

11 Iyar 5779
May 16, 2019



Bechoros Daf 29

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Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h
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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

Payment for Inspecting

If one takes payment to inspect a *bechor* (to determine if a blemish was permanent or not), we cannot slaughter it based upon his word (for we are concerned that his ruling will be tainted because of the payment), unless he is an expert, such as Ayala in Yavneh, whom the Sages permitted to take four *issars* for small animals and six *issars* for large animals, whether it was (ruled) unblemished or blemished.

The *Gemora* explains that there is much labor involved (by the inspection of large animals, and therefore, the fee is greater), whereas in the other case (of small animals), there is not much labor involved.

The *Gemora* asks that it is understandable that he takes a fee when he rules that it is blemished, for then he is permitting it; but why does he take payment when he rules that it is unblemished?

The *Gemora* answers: He takes a fee then as well, for otherwise, people will suspect him and say that the animal pronounced blemished is actually unblemished, and the reason he permitted it is because of the payment.

The *Gemora* asks: If your argument is true, in the case when he rules it to be unblemished as well, it might be said that it is really blemished, and the reason why he didn't permit it is because he thinks that he might be able to collect payment a second time (when it is brought back to him)?

The *Gemora* answers: The Rabbis enacted (that he can collect) payment for the first examination, but they did not enact payment twice (for the same *bechor*). (28b – 29a)

Payment for Judging

If someone takes wages for judging, his judgments are invalid. If it is for testifying, his testimony is void. If it is for sprinkling or for consecrating the *chatas* water, the water is regarded as cave water, and the ashes are like regular ashes.

If he was a *Kohen* and he would become *tamei* regarding his *terumah* (if a person required the *Kohen's* services led him to inspect the *bechor* or to give evidence etc., through a path which inevitable caused him to become *tamei*, and he now cannot eat *terumah*, which is cheaper in price than *chullin*, since the latter can be eaten by everybody whereas *terumah* is only suitable for *Kohanim*), he may provide for him food and drink and rub him with oil (and is not regarded as payment; for he is merely being compensated for his loss incurred because of the performance of these *mitzvos*). And if he was an old man, he mounts him on a donkey. He also pays the person (who performed these *mitzvos*) as he would a workman (if he lost wages because of it).

The *Gemora* asks: From where is it known (that one should not take money for judging)?

Rav Yehudah in the name of Rav cites a Scriptural verse and expounds as follows: Moshe said: Just as I was taught the Torah (by Hashem, and it was) for free, so too, you were taught the Torah (by me, and it was) for free. [And therefore, when you teach Torah to others, it should be for free.]

The *Gemora* asks: And from where do we derive that if he cannot find someone to teach him gratuitously, he must pay for learning?

The *Gemora* answers: It is from the verse: *Buy the truth (referring to Torah).*

The *Gemora* asks: And from where do we derive that one should not say: "Just as I learned the Torah by paying, so too I shall teach it for payment"?

The *Gemora* answers: It is written: *Buy the truth and do not sell it.*

The *Mishna* had stated: If it (*the taking of a fee*) was for sprinkling or for consecrating the *chatas* water, the water is regarded as cave water, and the ashes are like regular ashes.

The following *Mishna* was cited in contradiction: If a man betroths a woman with the *chatas* water, or with the *chatas* ashes (*the ashes of the parah adumah were mixed with water, and they then were sprinkled on someone who was a tamei meis in order to purify him*), she is *mekudeshes* (*betrothed*), and even if this man was a *Yisroel* (*and not a Kohen*). [*Now since these items do not belong to him, he must be betrothing her with the fee that he could collect for the sprinkling or the consecrating of these waters!?*]

Abaye answers: This offers no difficulty, for in that *Mishna*, it is referring to the payment for bringing the ashes or drawing the water, whereas in our *Mishna*, it is payment for actual sprinkling or consecration.

The *Gemora* notes that this can be proven for here in our *Mishna* it states: to sprinkle or to consecrate, whereas in that *Mishna* it states: If one betroths a woman with the *chatas* water, or with the *chatas* ashes (*which implies that they were not mixed yet*). This is indeed a proof.

