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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

This is as it has been taught in the following *braisa*: It is written: *And he shall call out, “Tamei, tamei.”* We derive from this verse that the *metzora* should call out for the sake of informing people of his misfortune and this way they will pity him and plead on his behalf for compassion.

Ravina said: According to whom is it that we hang a cluster of dates on a tree which sheds its fruit early? It is in accordance with the above *Tanna* (*for this way, people will become aware of his difficulties, and pray for him*). (77b – 78a)

#### **Mishna**

[*The Torah prohibits the slaughtering of a female animal (according to most Tannaim) and her offspring (male or female) on the same day. This prohibition is called “oso v’es b’no.” This applies to all domesticated animals, not wild animals.*]

The law of ‘it and its young’ – ‘*oso v’es b’no*’ applies both within the Land of Israel and outside it, both during the existence of the Temple and after it, in respect of both *chullin* (*unconsecrated*) and *kodashim* (*consecrated*) animals.

[*The Mishna lists twelve cases involving chullin and kodashim. One is forbidden from slaughtering kodashim outside of the Temple area. This is punishable by Kares. This is providing that the sacrifice is fit to be offered. If, for example, its mother was slaughtered on that day, it cannot be offered, and there is no penalty of kares. One is forbidden from slaughtering chullin inside of the Temple area. The animal will be prohibited for benefit. There are no lashes for this.*]

If a person slaughtered an animal and its offspring:

1. Both animals were *chullin*, and they were slaughtered outside the Temple Courtyard, they are both valid (*and*

*fit for consumption*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v’es b’no*).

2. If both animals were *kodashim*, and they were slaughtered outside the Temple Courtyard, he who slaughtered the first incurs the punishment of *kares*, and both animals are invalid (*the first because it was slaughtered outside, and the second because of oso v’es b’no*), and both slaughterers incur lashes (*the first because it was slaughtered outside, and the second because of oso v’es b’no*). [*The second does not incur the punishment of kares, for the sacrifice is not fit to be offered inside, for its mother was slaughtered on that day.*]
3. If both animals were *chullin*, and they were slaughtered inside the Temple Courtyard, they are both invalid (*for one is forbidden from slaughtering chullin inside of the Temple Courtyard, and the animal will be prohibited for benefit*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v’es b’no*).
4. If both animals were *kodashim*, and they were slaughtered inside the Temple Courtyard, the first is valid and there is no liability (*for it was done properly*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v’es b’no*), and it is invalid (*for since its mother was slaughtered on that day, it is premature*).
5. If the first animal was *chullin* and the second *kodashim*, and they were both slaughtered outside the Temple Courtyard, the first is valid and there is no liability (*for it was done properly*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v’es b’no*), and it is invalid (*for since its mother was slaughtered on that day, it is premature*).

6. If the first was *kodashim* and the second *chullin*, and they were both slaughtered outside the Temple Courtyard, he who slaughtered the first incurs the punishment of *kares*, and it is invalid, and the second animal is valid, and each incurs lashes (*the first because it was slaughtered outside, and the second because of oso v'es b'no*).
7. If the first was *chullin* and the second *kodashim*, and they were both slaughtered inside the Temple Courtyard, they are both invalid (*the first for slaughtering chullin inside of the Temple Courtyard, and the second because its mother was slaughtered on that day, it is premature*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v'es b'no*).
8. If the first was *kodashim* and the second *chullin*, and they were both slaughtered] inside the Temple Courtyard, the first animal is valid and there is no liability (*for it was done properly*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v'es b'no*), and it is invalid (*for slaughtering chullin inside of the Temple Courtyard*).
9. If both animals were *chullin*, and the first was slaughtered outside the Temple Courtyard and the second inside, the first is valid and there is no liability (*for it was done properly*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v'es b'no*), and it is invalid (*for slaughtering chullin inside of the Temple Courtyard*).
10. If both animals were *kodashim*, and the first was slaughtered outside the Temple Courtyard and the second inside, he who slaughtered the first incurs the punishment of *kares*, and each incurs lashes (*the first because it was slaughtered outside, and the second because of oso v'es b'no*), and both animals are invalid (*the second because it's premature*).
11. If both animals were *chullin*, and the first was slaughtered inside the Temple Courtyard and the second outside, the first is invalid (*for it was slaughtered inside of the Temple Courtyard*), and he who slaughtered it is not liable, but he who slaughtered

the second incurs lashes (*for violating the prohibition of oso v'es b'no*), and it is valid.

