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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

Prohibiting someone else's Property

Rav Nachman, Rav Amram, and Rav Yitzchak say that one cannot render someone else's property prohibited (*even through a complete act*).

The *Gemora* asks from a *braisa*, mentioned above: If one inadvertently slaughtered on *Shabbos* a *chatas* offering outside the Courtyard as a sacrifice to an idol, he is liable to three *chatas* offerings. [*He is liable for: 1. violating the Shabbos; 2. slaughtering a consecrated animal outside the Courtyard; 3. slaughtering to idols.*] And it was established that we were dealing with a case where precisely half of the trachea (*of a bird chatas*) was severed (*and this person merely added to it the smallest cut, thereby completing the shechitah; and now all three prohibitions arrive simultaneously*). Now, the reason they all come simultaneously is because we were referring to a *chatas* bird, but if it would be referring to an animal, this would not be the case (*for he would not be liable for slaughtering outside the Courtyard at the beginning of the cut*). Now, if one cannot render someone else's property prohibited, it can even be referring to an animal *chatas* (*for then, it does not become forbidden until the end, and it will emerge that all three violations occur simultaneously!*)?

The *Gemora* answers: Since he received atonement through it, it is regarded as his possession (*and therefore he can render it prohibited*).

The *Gemora* challenges them from our *Mishna*. The *Mishna* says that if two slaughtered an animal together, one with a proper intention, and one for the purpose of idolatry, the slaughtering is invalid.

The *Gemora* answers that the *Mishna* is a case where both of the people had a share in the animal, and therefore the intent of either one can prohibit the animal.

The *Gemora* further challenges this position from the *Mishna* which says that if one offered someone else's wine as a libation for idolatry, he is liable only if he did so intentionally, implying that he has the power to prohibit someone else's wine by his actions.

The *Gemora* again answers that the case is where the one offering the libation has a share in the wine.

The *Gemora* says that this issue is actually an earlier dispute of *Tannaim*, citing a *braisa* about a non-Jew who offered a Jew's wine as a libation for idolatry, but not in the presence of the idolatry. The first opinion says that the wine is prohibited, but Rabbi Yehudah ben Besirah and Rabbi Yehudah ben Bava say that it is not, for two reasons:

1. Libation for idolatry is only true libation when done in the presence of the idolatry.
2. The non-Jew has no power to prohibit someone else's wine, even with his actions.

The *Gemora* says that Rav Nachman et al. can maintain that they are consistent with both opinions cited in the *braisa*. Even the one who says that the non-Jew can prohibit someone else's property would agree that a Jew's action does not prohibit it, as we assume that he was only attempting to pain his friend, and did not truly do it as idol worship.

The *Gemora* again cites the two previous challenges and answers that they are a case of a Jewish *mumar* – *apostate*, who is tantamount to a non-Jew.

Rav Acha the son of Rava asked Rav Ashi what the rule is for one who was not known to be a *mumar* is warned offers someone's wine as a libation after being warned not to do so.

Rav Ashi said that once he accepted the warning, and was willing to die for his act, he is certainly a *mumar*. (40b – 41a)

Mishna

The *Mishna* says that one may not slaughter an animal into seas or rivers, or into a utensil, but one may slaughter it into a pit full of water. If one is on a boat, he may slaughter onto a vessel, to keep the blood off the boat.

One may not slaughter into a pit at all, but one may make a pit in his house to collect the blood from slaughtering. One may not do this in the marketplace, to avoid appearing like a Sadducee. (41a – 41b)

Slaughtering into the Wrong Place

The *Gemora* explains that one may not slaughter into a river, lest people think he is worshipping the angel of the sea.

The *Gemora* asks why the *Mishna* allows one to slaughter into a pit of water, since people may think he is worshipping his reflection.

Rava answers that the *Mishna*'s statement is only about a pit with dirty water, which has no reflection.

The *Gemora* asks how to understand the *Mishna*, as it begins by categorically prohibiting slaughtering into a pit, by stating that one may not do it "at all," but then says that one may make a pit in his house to catch the blood, implying that one may slaughter into such a pit.

Abaye says that the beginning of the *Mishna* is limited to a pit in the marketplace, which is always prohibited.

Rava challenges this, as the *Mishna* only discusses the marketplace later, implying that the first case was a pit in the house.

