

19 Iyar 5779  
May 24, 2019



Bechoros Daf 37

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**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

The Mishnah had stated: But Rabbi Yosi says: even if a Kohen Gadol were present etc. Rav Chananel reported in the name of Rav: The halachah is not in accordance with Rabbi Yosi. Surely this is obvious, for ‘where a single opinion is opposed to the opinion of more than one, the law follows the latter’! — You might have thought that we must adopt Rabbi Yosi 's opinion, because he is known to have deep reasons [for his rulings]. He therefore informs us [that it is not so].

You may now infer from this that the former ruling was stated in the name of Shamuel. For if it were in the name of Rav, what need is there for the repetition? — ‘One ruling was derived by implication’ from the other.

MISHNAH: If one slaughtered a bechor and it became known that he had not shown it [to a scholar]. As regards what [the purchasers] have eaten, there is no remedy and he must return the money to them.<sup>1</sup> As regards, however, what they have not yet eaten, the meat must be buried<sup>2</sup> and he must return the money to them. And likewise if one slaughtered a cow and sold it and it became known that it was tereifah, as regards what [the purchasers] have eaten there is no remedy, and as regards what they have not eaten, they return the meat to him and he must return the money to them. If [the purchasers] [in their turn] sold it to idolaters or cast it to dogs, they must pay him the price of tereifah.<sup>3</sup>

<sup>1</sup> For being instrumental in causing them to eat forbidden food he is penalized.

<sup>2</sup> As it is forbidden to benefit from an unblemished bechor.

<sup>3</sup> Since they did not eat the tereifah, they must pay him the cheap price of tereifah and he compensates them for the rest, as they

GEMARA: Our Rabbis taught: If one sells meat to another which turned out to be meat of a bechor, or if one sells produce and it turns out to be untithed or if one sells wine and it turns out to be forbidden wine, what [the purchasers] have eaten cannot be remedied and he must return the money to them. Rabbi Shimon ben Elozar, however, says: In the case of objects for which a man has a loathing, he must return the money to them, [as there was no benefit to them after knowing], whereas in the case of objects for which a man has not a loathing, he deducts from the price [what had been eaten]. And the following are the objects for which a person has a loathing: Carcasses, tereifos, forbidden animals and reptiles. And the following are objects for which a person has no loathing: Bechoros, untithed products and forbidden wine.

[Do you therefore say that in the case of] a bechor [he deducts]? But why shouldn't [the buyer] say to [the seller] ‘What loss have I caused you’?<sup>4</sup> — No; the statement is required for the case where he sold him the meat from the place where the blemish was, for he says to him: ‘Had you not eaten it, I would have shown it to [a scholar] and he might have permitted it, in accordance with the ruling of Rabbi Yehudah. As regards untithed things,<sup>5</sup> he can say: ‘I might have prepared them [ritually] and eaten them’. With

paid the higher price for kosher meat.

<sup>4</sup> For even if it were in your possession, it would have required burial, having been slaughtered in an unblemished state.

<sup>5</sup> The question also arises, why should the seller take a part of the money, since in any case he could not have used the untithed

reference to forbidden wine, [one can explain that he sold it to him] mixed [with permitted wine], [and had he not consumed it he would have been able to benefit by it] according to the ruling of Rabban Shimon ben Gamliel. For we have learned: If forbidden wine falls into a vat [of permitted wine], it is forbidden to profit from the whole of it. Rabban Shimon ben Gamliel, however, says: He can sell the whole of it to an idolater, except for the value of the forbidden wine in it.<sup>6</sup>

WE SHALL RETURN TO YOU, KOL PESULEI HAMUKDASHIN

MISHNAH: These are the blemishes in consequence of which a bechor may be slaughtered;<sup>7</sup> if its ear has become defective, [being cut or bored through] from the cartilages [inward] but not if the defect is in the skin;<sup>8</sup> if it is slit although there was no loss [of substance]; if it is perforated with a hole as large as a vetch or if [the ear] has become dry. What is called 'becoming dry'? If it is perforated no drop of blood would issue. Rabbi Yosi ben HaMeshullam says: [it] is called dry when it is liable to crumble.

GEMARA: Why is this so?<sup>9</sup> Doesn't Scripture say 'Lame or blind'?<sup>10</sup> - It also writes: And if it shall have a blemish.<sup>11</sup> But why not argue that [the text] 'And if it shall have a blemish' is a general statement while 'lame or blind' is a specification; and where a general statement is followed by a specification the scope of the general statement is limited by the things specified, so that only lameness or blindness [in a bechor] are [legal blemishes], but other [defects] are not [legal blemishes]? — [The text]: 'Any bad blemishes whatsoever' is

produce.

