule is also based on the logic that because of its essential importance, it cannot become insignificant. Therefore, as the worms are entire creatures, they do not become insignificant in the water.

For these three reasons the *Avnei Nezer* instructed the residents to filter the water. Still, he immediately explains a number of doubts undermining the first two reasons.

**What is a mixture?** We determined that the worms and the water are not considered one mixture and that therefore the worms cannot be considered a minority. However, *Rashba* (cited by *Beis Yosef*, Y.D. 116) believes that if a mixture cannot be separated in a usual way, then even if it consists of two completely different materials, they are considered one mixture and the minority is insignificant against the majority. Therefore, as the worms can only be separated from the water by extremely careful filtering, the water and the worms are one mixture and it could be that the worms are insignificant in the water.

Small animals differ from big animals: Afterwards, we asserted that the worms are not insignificant in the water because they are alive. *Tosfos* in our chapter (70b, s.v. *Kol*) explain (according to the version of *Tosfos Yom Tov* and *Tzon Kodoshim*) that despite what the *Mishna* says, that animals

do not become insignificant, the *Mishna* in Kinin has to add that birds, too, do not become insignificant. It seems that the smaller an animal is, the more reason there is for it to become insignificant. It could be, therefore, that tiny worms indeed become insignificant despite the fact that they are alive. Still, these are only doubts and the *Avnei Nezer* therefore ruled strictly about this prohibition from the Torah of eating crawling creatures.

### DAILY MASHAL

#### ***When Rabeinu Gershom Sat a Double Shiv'ah for his Son***

The Rishonim relate the sad story that the son of Rabeinu Gershom *Meor Hagolah* together with his mother, Rabeinu Gershom's second wife, left the Jewish faith. Subsequent *halachic* authorities record that Rabeinu Gershom sat *shiv'ah* for his son for a period of 14 days.

Maharam of Rottenberg remarks in his Responsa (§544) that there is no obligation to sit *shiv'ah* for those who convert to another religion (*Shulchan Aruch, Y.D. 340:5*) but that Rabeinu Gershom did so out of his extraordinary sorrow.

Radvaz confirms the fact that Rabeinu Gershom sat *shiv'ah* for his son, not mourning his death but rather that his son had not repented while alive (Responsa Radvaz, III, 558).

Other sources, though, report that he mourned for his son while he was still alive and as for the 14-day period, the *Or Zarua* (II, 428) offers an explanation in the name of his mentor, Rabbi Shimshon zt"l: Rabeinu Gershom learnt his behavior from our *sugya* concerning Miriam. Hashem's honor is double that of even a parent and if a person mourns seven days for a human who has left this world, one should surely mourn 14 days for the loss of a soul to Hashem by apostasy.

The Gerer Rebbe zt"l, author of *Imrei Emes*, wondered about this reasoning: According to our *sugya*, Hashem Himself

ruled that even though by ordinary logic, His honor is double that of a parent and Miriam should have been punished for 14 days – still, “*da'yo...*” - that which is learnt from another instance should not be more severe” and she was therefore punished for only seven days. Why, then, did Rabeinu Gershom mourn for 14 days? The *Imrei Emes* explains in the name of his brother-in-law, the Rabbi of Bendin zt"l, that only Hashem could apply “*da'yo*” to forgo His honor whereas **we** cannot ignore Hashem's honor and the logic of extending the mourning to 14 days still holds for us [*Michtevai Torah*, 55-56].