Rather, Rava says that the *Mishna* is teaching that one may not slaughter into any pit, even in a house. The continuation of the *Mishna* is teaching that if one wants to keep his house clean, he may make a pit, and an adjacent place where he slaughters, such that when he slaughters, the blood will flow down from that place to collect in the pit. In the marketplace, one may not even do this, to avoid appearing like a Sadducee.

The *Gemora* cites a *braisa* supporting Rava's explanation. The *braisa* says that if one is on a boat and has no place to slaughter on the boat itself, he may slaughter onto the outer edge of the boat, and let the water flow from there into the sea. The *braisa* continues to say that one may not slaughter into a pit, but if one wants to keep his house clean, he may make a pit, and slaughter in an adjacent area, in order that the blood collect in the pit. In the

marketplace, one may not even do this, as the verse prohibits one from following the custom of the non-Jews. If we observe someone doing so, we must investigate if he is an idolater. (41b)

Slaughtering for a Sacrifice

The *Mishna* says that if one slaughters for the sake of the following sacrifices, the animal is prohibited:

1. *Olah* – burnt offering
2. *Shelamim*
3. *Asham talui* – a doubtful guilt offering, brought for a possible transgression
4. *Pesach*
5. *Todah* - thanks offering

In all of these cases, an observer may think that he pledged this animal for this sacrifice, and conclude that one may slaughter a sacrifice outside of the Temple. Rabbi Shimon says that the animal is permitted.

If two slaughter an animal together, one for the proper intentions, and one for the sake of one these sacrifices, the animal is prohibited. However, if one slaughters the animal for the sake of these sacrifices, the animal is still permitted:

1. *Chatas* – sin offering
2. *Asham vadai* – certain guilt offering
3. *Bechor* – first born offering
4. *Ma'aser* – animal tithe offering
5. *Temurah* – an animal exchanged for an existing sacrifice

The *Mishna* states the general rule that if one slaughtered an animal for the sake of something which can be pledged voluntarily, the animal is prohibited, but otherwise. If he slaughtered it for the sake of something which cannot be pledged voluntarily, it is permitted.

The *Gemora* asks why *asham talui* is listed in the first category, as one ordinarily offers it when he may have sinned, and not as a pledge.

Rabbi Yochanan says that the *Mishna* follows the opinion of Rabbi Eliezer, who says that one may always pledge an *asham talui*, to assuage his concerns that he may have sinned.

The *Gemora* asks why a *Pesach* is listed in the first category, as it can only be offered on the eve of *Pesach*.

Rabbi Oshaya says that it still can be designated throughout the year.

Rabbi Yannai says that the *Mishna* is only a case where the animal has no blemish, but if it has a blemish, all will realize that it cannot truly be a sacrifice.

Rabbi Yochanan says even in the case of an animal with a blemish, the animal is prohibited, since the blemish may be hidden from an observer.

The *Mishna* said that if one slaughtered an animal for a *chatas*, it is permitted. Rabbi Yochanan says that if one was obligated to bring a *chatas*, the animal is prohibited, as an observer may think he is offering it as his *chatas*.

Rabbi Avahu explains that this is only if he stated that "I am slaughtering it for my *chatas*," but not if he generically stated that he is slaughtering it for a *chatas*.

The *Mishna* said that if one slaughtered an animal for a *temurah*, it is permitted. Rabbi Elozar says that if one had an existing sacrifice at home, it is prohibited, as an observer may think he is offering this animal as a replacement for his sacrifice.

INSIGHTS TO THE DAF

Rabbi Avahu explains that this is only if he stated that “I am slaughtering it for a replacement for *my* sacrifice,” but not if he generically stated that he is slaughtering it for a replacement for *a* sacrifice.

The *Gemora* explains what each category of the concluding rule of the *Mishna* includes:

The category of “anything which is pledged” includes the *olah* of a *nazir*. We may have thought that an observer would not assume that he is a *nazir*, as we never saw him become a *nazir*, but the *Mishna* teaches that the observer may assume that he privately became a *nazir*, and think this is truly his *olah*.

The category of “anything which is not pledge” includes the *olah* of a *yoledes* – woman who gave birth. Rabbi Elozar says that this is true only if he is not married, but if he is married, an observer may assume that he is pledging the animal as an *olah* for his wife.