<sup>6</sup> I.e., he deducts the value from the price, so as not to benefit from the forbidden wine.

<sup>7</sup> After the destruction of the Temple.

<sup>8</sup> Because a blemish at this spot can become sound again.

<sup>9</sup> Why should the defects enumerated in the Mishnah be regarded as legal blemishes in connection with a bechor?

<sup>10</sup> This implies that no other defects are considered legal blemishes.

another general statement. We have, therefore, a general statement followed by the enumeration of specifications which are in turn followed by a general statement and in such a case we include only such things as are similar to those specified. Hence, just as the specifications<sup>12</sup> are exposed blemishes which cannot become sound again, so all [legal] blemishes must be exposed and unable to become sound again. But why not reason: As the specifications are exposed blemishes which render the animal incapable of carrying out its normal functions<sup>13</sup> and cannot become sound again, so all [legal] blemishes must be exposed rendering the animal incapable of carrying out its normal functions and unable to become sound again? Why then have we learned: if its ear has become defective, from the cartilages [inward] but not if the defect is in the skin? — [The text]: 'Any bad blemish whatsoever' is a widening of the scope of what constitutes a blemish. If this be so, why not also [slaughter a bechor] in consequence of hidden blemishes? Why then have we learned: If the incisors are broken off or levelled [to the gum] or the molars are torn out [completely], [thus implying that] when torn out completely [they are blemishes] but not where they are broken off or levelled [to the gum]?<sup>14</sup> — We require [that it should appear] 'a bad blemish',<sup>15</sup> which is not the case [where it is not torn out]. If this be so, why shouldn't [a bechor be slaughtered] in consequence of a transitory blemish?<sup>16</sup> Why have we learned: but not if the defect is in the skin? — There is a logical reason [why we do not slaughter a bechor] in consequence of a transitory blemish, for seeing that we do not redeem [a consecrated animal] in consequence [of a transitory blemish], shall we slaughter in consequence of it?" For it has been taught: [Scripture says]:

<sup>11</sup> From this we deduce that there are other blemishes which have the same ruling as lameness and blindness.

<sup>12</sup> Lameness and blindness.

<sup>13</sup> The lame not being able to walk and the blind to see.

<sup>14</sup> I.e., only hidden blemishes.

<sup>15</sup> And therefore there must be a complete tearing out, as 'a bad blemish' is only when it is seen.

<sup>16</sup> Since such a defect appears to be a bad blemish.

And if it be any impure animal of which they may not bring an offering to Hashem. The text deals here with blemished sacrifices which were redeemed. You say blemished sacrifices, perhaps it is really not so, but it speaks actually of an impure animal? Since it says: 'And if it be of an impure animal, then he shall ransom it according to your valuation,' the case of an impure animal is already stated. How then do I interpret the text 'Of which they may not bring an offering to Hashem'? You must say that it refers to blemished sacrifices which were redeemed. I might, however, conclude that one may redeem in consequence of a transitory blemish, hence Scripture explicitly states: 'Of which they may not bring an offering to Hashem', thus intimating [that it refers to] a sacrifice which is completely unfit [for the altar], but excluding this case of a transitory blemish, which although unfit for sacrifice today, is fit tomorrow. And if you prefer [another solution] I may say: If this be a fact [that a transitory defect is a legal blemish] then of what avail is the text 'Lame and blind' [which implies only permanent blemishes]?

The Mishnah had stated: If it is slit although there was no loss [of substance]. Our Rabbis taught: A slit may be even if it is miniscule. A defect [a cut] may be either through the hands of heaven or through the hands of man. Does this imply that a slit hasn't the same ruling when brought about through the hands of heaven? — Rather state it thus: A slit may be even if it is miniscule, and both a slit and a cut may be either through the hands of heaven or through the hands of man. And how large is a cut? — A notch deep enough to stop the fingernail.<sup>17</sup>

The Mishnah had stated: If it is perforated no drop of blood would issue. Our Rabbis taught: How large is the perforation of the ear? — As large as a vetch. Rabbi Yosi son of Rabbi Yehudah says: As large as a lentil. What is called dry? If when

<sup>17</sup> When passing over its edge as with a slaughtering knife.

<sup>18</sup> For a vetch is only slightly larger than a lentil.

<sup>19</sup> I.e., from the cartilage inward. Nevertheless we see that the boring causes a blemish. Rabbi Yosi holds that even a

perforated [the sore] does not bring forth a drop of blood. Rabbi Yosi ben HaMeshullam says: [It is called] 'dry' as long as it is liable to crumble.