12. If both animals were *kodashim*, and the first was slaughtered inside the Temple Courtyard and the second outside, the first is valid and there is no liability (*for it was done properly*), and he who slaughtered the second incurs lashes (*for violating the prohibition of oso v'es b'no*), and it is invalid (*for since its mother was slaughtered on that day, it is premature*). (78a)

#### **Scriptural Sources for Oso v'es B'no**

- The *Gemora* cites a *braisa* which discusses the scriptural verse proving that the prohibition of *oso v'es b'no* applies to both *kodashim* and *chullin*.
- It also cites the source teaching us that a hybrid is included in this prohibition (*even though it is excluded from kodashim*).
- The verse teaches us as well that one need not slaughter an ox and its offspring as well as a sheep and its offspring; even one of them and its offspring is a violation.
- The *Gemora* discusses if the word “or,” which separates the “ox” from the “sheep” is needed for the above teaching, or perhaps it teaches us that one need not slaughter an ox and a sheep and an offspring of one of them to be liable. This latter teaching can be derived from the word “it.”
- The *Gemora* cites a *braisa* where this is disputed elsewhere: *A man that he will curse his father and mother*. This only tells us regarding cursing both his father and mother. What if he curses only his father or only his mother? The verse therefore states: *His father and mother he cursed, his blood is in him*. [Rashi explains that the word *cursed* is both in the beginning of the verse and the end, to show that either cursing one's father or mother make him liable.] These are the words of Rabbi Yoshiyah. Rabbi Yonasan says: The verse implies that it could be both, or one alone is enough, as long as the Torah does not say “together.”



The *Gemora* cites a *braisa*: The law of *oso v'es b'no* applies to the female and its offspring, but not to the male. Chananyah says: It applies both to the male and female.

What is the reason of the Rabbis? It was taught in a *braisa*: I might have said that the law of *oso v'es b'no* applies to both the male and female and their offspring. There is, however, the following argument against this: there is liability here, and there is also liability with regard to taking a mother and her offspring from the nest. Just as the prohibition of taking a mother and her offspring from the nest applies only to the female parent and not to the male, so too the prohibition here applies only to the female parent and not to the male. But the *braisa* presents a counterargument as follows: The taking a mother and her offspring from the nest has this distinctiveness, in that the law does not treat birds that are prepared and birds that are not prepared in the same manner (*for if the nest is owned, the law does not apply*); can you then say this of *oso v'es b'no*, seeing that it does not have this distinctiveness, for the law treats animals that are prepared and animals that are not prepared in the same manner. The verse therefore states 'it,' which teaches us that the law applies to one parent and not to both. And since Scripture distinguishes between the parents, I am justified in applying the above argument there is liability here, and there is also liability with regard to taking a mother and her offspring from the nest. Just as the prohibition of taking a mother and her offspring from the nest applies only to the female parent and not to the male, so too the prohibition here applies only to the female parent and not to the male. And if you desire to say something against this, I present the following: The expression 'its offspring' relates to that parent to whom the offspring clings; this excludes the male parent to whom the offspring does not cling!

The *Gemora* explains that which the *braisa* said: and if you desire to say something against this. If you say that 'it' (*written in the masculine form*) indicates the male parent, I therefore respond by saying that the expression "its offspring" relates to that parent to whom the offspring clings; this excludes the male parent to whom the offspring does not cling.

And according to Chananyah, however, the verse is explained as follows: It says: 'it,' which indicates the male parent, and it also says: 'its offspring,' which relates to that parent to whom the offspring clings; therefore, it is clear that the law applies both to the male and female parent. (78a – 79a)

#### INSIGHTS TO THE DAF

##### ***He swore to consult with two friends and one of them passed away***

Our *Gemora* discusses one of the well-known disagreements in the Talmud: when the letter *vav* prefixes a second word, does it mean to connect the two words (I = and) or to separate between them (I = or). The Torah says "A person who curses his father and (I) his mother shall be killed, his father and (I) his mother he cursed, his blood is upon him" (Vayikra 20:9). According to Rabbi Yoshiyah, the Torah repeated the cursing adjacent to his mother for if not so, we would apply the death penalty only to a son who cursed his father and mother together – "who curses his father **and** his mother". On the other hand, according to Rabbi Yonasan, even without the extra part of the verse, it suffices that a son curses one of his parents to kill him because I "means both together or each one separately". Due to an interesting case brought before the Rashba, he expressed his opinion that the halacha is according to Rabbi Yonasan.

