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Food tumah

The *Mishna* had stated that the *elal* combines with the food to transmit its *tumah*, but not the *tumah* of *neveilos*.

Rabbi Yochanan explained that *elal* is *marteka* (either the tough sinew of the neck and spine or withered flesh). Rish Lakish said: It is flesh which the knife has cut away (but it still remains on the hide).

The *Gemora* challenges Rish Lakish’s viewpoint from a verse which states that the *elal* cannot be healed; but according to him who says that it is flesh which the knife has cut away, surely this can be healed at times!?

The *Gemora* answers: There is no dispute at all about the *elal* mentioned in the verse; they only disagree as to the meaning of *elal* in our *Mishna*.

The *Gemora* cites support to Rish Lakish from Rabbi Yehudah’s opinion stated in our *Mishna* that the *elal* (of *neveilah*) which was collected together so that there was an olive’s volume in one place, one would thereby become liable. And to this Rav Huna added: Provided that he collected it (purposefully) together (and therefore it remains regarded as food). Now according to him who says it is the flesh which the knife has cut away, it is understandable that when there was an olive’s volume of it in one place, one would thereby become liable; but according to the one who says that it is *marteka*, what if there was an olive’s volume of it, it is surely only regarded as wood?

The *Gemora* answers: They certainly do not disagree as to the *elal* referred to by Rabbi Yehudah (that it means the flesh which the knife has cut away); they only disagree as to the meaning of the *elal* according to the Rabbis. Rabbi Yochanan maintains that even *marteka* can be included together with ordinary meat to make up the minimum quantity to convey *tumah*, but Rish Lakish holds that only the flesh which the knife has cut away can be included, but *marteka* cannot be included.

Regarding the flesh which the knife had cut away, there is a disagreement between Rabbi Avin and Rabbi Meyasha: One said that the case is where he intended for part of it (as food; but since he did not expressly state which part he intended as food, by itself it cannot contract *tumah*, but that part can be reckoned together with other food to make up the quantity of an egg’s volume), and the other suggested the case where part was excised by a wild beast (and this part remains as food, for there was never any intention to nullify it) and part cut away by the knife.

The *Mishna* had stated that the horns combine with the food to transmit its *tumah*.

Rav Pappa said: It refers to that part of the horns from which the blood flows when an incision is made (for only then it can be regarded as food).

The *Mishna* had stated: Similarly, if a Jew slaughters an animal, etc.

Rabbi Assi said: It was taught that if a Jew slaughters a non-kosher animal, or if a gentile slaughters a kosher animal, it receives *tumah* of foods only if a Jew intends to feed it to a gentile, and if it is prepared through a liquid (*thereby becoming susceptible to tumah*).

The *Gemora* asks: Why does it need *hechsher* (*the preparation through liquid*)? The meat will have *tumas neveilah* (*when the animal stops quivering*). It should not need *hechsher*, for anything that is destined to become *tamei* with severe *tumah* does not require *hechsher*. This is as was taught in a *braisa* of the academy of Rabbi Yishmael: *When water will be put on seeds*. This teaches us that *hechsher* is needed only for things like seeds, which will never have severe *tumah* (*to contaminate people or utensils*). And it was taught in a *braisa*: Rabbi Yosi said: The carcass of a kosher bird needs intent (*to be fed to a gentile*) to be susceptible to *tumah* of foods and it does not need *hechsher*; this is because it will have severe *tumah*.

Chizkiyah answers: The animal needs *hechsher* because one could cut it into pieces, each smaller than an olive's volume - while it is still quivering, so it would not receive *tumas neveilah*.

Rabbi Yirmiyah asked Rabbi Zeira: Did Chizkiyah really say that? But it was stated: If the majority of both pipes of an animal (*a non-kosher one*) were slaughtered, and it is still quivering, Chizkiyah said that it is regarded as legally dead, and it is not forbidden on account of eating limbs from a

living creature, even for a gentile. Rabbi Yochanan, however, disagrees.

The *Gemora* answers: Chizkiyah holds that it is no longer considered alive, but it is not yet considered dead.

