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Kerisus Daf 24

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**Mishna**

If a man brought an *asham taluy* (*korban brought when one is unsure if he committed a sin that is subject to a chatas*) and subsequently it became known to him that he had not sinned, if the animal was not yet slaughtered, it goes out and grazes among the flock (*as ordinary chullin; this is because he never meant to consecrate it if it emerged that he did not sin*); these are the words of Rabbi Meir. The Sages say: It must be left to graze until it develops a blemish, and then it shall be sold and its money spent on a voluntary offering. Rabbi Eliezer says: It should be offered (*regardless*), for if it was not offered for this sin, it can be offered for some other sin (*for R’ Eliezer maintains that one can even donate an ashram taluy*).

If it (*the fact that he had not sinned*) became known to him only after it was slaughtered, the blood must be poured out (*on the ground*) and the meat should go to the place of burning (*for it is chulin that was slaughtered in the Courtyard*).

If the blood had already been thrown, the meat may be eaten. Rabbi Yosi says: Even if the blood was still in the basin (*that was used to receive the blood*), it should be thrown and the meat may be eaten.

However, is different with a definite *asham*: If the animal was not yet slaughtered (*and it emerged that he is not liable to bring it*), it goes out and grazes among the flock (*as ordinary chullin; this is because he never meant to consecrate it if it emerged that he did not sin*). If (*it was found out*) after it was slaughtered, it shall be buried. If (*it was found out*) after the blood had already been thrown, the meat must go out to the place of burning.

The law is also different regarding an ox condemned to be stoned: If before it was stoned (*and it emerged that on account of an error in the decision, it does need to be stoned*), it goes out and grazes among the flock (*as ordinary chullin*). If (*it was found out*) after it was stoned, it is permitted for use.

The law is also different regarding the *eglah arufah* (*the law is that upon finding a corpse, and being unable to solve the murder, the leaders of the city closest to the corpse are required to bring a calf to an untilled valley, decapitate it, wash their hands over it, and then they must recite a verse, declaring publicly that they did not kill the person*): If before the calf was decapitated (*the murderer was found*), it goes out and grazes among the flock (*we are allowed to derive benefit from it*). Once it has been decapitated, it shall be buried on the spot (*like the law of the eglah arufah*), for it was from the outset brought because of a matter of doubt; it has atoned for the doubt, and so has served its purpose. (23b)

**Troubled Conscience**

The *Gemora* explains the dispute between Rabbi Meir and the Sages: Rabbi Meir holds that since he no longer requires the offering, he does not consecrate it (*when he consecrated it, it was with this intention that it should be consecrated only if the offering is required*). The Sages, however, maintain that because of his troubled conscience (*that perhaps he sinned*), he resolved to consecrate it.

The *Gemora* cites a *braisa*: Whether he found out that he did sin, or whether he found out that he did not sin, Rabbi Meir and the Sages disagree. In the case where he found out that he did sin, the case is stated to present the strength of Rabbi Meir’s view – that although he is now aware of his sin, since he did not know this when the sacrifice was designated, it goes out and grazes among the flock. And in the case where he found out that he did not sin, the case is stated to present the strength of the view of the Sages – that although he is now aware that he did not sin, since he did not know this when the sacrifice was designated, his conscience troubled him, and he so resolved to consecrate it absolutely.

Rav Sheishes said: Rabbi Meir admits to the Sages in the case of a person who consecrated two *asham* offerings as security (*just in case*



one became lost) and was atoned for by one of them - that the second shall be left to graze until it develops a blemish, and then it shall be sold and its money spent on a voluntary offering. This is because Rabbi Meir disagrees with the Sages only in the case where the person had not revealed that his conscience troubled him; in this case, however, let us see: only one sacrifice was required of him, for what reason then did he designate two sacrifices? Obviously, it was because he thought, "Should one be lost, I shall gain atonement with the other." Now since he has revealed that his conscience troubled him, we therefore assume that his consecration was absolute.