A Tanna taught: Their views are nearly alike. Whose views [are meant]? Shall I say the views of the first Tanna [quoted above] and Rabbi Yosi ben HaMeshullam? Surely there is a considerable difference! — Rather you must say, the views of the first Tanna [quoted above] and Rabbi Yosi son of Rabbi Yehudah.<sup>18</sup> [But does Rabbi Yosi son of Rabbi Yehudah maintain that a blemish is constituted] by [a hole] the size of a lentil and not by less than the size of a lentil? Against this I quote: Scripture says 'An awl'. I have here mentioned only an awl [wherewith to bore the ear of a slave]; from where do you include also a prick, a thorn, a borer, and a stylus? Hence the text states: Then you shall take, thus including everything which can be taken in a hand. This is the view of Rabbi Yosi son of Rabbi Yehudah. Rebbe says, [Since the text says] 'An awl', we infer that as an awl is exclusively of metal, so anything used must be of metal. And it is stated in the following clause: Rabbi Elozar said: Yudan the eminent used to expound as follows: The boring is only done through the earlobe. The Sages, however, rule: A Hebrew servant who is a Kohen must not have his ear bored, because he becomes blemished. Now if you maintain that the boring was done through the earlobe, then the Hebrew servant who is a Kohen cannot become blemished, hence we only bore through the top part of the ear!<sup>19</sup> — Rav Chana bar Katina said: This offers no difficulty. Here for the purpose of slaughtering,<sup>20</sup> [the size of a lentil is required] but there in the case of causing a disqualification [even a needle can render the animal blemished for the altar]. What is karshinah? Said Rav Sheravya: [A legume we call] hinda.

Rabbi Hoshayah inquired from Rav Huna the Great: [Must the

needle's point which makes a hole much smaller than a lentil, is capable of maiming.

<sup>20</sup> Outside the Temple.

hole be] of a size so that the karshinah may enter and come out [with ease] or as to contain a karshinah [only with difficulty]? — He replied to him: I have not heard the answer to this particular query, but I have heard [a solution of] a similar query. For we have learned: A spinal column and a skull which have shrunk [do not cause tumah].<sup>21</sup> And how great must be the shrinkage in the spinal column in order not to cause tumah? Beis Shammai say: Two vertebrae, whereas Beis Hillel say: One vertebra. And as regards the skull, Beis Shammai say: [The amount of the shrinkage] must be equal to a [hole made by] an auger, and Beis Hillel say: As much as is required to be taken away from a living person in order to prove fatal. Now Rav Chisda sat discoursing and inquired: [You say] as much as is required to be taken from a living person [so as to prove fatal]. And how much would this be? — Rav Tachlifa bar Avudimi said to him: Thus did Shmuel say: As much as a sela. (And it was stated; Rav Safra said: [Rav Tachlifa] reported to [Rav Chisda] a ruling [in the name of Shmuel], whereas Rav Shmuel ben Yehudah says: [Rav Tachlifa] quoted [to Rav Chisda] a Baraisa [reported by Shmuel]. And the way to remember this is by the sentence: Rav Shmuel ben Yehudah reported a Baraisa).<sup>22</sup> Said [Rav Chisda] to him [Rav Tachlifa]: If so, then you have made the views of Beis Shammai and Beis Hillel identical. For we have learned: In a window which was not made by the agency of

man, the size<sup>23</sup> required is as large as a big fist, such as the fist of Ben Avtiach.<sup>24</sup> Rabbi Yosi said: And this [fist] is as large as a big head of a man. If [the window], however, was made by the agency of man, [the Sages] fixed the size to be as large as a hole made by the large auger kept in the Temple cell,<sup>25</sup> which is as large as an Italian pundyon or as large as a Neronian sela. And it has [a size] as large as a hole of a yoke!<sup>26</sup> — He was silent. Said Rav Chisda to him: perhaps what we have learned refers to the auger and [the removal of] what stopped up [the hole].<sup>27</sup> Thereupon Rav Tachlifa said to him: You should not say 'perhaps', it certainly refers to the auger and [the removal of] what stopped up [the hole], and you can confidently accept this explanation as we accept the evidence of Chizkiyah the father of Ikkeshe.<sup>28</sup> For it has been taught: This which follows is the evidence given by Hezekiah the father of Ikkeshe before Rabban Gamaliel in Yavneh which he reported in the name of Rabban Gamliel the Elder: Wherever an earthen vessel has no inside,<sup>29</sup> it is not regarded as having an independent back.<sup>30</sup> If then the inside becomes tamei, the back becomes tamei, and if the back becomes tamei, the inside becomes tamei. But didn't the Merciful One teach that the tumah of an earthen vessel depends on the inside? If it has an inside [receiving tumah] then the vessel becomes tamei, but if it has no inside, then it does not become tamei? — Rav Yitzchak bar

<sup>21</sup> The spinal column and the skull cause tumah, rendering any object tamei under their shelter, like the greater number of the limbs of a dead body or the greater part of a dead body. If however, they are not complete, they do not cause this tumah.