It was stated above: If the majority of both pipes of an animal (*a non-kosher one*) were slaughtered, and it is still quivering, Chizkiyah said that it is regarded as legally dead, and it is not forbidden on account of eating limbs from a living creature, even for a gentile. Rabbi Yochanan, however, disagrees.

Rabbi Elozar said: Hold fast to this view of Rabbi Yochanan for Rabbi Oshaya has taught in agreement with him. For Rabbi Oshaya taught: If a Jew slaughtered an unclean animal for an idolater, as soon as he has cut both or the greater part of both pipes, even though it still struggles, it conveys food *tumah*,¹ but not the *tumah* of *neveilah*. A limb severed from it is regarded as

severed from the living animal, and flesh severed from it is regarded as severed from the living animal, and it may not be eaten by an idolater even after the life of the animal has departed.² If he only cut one or the greater part of one pipe, it does not convey food *tumah*.³ If he stabbed it, it has no *tumah* whatsoever. If an idolater slaughtered a clean animal for a Jew, as soon as he has cut both or the greater part of both pipes, even though it still struggles, it conveys food *tumah*,⁴ but not the *tumah* of *neveilah*. A limb severed from it is regarded as severed from the living animal, and flesh severed from it is regarded as severed from the living animal, and it may not be eaten by an idolater even after the life of

¹ If it came into contact with unclean matter it will convey *tumah* to other foodstuffs, for it is regarded as a foodstuff immediately on the cutting of the pipes; the reason being that the ritual slaughtering performed by the Jew expressly on behalf of the idolater renders the animal a foodstuff immediately, just as the slaughtering by a Jew of a clean animal certainly renders it a foodstuff immediately.

² Since it was severed from the 'living' animal, hence in agreement with Rabbi Yochanan that while struggling, the animal is still considered living.

³ As long as it still struggles. For the animal at this moment is permitted neither to Jew nor to idolater.

⁴ Just as when a Jew slaughters an animal, as soon as the pipes are cut through it is rendered a foodstuff immediately, so it is when an idolater slaughters it expressly on behalf of a Jew.

the animal has departed. If he only cut one or the greater part of one pipe, it does not convey food tumah. If he stabbed it, it has no tumah whatsoever. If the idolater cut only so much as does not render the animal tereifah,⁵ and a Jew came and finished it, the slaughtering is valid. If a Jew slaughtered, whether he had cut so much as would render the animal tereifah or not, and an idolater came and finished it, the slaughtering is invalid. If a person desires to eat the flesh of an animal before the life has departed from it, he should cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the life departs [from the animal], and then eat it. Both Jew and idolater may eat it in this manner.

This [Baraisa]⁶ lends support to the view of Rav Idi bar Avin. For Rav Idi bar Avin said in the name of Rav Yitzchak bar Ashian: If a person desires to be in good health he should cut off an olive's bulk of flesh from around the throat, salt it well, rinse it well, wait until the life departs [from the animal], and then eat it. Both Jew and idolater may eat it in this manner.

Rabbi Elozar inquired: What is the law if he paused or pressed down [the knife while cutting the pipes]?⁷ — Thereupon a certain old man answered: Thus said Rabbi Yochanan: It requires the same halachic acts of slaughtering as in the case of a clean animal. To what extent are the halachic acts

⁵ E.g., the idolater only cut half through the windpipe, so that if the idolater were to stop at this stage the animal would not be tereifah.

⁶ Which states that even the idolater may eat of it.

⁷ In the aforementioned cases, where a Jew slaughtered an unclean animal for an idolater, or an idolater slaughtered a clean animal for a Jew, the question is raised as to whether the slaughtering must be entirely in accordance with halachah, free from such invalidating acts as pausing or pressing, for otherwise it is like stabbing, or not.

⁸ I.e., where a Jew slaughtered an unclean animal for an idolater, or an idolater a clean animal for a Jew, and the animal while alive had swallowed certain articles, and after it

essential? — Rav Shmuel bar Yitzchak said: Even to the examination of the knife.