Rav Yehudah said in the name of Rav: The Sages admit to Rabbi Meir in the case of an *asham taluy* (which was brought on the basis of testimony of witnesses), where the witnesses were subsequently found to be *zomemin* (when witnesses offer testimony and other witnesses refute them claiming that the first set of witnesses could not possibly testify regarding the alleged crime since they were together with them at a different location at the precise time that they claimed to witness the crime somewhere else; the Torah teaches us that we believe the second pair in this instance; the first witnesses are called "eidim zomemim" -- "scheming witnesses," and they receive the exact punishment that they endeavored to have meted out to the one they accused) that it shall go out and graze among the flock. This is because the Sages disagree with Rabbi Meir only in the case where the person brought the sacrifice of his own accord, when we may assume that his conscience troubled him; however, when he brought it on the basis of testimony of two witnesses, he did not rely on the witnesses (for he knew that he did not sin), thinking that perhaps others might come and prove them *zomemin*.

Rava asked from our *Mishna*: The law is also different regarding an ox condemned to be stoned: If before it was stoned (and it emerged that on account of an error in the decision, it does need to be stoned), it goes out and grazes among the flock (as ordinary *chullin*). Now, what were the circumstances (of the error)? If two witnesses came and testified that the ox killed a person, and another two witnesses then came and said that it did not kill a person, why should we accept the latter and not the former? [When two witnesses who conflict with another two witnesses, neither are believed!] It must therefore be a case of *zomemin*, and correspondingly, in the matter concerning the *asham taluy* (the *Mishna's* earlier case), it is also a case of *zomemin*, and yet we see that they disagree!?

Abaye replied to him: The case of the ox condemned to be stoned may be that the person (who was allegedly) killed came forward on his own feet, and correspondingly, in the matter concerning the *asham taluy*,

the case is that the remaining piece was later recognized (to be *cheilev*; so we can assume that in the beginning, his conscience troubled him, and he consecrated it absolutely), but when the *asham taluy* was brought on the basis of testimony of two witnesses, the law may indeed be different.

The *Gemora* notes that this is also the subject of a dispute among different *Amoraim*: If an *asham taluy* was brought on the basis of the testimony of witnesses and they were subsequently found to be *zomemin*, Rabbi Elozar says: It is like the *minchah* offering of a *sotah*, of which it was taught in a *braisa* that if the witnesses against the woman were found to be *zomemin*, it reverts to being nonsacred; but Rabbi Yochanan holds that it (the *asham taluy*) goes out to graze until it develops a blemish and then sold, and it shall be sold and its money spent on a voluntary offering.

The *Gemora* asks: And why doesn't Rabbi Yochanan compare it to the *minchah* offering of a *sotah*?

The *Gemora* answers: They are not comparable, for the *minchah* of a *sotah* is not offered for atonement but to ascertain her guilt; the *asham taluy*, however, is offered for atonement, and since we assume that his conscience was troubling him, he resolved to consecrate it absolutely. (23b – 24a)

## Zomemin

Rabbi Kruspedai said in the name of Rabbi Yochanan: If an ox was condemned to be stoned and the witnesses were found to be *zomemin*, whoever takes possession of it acquires it (for we assume that the owner abandoned it due to the fact that it was forbidden for benefit).

Rava said: Rabbi Yochanan's view seems reasonable in the case where the witnesses testified that his animal was sodomized (by another person, and the owner believes this to be true, so he abandons it), but if they testified that he himself sodomized it, since he is certain that he did not sodomize abuse it, he certainly does not relinquish his ownership of it, but will bother himself to find witnesses (to disprove the charge).

The *Gemora* asks: But in what respect does this case differ from that which Rabbah bar Issi taught in the name of Rish Lakish: In the case of an *ir hanidachas* (a subverted city; one that was condemned to be destroyed by fire on account of a majority of its residents worshipping

*idols*) whose witnesses were found to be *zomemin*, whoever takes possession of the property acquires it? [*This is true even though that the individual knows that he did not worship idols.*]

The *Gemora* answers: In the case of an *ir hanidachas* there are a multitude of people and each of them thinks the following: “Even though I did not sin others might have sinned,” and he therefore renounces the ownership of his property; in our case, however, the matter rests with him alone; as he knows that he did not sodomize the animal, he does not renounce his ownership of it, but rather bothers himself to find witnesses (*to disprove the charge*). (24a)

### Who Owns it?

Resh Lakish said: If a person gives a gift to his fellow, and the recipient says, “I do not want it,” whoever takes possession of it acquires it.