The *Mishna* had stated: If he was a *Kohen* and he would become *tamei* regarding his *terumah* (*if a person required the Kohen's services led him to inspect the bechor or to give evidence etc., through a path which inevitable caused him to become tamei, and he now cannot eat terumah, which is cheaper in price than chullin, since the latter can be eaten by everybody whereas terumah is only suitable for Kohanim*), he may provide for him food and drink and rub him with oil (*and is not regarded as payment; for he is merely being compensated for his loss incurred because of the performance of these mitzvos*).

The *Gemora* asks: How could the *Kohen* go to a place of *tumah* (*in the first place*)?

The *Gemora* answers: He went to a *beis haperas* (*a field in which a grave had been plowed over; which we rule to be tamei*) - the prohibition being a rabbinical enactment. For Rav Yehudah said in the name of Rav: The person blows on the *beis haperas* and then he can proceed through it. And Rav Yehudah bar Ammi said in the name of Rav Yehudah: A *beis haperas* that has been sufficiently trampled on by many people is *tahor* (*the bone pieces will be pushed to the side*). [*This is a leniency with respect to korban pesach and to allow a Kohen to walk through the area; it is not relied upon, however, regarding a tamei person eating terumah.*]

Alternatively, we may also say that the *Mishna* refers to other types of *tumah* (*not corpse tumah*), concerning which he is not warned (*against coming into contact*).

The *Mishna* had stated: And if he was an old man, he mounts him on a donkey. [*He also pays the person (who performed these mitzvos) as he would a workman (if he lost wages because of it).*]

A *Tanna* taught in a *braisa*: He receives payment on the scale of a workman with nothing to do.

Abaye explains: He pays him like a workman idle from his particular occupation. [*If, for example, he performs light work and earns a big wage, then his compensation would only be slightly less than what he receives for his normal work. But if his work was of a laborious kind, for which he received three zuz, then if he had asked him to take a zuz for much lighter work, he would probably have accepted the offer, This is therefore what he receives now for his services which prevented him following his occupation, but not the whole of his usual wages, as the work which he is performing for him is not laborious.*] (29a – 29b)

Suspicion of Inflicting Blemishes

If one is suspected in connection with *bechoros* (that he inflicts blemishes in them in order for it to be permitted to slaughter and eat), even deer's meat, we must not buy from him, nor untanned hides. Rabbi Eliezer said: Female hides (which cannot be a *bechor*), we may buy from him. Bleached or dirty wool, we must not buy from him; but spun wool or garments we may buy from him.

The *Gemora* notes that the reason for prohibiting deer's meat is because it might be confused for calf's meat (for they are both pinkish in color).

The *Gemora* infers from the *Mishna* that tanned hides may be bought (from those under suspicion). The reason is that if there would be any substance in the suspicion that they might be of a *bechor*, he would not have troubled himself in the matter, for he reasons as follows: If the Rabbis heard about me, they would make me forfeit them.

The *Mishna* had stated: Rabbi Eliezer said: Female hides (which cannot be a *bechor*), we may buy from him.

The *Gemora* explains his reasoning, for it is easily recognized. The *Tanna Kamma*, however, holds that if this would be so, then in the case of a male also, he might cut away the hide near its male member and maintain that mice have nibbled

at it. Rabbi Eliezer, however, maintains that the action of mice is easily recognized.

The *Mishna* had stated: Bleached or dirty wool, we must not buy from him.

The *Gemora* asks: If we must not purchase bleached wool from him (although it is a big bother), is there any question about dirty wool (which is no bother at all)?

The *Gemora* explains the *Mishna* to mean one case, as follows: Wool bleached from its dirt (cannot be purchased from them).

The *Mishna* had stated: spun wool or garments we may buy from him.

The *Gemora* asks: Now if we may buy spun wool, is there any question as to garments (since we have already permitted it from the moment when the wool was spun)?