Rabbi Zeira inquired of Rav. Sheishes: Can the [convulsing] animal protect the articles that are swallowed within it [from becoming tamei or not]?⁸ — He replied: It already conveys food tumah,⁹ is it then possible that it should afford protection! The other retorted: It does not yet convey the tumah of neveilah,¹⁰ why then should it not afford protection? — Abaye said: It does not protect the articles that are within it from becoming tamei since it already conveys food tumah, and he who sodomizes it is culpable¹¹ since it does not yet convey the tumah of neveilah.

The Mishnah had stated: Rabbi Yehudah says: if so much of alal was collected etc.

Rav Huna said: Provided he collected it together [of set purpose].

Rav Huna also said: If there were two pieces of flesh on the hide, each a half-olive's bulk, the hide renders them negligible.¹²

According to whose authority is this ruling? If according to Rabbi Yishmael's — but he maintains that the hide does not

was slaughtered, while still struggling, was brought under the same roof or 'tent' as a corpse, where it is stated that a living person or animal can protect from the tumah of the 'tent' the articles that are swallowed within them. The question is: Is the animal while still convulsing regarded as living or not?

⁹ Apparently because it is considered as dead.

¹⁰ It is then not considered as dead.

¹¹ He suffers the death penalty if he committed the crime deliberately, or if inadvertently, is obliged to bring a chatas. According to Rashi, Abaye always considers the animal in that status which produces the more stringent result.

¹² They cannot be reckoned together as one whole olive's bulk of neveilah so as to convey tumah by carrying.



render them¹³ negligible; and if according to Rabbi Akiva's — but it is obvious, for he maintains that the hide renders them negligible! — In fact it is in accordance with Rabbi Yishmael's view, for Rabbi Yishmael maintains that the hide does not render them negligible only in the case where the pieces were torn away by a wild beast,¹⁴ but where they were cut away by the knife [he concedes that] the hide renders them negligible.

Come and hear [from our Mishnah]: Rabbi Yehudah says: if so much of alal was collected together so that there was an olive's bulk in one place, one would thereby become liable. And to this Rav Huna added, provided he collected it together.¹⁵ Now if you say that even where the knife cut it¹⁶ away it is not rendered negligible according to Rabbi Yishmael, it is well, for then Rav Huna is in agreement with Rabbi Yishmael.¹⁷ But if you say that where the knife cut it away Rabbi Yishmael concedes that it is rendered negligible, then [it will be asked]: with whom does Rav Huna agree?¹⁸ — You must therefore say that even where the knife cut it away it is not rendered negligible according to Rabbi Yishmael; and Rav Huna¹⁹ is in agreement with Rabbi Akiva. But this would be obvious? — No, for you might have thought that Rabbi Akiva maintains his view only where the knife cut it away, but where it was torn away by a wild beast he would concede that it is not rendered negligible; he therefore teaches us that

the reason for Rabbi Akiva's view is because the hide renders it negligible, making thus no difference whether it was torn away by a wild beast or cut away by the knife, for so it reads in the last clause: Why does Rabbi Akiva declare him clean in the case of the hide? Because the hide renders them negligible.

INSIGHTS TO THE DAF

The meat is kosher – *treifah* – kosher – *treifah*

For a long while we have been occupied with the halachos of meat with milk, salting, *neveilah* and *treifah*, forbidden food becoming insignificant in 60 parts, etc. The following story appears to be an ideal way to briefly review a few important halachos and, at the same time, enjoy the outstanding astuteness of HaGaon Rabbi Chayim Soloveitchik of Brisk zt"l.

Some say that the event occurred when meat was being cooked for the wedding of one of his grandchildren, while others tell the story with an introduction recounting that a government-appointed rabbi once accosted Rabbi Chayim. "I don't understand why you must examine a matter so much before answering halachic questions," he contested — "Yes is yes and no is no!" Rabbi Chayim smiled and replied, "If so, let's see how you would rule the following case:."

¹³ Sc. pieces of flesh adhering to the hide each less than an olive's bulk.

¹⁴ In this case the pieces of flesh became attached to the hide accidentally, without the knowledge or will of the owner, and therefore Rabbi Yishmael holds that these pieces are not rendered negligible. Where, however, the pieces were cut away and intentionally left hanging on to the skin by the man who flayed the animal, even Rabbi Yishmael agrees that they are negligible in themselves and are considered as part of the hide.