The *Gemora* asks: But in what respect does this differ from that which Rabbah bar Avuha said in the name of Rav Sheishes, or some say that it was Rabbi Avahu in the name of Rav Sheishes: If someone receives a gift, and after it reaches his hand, he says, “This present is nullified,” or “it should be nullified,” or “I don’t want it,” he has not said anything. If he says, “It is null,” or “It is not a gift,” his words are upheld. Doesn’t the ruling that ‘his words are upheld’ imply that it returns to the original owner (*and someone else cannot take possession of it*)?

The *Gemora* answers: No! It means that he too, has not acquired it, but whoever takes possession of it acquires it.

The *Gemora* asks on Rish Lakish from a *braisa*: If one says to his fellow (*a partner in the field*): “I have no claim or rights regarding this field;” “I have no business with it;” “My hand is removed from it,” it is considered as if he said nothing (*since he is not stating that he is giving his share to his partner*). Now, the expression “My hand is removed from it” corresponds to the expression of “I do not want it,” and yet we learn here that his words have no legal consequence!?

The *Gemora* answers: This case is different, for what is he removing his hands from? He is removing them from his rights and claims (*to the field*), but not from the real ownership of the field. [*Rashi explains that he is using all three expressions, and therefore we understand his declaration in this manner.*]

The *Gemora* asks on Rish Lakish from a *braisa*: If a person (*on his deathbed*) wrote over his estate to another, and part of it consisted of

slaves, and the recipient said, “I do not want them” (*for he does not want to sustain them*), they may eat *terumah*, if their second master was a *Kohen*. Rabban Shimon ben Gamliel said: As soon as the recipient had said, “I do not want them,” the heirs of the donor become their legal owners. Now, according to Rabban Shimon ben Gamliel, it is understandable, for he argues that when a man bestows a gift it is with the understanding that it will be accepted from him, and if it is not accepted, it automatically returns to its original owner. But, according to the *Tanna Kamma* - if whenever a recipient says, “I do not want it,” whoever takes possession of the property acquires it, here since the second master said, “I do not want them,” the slaves should (*acquire themselves, and*) be non-*Kohanim*; so how can they eat *terumah*?

The *Gemora* answers: He holds that if someone proclaims his slave ownerless effectively sets his slave free, but he needs an emancipation document; and he also maintains that one who awaits an emancipation document may still eat of *terumah*. (24a – 24b)

### Donated Asham Taluy

The *Mishna* had stated: Rabbi Eliezer says: It should be offered (*regardless, for if it was not offered for this sin, it can be offered for some other sin*).

The *Gemora* asks: Why does Rabbi Eliezer state that it can be offered for some other sin? Doesn’t he hold that an *asham taluy* may be offered at any time as a donation, for we have learned in a *Mishna*: Rabbi Eliezer says: A man may freely donate an *asham taluy* every day?

Rav Ashi replied: Rabbi Eliezer (*of our Mishna is the R’ Eliezer who*) takes into consideration what the Sages said to him, as we have learned in a *Mishna*: They said to him (*Bava ben Buta, who wished to bring an asham taluy as a donation*): Wait until you fall into a state of doubt (*when there is some suspicion that you may have sinned*). (24b)

### Aware of his Innocence

The *Mishna* had stated: If it (*the fact that he had not sinned*) became known to him only after it was slaughtered (*the blood must be poured out on the ground and the meat should go to the place of burning, for it is chulin that was slaughtered in the Courtyard*).



The *Gemora* infers from here that *chullin* animals that were slaughtered in the Courtyard are to be burned.