The *Gemora* answers: The kind of garments meant are felt ones (which is made without using spun wool). (29b)

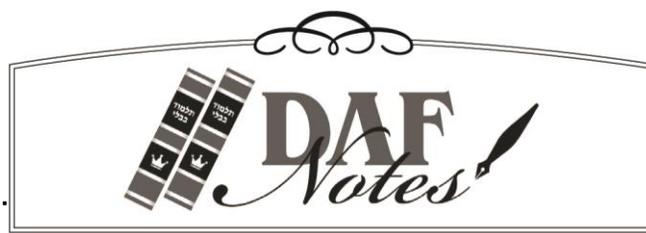
Suspicion regarding Shemittah

If one is suspected of ignoring the *Shemittah* year, even flax must not be bought from him, and even if it was combed (which is not such a bother), but spun (linen) threads or woven (linen) may be bought from him (for it requires a considerable effort).

The *Gemora* asks: Now if we may buy spun flax, is there any question as to garments (since we have already permitted it from the moment when the flax was spun)?

The *Gemora* answers: 'Woven' here means braided chains (which is made without using spun flax). (29b)

Suspicion regarding Terumah



If one is suspected of selling *terumah* as *chullin*, even water and salt (*which cannot possibly be terumah*) must not be bought from him; these are the words of Rabbi Yehudah. Rabbi Shimon says: Whatever is associated with *terumah* and *ma'asros* must not be bought from him.

The *Gemora* notes that Rabbi Shimon is including the innards of fish in which (*olive*) oil is mixed (*for although fish cannot be terumah, the oil can be*).

There was a certain butcher suspected of selling the fat of the thigh (*which is forbidden for consumption*) for the fat of the bowels (*which is permitted*). Raba punished him by forbidding him to sell even nuts.

Rav Pappa said to Rava: What opinion does this represent? It is Rabbi Yehudah's! If so, then the prohibition should apply even to water and salt?

Rava answered: It may still represent the opinion of Rabbi Shimon, and we punish him through the very object which facilitated the offense. Young children are generally attracted by nuts. He goes and misleads the children of butchers, attracting them by means of nuts. They bring him the fat of the thigh (*by stealing it from their fathers' stores*) and he sells it for the fat of bowels. (29b – 30a)

INSIGHTS TO THE DAF

Compensation for Teaching Torah

Rabbi Yochanan (Nedarim 37b) said: While it's true that one cannot take money for teaching Scripture, he may take money for teaching them the proper cantillation of the verses.

One is obligated to teach others the laws and statutes of the Torah without demanding payment. The Chasam Sofer rules: Nowadays that the entire *Gemora* and the *poskim* are written down, one is not obligated to teach them inside for free; rather, he is required to teach orally the *halachos* and

the rationale behind them. If, however, one teaches the students the *Gemora* inside, he may demand payment. The reason that the *Gemora* makes a distinction between Scripture and Midrash is because the Scripture was already written down. (*Although Rebbe arranged the Mishna, it was not written down until much later.*) Therefore, if one teaches student the correct method to read the *Gemora*, he may demand payment.

The Ran cites a Yerushalmi which rules that although a person may not receive compensation for teaching Torah, he may demand payment for the loss of income that he suffers by the fact that he does not pursue other means of support. This is true as long as he devotes himself completely to teaching.

Other Rishonim rule that if a teacher has no other means of support, he may receive compensation for teaching Torah.

Contributing to the cost of a beis din

Our *Mishna* says that if one accepts payment to judge, his rulings are void, as we are told: 'See, I have taught you laws and judgments' (Devarim 4:5) – Just as I (Moshe) have done it for free, so must you also do it for free." Therefore, a *dayan* must not accept payment from the litigants for judging their case. A *dayan* who does so is fined by the *chachamim*, that **all** of his rulings are invalid, except those that he clearly did not accept payment for.