A person who was about to pass away summoned his son and requested him to swear that he wouldn't lend to anyone before consulting with Shimon and Levi and getting their permission. The son swore but subsequently encountered a problem that was brought for the Rashba's ruling. Shimon passed away. The son didn't know if it would not suffice to consult only with Levi or, since Shimon passed away, he would never be allowed to lend, as he couldn't get his permission.

The Rashba explains (Responsa, V, 260) that this question depends on the disagreement between Rabbi Yoshiyah and Rabbi Yonasan. According to Rabbi Yoshiyah, when the son swore to consult with Shimon and Levi, his intention was to consult with both of them, while according to Rabbi Yonasan, his intention was to consult with both of them or with one or

the other. As the halachah is according to Rabbi Yonasan, the son may lend upon getting *Levi's* permission.

The Rashba indicates that his ruling is valid even if Shimon and Levi are both alive as the son swore that he would get the permission of either one of them. Indeed, *Shulchan Aruch* ruled so (Y.D. 228:40): "If a father made his son swear that he would lend only with Shimon's and *Levi's* permission, the son may lend with the permission of one of them."

The *Taz* wondered (ibid, S.K. 49) about *Shulchan Aruch's* ruling as Rabbi Yonasan agrees with Rabbi Yoshiyah that the *vav* unites entities but contends that the *vav* **also** means "or". Therefore concerning vows, where we are strict about an obscure intention (Y.D. 208:1), how did the Rashba know to rule that the son's intention was to get either Shimon's or *Levi's* permission? Maybe he intended to get the permission of both?

Therefore, the *Taz* concludes, the Rashba only meant that the son surely didn't intend to limit himself to consult with Shimon also after his death... Had he sworn in an unequivocal manner that he would always consult Shimon, he would have to stop lending for the rest of his life but as he swore in a *double entendre*, we can explain his statement that as long as both are alive, he should get permission from both but if one of them passes away, he should consult the one still alive. Indeed, the Remo ruled so (Y.D. 216:7): "If a father made his son swear not to lend except with the permission of Reuven and Shimon and one of them died, the son may lend with the permission of one of them." In his opinion, therefore, only after the demise of one of them the son may consult the remaining friend.

#### DAILY MASHAL

##### "I am Tamei!"

After being sent out of the camps, the Metzora was required to announce to those who approached him: "Stay away, for I am Tamei" (13, 45).

The Gemara (Shabbos 67a) explains that, besides preventing people from entering his place of solitude, the Metzora's cries

would engender compassion in those who heard him and they would beseech Hashem on his behalf.

There were other impurities that mandated a person to sit outside the camps. Yet, it was only a person stricken with Tzora'as who needed to call out to others in order that they daven for him.

The Chofetz Chaim gives a powerful explanation for this. The Gemara (Eruchin 15b) writes that Tzora'as afflicts a person who engages in Lashon Hara. The source for this is the Pasuk זאת תהיה ה"מזרע תורת תהיה -This shall be the instructions for someone afflicted by Tzora'as" (14: 2), which is understood by the Gemara to mean a for instructions the be shall This- "זאת תהיה - זאת תהיה של מוציא שם רע person who spreads evil rumors."

It is written in the Medrash HaNe'elam that the Tefillos of someone who speaks Lashon Hara do not ascend before Hashem, "for these prayers are spoken with a mouth that is impure." Rashi (Bereishis 21, 17) writes that the prayer of a sick person is more effective than the Tefillos offered by others on his behalf. He explains that this is the reason why Hashem responded to the Tefillos of Yishmael before those of his mother, as the Pasuk states, "Hashem heard the voice of the lad." (Bereishis 21; 17). Therefore a person who was outside the camps as a result of an impurity besides Tzora'as did not need others to daven that he once again be able to enter the camps. Indeed, his own Tefillos would be more effective than the entreaties of someone else. Consequently it was not necessary for him to call out that he was impure. However, a Metzora who was plagued with Tzora'as for evil slander is not able to daven for himself. For, the Zohar writes, his Tefillos are not heard by Hashem. Therefore, he must sit outside the camps and call out to those who approach, "I am Tamei. I am not able to beseech Hashem on my own behalf since I have polluted my mouth." This is why the person who spoke Lashon Hara had no other alternative but to sit and beg for mercy from those passing by to daven to Hashem on his behalf. The words of the Metzora echo and reverberate through time for those who are listening and understand the message... "I am Tamei..."