The *Gemora* notes a contradiction to this from a later ruling in our *Mishna*: However, is different with a definite *asham*: If the animal was not yet slaughtered (*and it emerged that he is not liable to bring it*), it goes out and grazes among the flock (*as ordinary chullin; this is because he never meant to consecrate it if it emerged that he did not sin*). If (*it was found out*) after it was slaughtered, it shall be buried.

Rabbi Elozar said: It is indeed a contradiction; he who taught one clause did not teach the other.

Rabbah said: Do you point out a contradiction between the definite *asham* offering and an *asham taluy*? As to the definite *asham* offering, since it is no longer required, we may assume that its owner has not consecrated it; but as to the *asham taluy*, since his conscience troubled him, we may assume that he has consecrated it absolutely (*and it is not treated as chullin; this is why it must be buried*).

Rabbah notes, however, that there is a contradiction between two statements relating to the definite *asham* offering itself, for first our *Mishna* ruled that it shall be buried, and then the *Mishna* teaches us that its meat must go out to the place of burning. This is doubtlessly a contradiction; he who taught one clause did not teach the other.

Rav Ashi said: It is because it (*after its blood was thrown*) would have the appearance of a disqualified offering (*where the law is that it must be burned and not buried*).

The *Mishna* had stated: If the blood had already been thrown, the meat may be eaten.

Rava explains: This is because there is a Scriptural verse which teaches us that since he was not aware of his innocence at the primary time of atonement (*the throwing of the blood*), the offering is valid and may be eaten.

The *Mishna* had stated: Rabbi Yosi says: Even if the blood was still in the basin (*that was used to receive the blood*), it should be thrown and the meat may be eaten.

The *Gemora* asks: How can Rabbi Yosi hold that the blood should be thrown? He has become aware of his innocence at the primary time of atonement?

Rava answers: Rabbi Yosi follows Rabbi Shimon, who holds that whatever stands to be thrown is regarded as if it was already thrown.

The *Gemora* asks: But perhaps Rabbi Shimon maintains his view only with regard to things that are indeed ready to be thrown, whereas this is not ready to be thrown?

It was said in the West in the name of Rabbi Yosi bar Chanina that Rabbi Yosi holds that a service vessel may sanctify that which is invalid so that it may be offered up in the first instance. (24b)

## DAILY MASHAL

### *Just as if...*

The *Gemora* stated that Rabbi Shimon holds a general rule of *kol ha'omed* - anything destined for a specific action is considered as if the action were already done. Tosfos (76b v'halo zrika) narrows the scope of Rabbi Shimon's rule to cases where the subsequent action is mandated – a *mitzvah*. In that case, since the action not just may be performed, but is *supposed* to be performed, we can act as if it's already done.

The *halachah* rules like the *Chachamim*. The Aruch Hashulchan infers from this topic a number of *halachic* conclusions. One of them is in the *halachos* of a *shofar*. The *Gemora* states that a *shofar* that is cracked is unfit. There is debate in the Rishonim on what extent of a crack invalidates a *shofar*, both for vertical and horizontal cracks. The Rosh (R"H 3:6) cites an opinion that any sized vertical crack (*i.e., along the pathway of the air flow*), no matter how small, invalidates the *shofar*, since the more it is blown, the larger the crack will become. The Aruch Hashulchan (O"H 586:15) states that this opinion does not invalidate it from the Torah, since we rule like the *Chachamim*. Rabbi Shimon can hold that a *shofar* that will become fully cracked is considered currently cracked, as part of his general opinion of *kol ha'omed*. The *Chachamim*, however, do not agree with this rule, and therefore would not consider the *shofar* already cracked. Since we do not rule like Rabbi Shimon, the invalidation must be on a Rabbinic level, lest we use a fully cracked *shofar*. [According to Tosfos's limitation of Rabbi Shimon, it is debatable if Rabbi Shimon would apply *kol ha'omed* to a cracked *shofar*. There is no *mitzvah* of cracking the *shofar*, per se, but there is a *mitzvah* to blow in it, which would crack it further.]