¹⁵ This provision implies that the knife had cut away shreds of flesh in a number of places and left them attached to the hide. The fact that one is liable if the pieces were collected together clearly indicates that the hide did not render these

shreds negligible, for had they once been rendered negligible the person who touched them would not become tamei and so not be liable for any further consequences.

¹⁶ Sc. shreds of flesh attached to the hide.

¹⁷ I.e., Rabbi Yehudah of our Mishnah, as interpreted by Rav Huna, is in agreement with Rabbi Yishmael, and the Rabbis who differ with Rabbi Yehudah are in agreement with Rabbi Akiva.

¹⁸ I.e., Rabbi Yehudah's view as interpreted by Rav Huna.

¹⁹ I.e., the second dictum of Rav Huna (If there were two pieces of flesh, etc.) accords with Rabbi Akiva; the first dictum of Rav Huna which interprets the view of Rabbi Yehudah in our Mishnah (Provided he collected it together) accords with Rabbi Yishmael.

A piece of *neveilah* fell into a pot of boiling meat. As soon as it became known, the frightened maid quickly extracted the *neveilah* and discarded it and now we can't know if it was small enough to become insignificant in 60 parts. What about the meat?

Apparently, the pot of meat should be permitted: One of the types of mixtures is called "a kind with its own kind" (*min bemino*) – i.e., the mixture consists of a forbidden article with a permitted article of the same type as, for example, in our case where the kosher and *treifah* meat became mixed. Such a mixture *min haTorah* becomes insignificant in a simple majority and does not require 60 parts. Therefore, as it is obvious that the piece of *neveilah* is smaller than the contents of the pot, it becomes insignificant in the majority. However, Chazal regulated that *min bemino* also requires 60 parts but in our case, where we don't know if the *neveilah* became insignificant in 60 parts or not, we have a doubt arising from a rabbinical decree (*safek derabanan*) and a *safek derabanan* is judged leniently (*Shulchan 'Aruch, Y.D. 98:2*).

The „rabbi“ breathed a sigh of relief: Indeed, the meat is kosher.

“No, no,” replied Rabbi Chayim, “the meat is forbidden”: The blood in the *neveilah* was not extracted as the *neveilah* was not salted. We therefore have a mixture of a kind with something which is not its own kind – the *neveilah*'s blood with the kosher meat – and as long as we're not sure that the contents of the pot are 60 times that of the *neveilah*'s blood, the meat is forbidden as we cannot be lenient about a doubt of the Torah (*Shulchan 'Aruch, ibid*).

“Right”, nodded the „rabbi“, “it's *treifah*.”

“Right?” asked Rabbi Chayim. “It's not certain at all”: It could actually be that the meat is kosher as the blood was absorbed in the *neveilah* meat and came out when cooked. Cooked blood is forbidden only as a Rabbinical decree. We

again face a doubt as to if the Rabbinical prohibition is insignificant in 60 parts and a *safek derabanan* is judged leniently.

But no, in the end the meat is *treifah*, added Rabbi Chayim to the „rabbi“'s astonishment. Cooked blood indeed is not forbidden by the Torah but merely as a rabbinical decree but this concerns the blood of a slaughtered animal, which is forbidden because of the prohibition on blood. However, we here have the blood of a *neveilah*. That is, we don't have to relate to the prohibition of eating blood. It suffices that it is part of a forbidden animal and cooking it doesn't help to remove the prohibition of *neveilah* from it and, as such, its prohibition from the Torah remains. As long as we don't know for sure that the kosher meat exceeds the blood of the *neveilah* by 60 parts, it cannot be eaten.

DAILY MASHAL

Some add two more aspects to the story, one to permit the mixture and one to forbid it. One way or another, there's no doubt that from that day on no one asked Rabbi Chayim why one must deeply examine a matter before solving a halachic quandary... (see *Kisvei Kehilos Ya'akov Hachadashim, Kodoshim, 3*, who cites this story in Rabbi Chayim's name and see *ibid*, where he devotes a lengthy discussion as to if the blood of a *neveilah* also has the prohibition of *neveilah*, and see *Zecher Yitzchak, 67*, concerning the blood of a *treifah*).