Payment for loss of work: However, there are a few possibilities to pay a *dayan*. The first one is payment for loss of work (*sechar batalah*). If a *dayan* engages in a certain vocation, he is allowed to demand *sechar batalah* from the litigants for if he wouldn't agree to judge their case, he could earn a certain amount and he may collect this amount from both litigants equally (the *Sema'* and the *Taz* disagree as to if this applies only if the *dayan* informs the litigants before the judgment that he will collect a fee; see *Ketzos HaChoshen* and *Nesivos HaMishpat*).

A public wage: The *Gemora* also says in Kesubos 105a that *dayanim* who were occupied with ruling cases concerning thefts were paid from the *terumas halishkah* in the Temple. According to Rabeinu Tam (Tosfos, Kesubos 105a, s.v. *Gozerei gezeiros*), this *Gemora* teaches us that *dayanim* are only forbidden to be paid by the litigants but they may be paid from public funds.

The public must support a *dayan* who devotes himself to their good: On the other hand, Tosfos conclude from this *Gemora* that we must distinguish between a *dayan* who doesn't judge constantly and a *dayan* who devotes himself to the public and does not engage in another vocation, who must be supported by the public. This is not considered as payment for judging at all but as part of the public's obligations to the *dayanim* who act for their good.

Community regulations: HaGaon Rabbi Yaakov of Lissa zt"l asserts (*Nesivos HaMishpat*, 9, *Chidushim*, S.K. 6) that in his era, over 200 years ago, litigants would pay the *dayanim* as a regulation of the community. When a *dayan* was appointed, the community leaders undertook to pay his wage from public funds and hence the litigants, who pay his wage, pay it on behalf of the entire community. This is not regarded as payment for the specific *din Torah* in which they participate (see *ibid*, that it is fitting to make an explicit condition, and see *'Aroch HaShulchan*, *ibid*, *se'if 7*).

There's a judgment and there's a *dayan*: There were various communities, however, which wanted to adopt the *Mishna's* exact phrasing: "if he accepts payment to judge, his rulings are void" – i.e., a *dayan* must not accept payment at all. They refused to pay anything to the *dayanim* serving the town and their distress moved the Tashbetz (Responsa, I, 142-145) to publicize several letters to prove, "as they show me from Heaven, from the *Gemora* and from other places" that in many instances the *dayan* and the *rav* may accept payment and the public is even obliged to support them.

Some also wanted to find support from Rambam (in his commentary on Avos, Ch. 4), who opposes payment to those holding Torah-related posts, but the Tashbetz explains that Rambam meant *Rabbanim* who can support themselves otherwise, such as Rambam himself, who was a famed doctor and held a government post. In his commentary to Avos the Tashbetz recounts that he was also a doctor by profession but when he went into exile due to harsh religious decrees, he deliberated on the matter and finally decided to accept the position of a *rav* and a *dayan* for a wage.

A doctor is like a *dayan*: We mentioned that Rambam and the Tashbetz supported themselves by practising medicine but it is important to know that a Jewish doctor is also not allowed to accept payment for healing Jews as it is a *mitzvah*, and one mustn't accept payment for a *mitzvah*. A doctor, like a rabbi, may only accept *sechar batalah* and payment for his trouble (*Shulchan 'Aruch*, Y.D. 336:2). It is self-understood that a doctor's *sechar batalah* does not resemble a workman's for in that time he could heal someone for which there's no *mitzvah* to do so and earn considerable payment. Indeed, Rambam, who was a famed physician, did not accept payment for curing the ill until he was appointed doctor to the sultan's court (*Sha'arei Reuven* by HaGaon Rabbi Reuven Katz zt"l, p. 206).

Funds for shrouds: Historians reveal a fascinating fact, that many Torah giants were impoverished their whole lives and when they passed away, they left no property. The situation was indeed such that leaders of the generations, such as the *Taz*, the *Shach* and the *Beis Shmuel* asked their wives to forgive them before their demise for not leaving enough funds to pay their *kesubah*. The author of *Tosfos Yom Tov* passed away without even leaving enough money for shrouds! (*Lekoros HaRabanus*, Ch. 5).