Rabbi Avahu explains that this is true only he stated that “I am slaughtering this for the sake of *my wife’s olah*,” but not if he generically stated that he is slaughtering it for a *yoledes’ olah*.

The *Gemora* challenges that this is obvious.

The *Gemora* explains that we may have thought that an observer would not assume that he pledged it for his wife, since no one heard that she gave birth. The *Mishna* teaches that they will assume that she may have miscarried, which is not public knowledge, and he is therefore pledging it for her. (41b – 42a)

WE SHALL RETURN TO YOU, HASHOCHET

Rabbi Shimon Permits

The *Mishna* cites Rabbi Shimon saying that even if one slaughters an animal for the sake of a sacrifice, the animal is permitted.

Rashi explains that Rabbi Shimon is not concerned about an observer, who may think that he is offering a sacrifice outside of the Bais Hamikdash.

Tosfos (41b vRabbi Shimon) cites the Riva, who says that according to Rabbi Shimon there is no mistake for an observer to even make.

In Menachos (103a, 109a), Rabbi Shimon states that if one pledges a sacrifice in an incorrect manner, it is not sanctified. In the case of the *Mishna*, if someone would be pledging this sacrifice, planning to slaughter it outside of the Bais Hamikdash, it would not be a sacrifice, so an observer would not conclude that one may slaughter a sacrifice outside.

olah of a Yoledes

The *Gemora* explains that the second clause of the rule in the *Mishna*, that one who slaughters for the sake of a sacrifice that is not pledged is permitted, includes one who slaughters for the sake of *olah of a yoledes* – woman who gave birth. The *Gemora* then cites Rabbi Elozar who says that this is true only if he has no wife, and Rabbi Avahu, who explains that it is prohibited only if he said he is slaughtering for his wife’s *olah*. The *Gemora* then challenges this, since it is obvious that it is prohibited if he slaughtered for the sake of his wife’s *olah*, and the *Gemora* answers that we may have thought that an observer would

assume his wife really needs no *olah*, as we didn't hear of her giving birth.

Rashi cites an alternate version of the *Gemora*, which omits the statements of Rabbi Elozar and Rabbi Avahu. This alternate version assumes the *Mishna*'s clause is referring to someone who has a wife, as otherwise it would be obvious that it is permitted. The *Gemora* simply explains that without this clause, we may have thought that an observer would have thought he is pledging it for his wife. The *Mishna* therefore teaches us that it is common knowledge when a woman gives birth, and therefore an observer, who has not heard that his wife gave birth, would not assume that he is pledging it for his wife.

Rashi prefers this text, since the first text has the following issues:

1. The *Gemora* never questioned the earlier similar statements of Rabbi Elozar and Rabbi Avahu, stating that they were obvious, so why would the *Gemora* do so here?
2. According to this reading, the clause of the *Mishna* is a case where the one slaughtering is not married. This case is actually obvious, so why would the *Mishna* have to teach us that it is permitted?

Instead, Rashi explains that the alternate reading fits into the general pattern of explaining what a clause of the *Mishna*'s rule is adding, by noting why this case is not obvious. In fact, the *Gemora* does the same thing when explaining the first clause of this same rule.

Tosfos (41b lo) addresses the second issue, explaining that the *Gemora* doesn't mean a case where we know that he has no wife, but rather a case where we don't know

whether he has a wife. This is in contrast to Rabbi Elozar's case, where we do know that he has wife.

DAILY MASHAL

Our learning today discusses the korban olah offered by a woman after giving birth.

The custom is that a woman who gives birth does not say Birchas Hagomel. That is certainly the prevalent custom. Why should that be, as she went through a dangerous time? We even desecrate the Shabbos for a woman in labor. Rav Zevin answers because we only say Birchas Hagomel or offer a Korban Todah by Gomel L'chayavim Tovos, by something that has a Tzad Chometz – 'something bad' involved. If a person becomes ill and requires surgery he Bentches Gomel because there was a punishment involved, the illness itself. However, when a woman gives birth that is not Gomel L'chayavim Tovos, she wasn't a Chayav when she came to it. Therefore, there is no reason to bring a Korban Todah. Indeed a Yoledes brought a Korban Yoledes not a Korban Todah. Therefore, we do not have a custom to say Birchas Hagomel.