<sup>22</sup> For we find elsewhere Rav Shmuel ben Yehudah frequently quoting a Baraisa.

<sup>23</sup> So as to bring tumah from one house to the other. As this was not made by the agency of a man, therefore less than this size does not bring about impurity.

<sup>24</sup> Nephew of Rabbi Yochanan ben Zakkai, one of the leaders of the militant Baryonim during the siege of Jerusalem by the Romans. He was a big man physically.

<sup>25</sup> For purposes of Temple repair.

<sup>26</sup> In which a peg is fastened in order to bind the straps. Consequently we see that the auger's hole is equal in size to that

of a sela and, therefore, what is the difference between Beis Hillel and Beis Shammai?

<sup>27</sup> As the auger is narrow below and wide at the top, some scraping away of the hole is necessary in order that it may enter and come out freely. This would therefore make the hole larger than a sela and, therefore, Beis Shammai and Beis Hillel would differ in the extent of the diminution required in the case of the skull. Incidentally this would solve Rabbi Hoshayah's query above.

<sup>28</sup> Though his statement which follows appeared difficult, every effort was made to explain it, since it was known to have been reliable in substance.

<sup>29</sup> I.e., is not hollowed out so as to be capable of containing something.

<sup>30</sup> Its back (outside) cannot become tamei independently of its inside or vice versa.

Avin said: This is what is meant: Wherever an earthen vessel has no inside in a corresponding case with a rinsing vessel it has no back which is treated independently. If then its inside becomes tamei, its back [outside] becomes tamei, and if its back becomes tamei, then its inside is tamei. What need however is there to make it depend on an earthen vessel? Let him say as follows: Wherever in the case of a rinsing vessel there is no inside, there is no back which is treated independently? — He informs us of this very thing, that if it has an inside, then it is like an earthen vessel, as much as [to say]: As in the case of an earthen vessel, if the inside becomes tamei, then the back becomes tamei, and if the back becomes tamei, the inside does not become tamei, so it is in the case of a rinsing vessel, if the inside becomes tamei then the back becomes tamei, and if the back becomes tamei, the inside does not become tamei. Now we may readily grant this in the case of an earthen vessel, the Merciful One having revealed explicitly in that connection that tumah depends on the inside [receiving tumah]; but as regards a rinsing vessel, did the Merciful One reveal explicitly that tumah depends on the inside [receiving tumah]? — If we were referring to a case of biblical tumah, it would indeed be so.<sup>31</sup> We are dealing here<sup>32</sup> however with tamei liquids [which have come in contact with a rinsing vessel], the resulting tumah being due to a rabbinic enactment. For we have learned: If the back [outside] of a vessel has been defiled by tamei liquids, its back becomes tamei, but its inside, its edge, its handle and its projectors remain tahor. If its inside however becomes tamei, the whole vessel becomes tamei; for according to the biblical law, food cannot make a vessel tamei nor can tamei

liquid make a vessel tamei, and only the Rabbis have declared tumah on account of the liquid of a zav and a zavah.<sup>33</sup> The Rabbis consequently declared it to have tumah of an earthen vessel but they did not declare it [in this particular instance] to be biblically tamei on its own account, the Rabbis differentiating in order that terumah and holy objects might not be burnt on its account.<sup>34</sup> But if this be so,<sup>35</sup> where there is no inside, let there also be a distinction made?<sup>36</sup> Since where there is an inside, the Rabbis differentiated, it will indeed be known that where there is no inside the tumah is a rabbinic enactment [and that therefore terumah must not be burnt in consequence of it].

<sup>31</sup> That if the outside of a rinsing vessel becomes tamei, the inside too becomes tamei, whether it is capable of containing or not.

<sup>32</sup> When we say that where it is capable of containing and the outside becomes tamei, the inside does not become tamei as in the case of an earthen vessel, and where it is incapable of containing, Chizkiyah requires to inform us that there is no distinction as regards the back and inside and whichever becomes tamei, the other also becomes tamei.

<sup>33</sup> His or her spittle is one of the direct causes of tumah and it makes

a vessel tamei biblically, whereas other tamei liquids cannot do so, but only make the vessel rabbinically tamei.

<sup>34</sup> Thus not causing unnecessary burning of holy things.

<sup>35</sup> If the tumah here be a rabbinic enactment and therefore a distinction between the inside and the back was made, just as in the case of an earthen vessel, in order not to burn holy things unnecessarily.

<sup>36</sup> That where the back becomes tamei, the inside does not become tamei.