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Yoma Daf 56

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Daf Notes is currently being dedicated to the neshamah of

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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

The Gemora asks: From where do we know this (*that Rabbi Yehudah does not subscribe to the principal of bereirah*)? Perhaps you will say that it is from that which was taught in the following *braisa*: A man bought wine from Cutheans, who we assume have not taken any *terumah* or *ma’aser* (tithes); however, the buyer has this wine at the onset of *Shabbos*, and may not separate these on *Shabbos*. He likewise may not drink the wine without doing so. Rabbi Meir’s solution is for the buyer to use *bereirah*. He can state that the various tithes that must be taken should now be separated from the appropriate amounts of wine that will remain at the end of *Shabbos*, and then drink the wine. Even though he is now separating the tithes, and thereby making the wine permitted, he is only designating what the actual tithes are at a later point, through *bereirah*. Rabbi Yehudah, Rabbi Shimon, and Rabbi Yosi do not allow this, indicating they do not accept *bereirah*.

The *Gemora* rejects this as a source, for the reason of Rabbi Yehudah is not because he does not hold of the principle of *bereirah*, but rather, it is because of the reason taught at the end of that *braisa*: They said to Rabbi Meir: Do you not agree that we should be concerned that the wineskin might break (*before the terumah and ma’aser were actually separated*) and it will emerge that he was retroactively eating *tevel* (*untithed produce*)! Rabbi Meir answered them: We will concern ourselves with this only when the wineskin actually breaks.

Rather, the source (*that Rabbi Yehudah does not hold of the principle of bereirah*) is from the following *braisa*,

which Ayo taught: [*The Gemora there discusses the halachah regarding eruv techumin. One can only walk two thousand amos outside of his town on Shabbos. If one wishes to walk further, he can place some food outside the city in the direction he would like to go. This establishes his residence there and will therefore extend his ability to walk in that particular direction. This is called eruv techumin.*] The Mishna speaks about a case where it has been reported that a scholar was coming on *Shabbos* to a place between 2,000 and 4,000 *amos* from the town and one wishes to greet the scholar on *Shabbos*, but is unsure from which direction the scholar would be coming from. Rabbi Yehudah says that a person cannot place conditions on two things at the same time (*for he does not hold of the principle of bereirah*); but rather, one can place an *eruv* both in the east and in the west, and say, “I want my *eruv* to be effective for whichever direction the scholar will come. However, if makes a condition that if two scholars come, he will go to the place that he chooses on *Shabbos*, this is not effective (*for then the eruv will only be effective retroactively, and R’ Yehudah does not hold of bereirah*). And the *Gemora* asked: What is the difference between the two cases? Just as it is not effective in the case of the two scholars (*for he does not hold of bereirah*), it should not be effective by one scholar as well (*for he is not deciding now which eruv he wants; it will be decided by the direction of the scholar on Shabbos; this requires bereirah as well*)!?” And Rabbi Yochanan answered that the case is where the scholar has already arrived (*but this fellow was unaware as to which direction he was; accordingly, when he finds out where the lecture will be taking place and he chooses which eruv he wants to be effective, this is not a*

clarification; rather, it is merely informing him of what has already transpired the day before). [In conclusion, we have proven that Rabbi Yehudah does not hold of the principle of *bereirah*.]

According to Rabbi Yehudah, there were not two stands in the Temple, because the Kohen Gadol, being exhausted from the service, was likely to make a mistake.

There was a disagreement as to the number of stands for the blood in the Temple. The Rabbis held there were two, one for the bull's blood and one for the goat's blood. According to Rabbi Yehudah there was only one, and the Kohen Gadol would take the bull's blood before placing the goat's blood on the same stand. Originally, the *Gemora* thought that the reason Rabbi Yehudah rejects the idea of two stands is because he doesn't rely on labeling to prevent a mix-up from occurring. Since there is no way of ensuring that the bloods would not be mixed up, and the wrong blood accidentally taken, only one stand would be used. The *Gemora* points out that, in fact, Rabbi Yehudah does rely on labeling to prevent mix-ups in other situations, so the question posed is why can't two stands be used and labeled appropriately to prevent accidentally using the wrong blood.

The answer given is that Rabbi Yehudah is worried that the exhaustion of the Kohen Gadol would cause him to make a mistake - even with labels. On Yom Kippur, the Kohen Gadol was required to perform the entire service himself, and this could cause him to become weak. Therefore, in this case, we cannot rely on the alertness of the Kohen Gadol to prevent mistakes.

The *Gemora* relates that someone, who was leading the prayers in front of Rava, contradicted himself. He seemed to go both according to Rabbi Yehudah and the Rabbis until Rava corrected him.

In the Yom Kippur prayer we recall the service performed by the Kohen Gadol on that day. One *chazzan* mentioned there were two stands, but he also said the bull's blood was picked up and only then the goat's blood was placed on a stand. This was only true according to Rabbi Yehudah who holds there was only one stand. According to the opinion that there were two stands the goat's blood was placed down before the bull's blood was taken. Rava corrected the *chazzan*, and told him to recite that the goat's blood was placed and then the bull's blood was picked up.

The same procedure performed in the *Kodesh Hakodashim* was also performed in *Heichal*.

The Mishna states that the blood of the bull and the goat was taken out of the *Kodesh Hakodashim*, and sprinkled towards the curtain which separated the *Heichal* and the *Kodesh Hakodashim*. The *Gemora* derives this obligation from a verse: "So shall he do in the *Mishkan*." This teaches us that the same procedure which was done in the *Kodesh Hakodashim*, should be done in the *Heichal*. Just as the blood of the bull and goat was sprinkled once upwards and seven times downwards in the *Kodesh Hakodashim*, so too it was sprinkled in the same manner in the *Heichal*.

INSIGHTS TO THE DAF

Bereirah

In the course of discussing Rabbi Yehudah's ruling, the *Gemora* introduces the concept of *bereirah*. *Bereirah* is a wide ranging concept, appearing throughout Shas, in a variety of forms, having ramifications in many halachic areas. Below are a number of facets of *bereirah*, which appear in the Rishonim and poskim.

Courtyard neighbors

The *Gemora* (Nedarim 55b-56b) discusses the status of two people who are partners in a courtyard. They both

have use rights, but it may depend on *bereirah* to determine exactly when each one has ownership at a given time.

Partners

The *Gemora* (Beitzah 37b-38a) discusses cases of partners who split their joined item, insofar as *techumim* ownership. *Bereirah* allows us to consider the ultimate allocation reflective of the original true ownership.

Inheritance

This case is discussed by Rabbi Yochanan (*in Bava Kamma*), and appears in many other *Gemoros*.

Separating Tithes

This case is discussed by Rabbi Meir and Rabbi Yehudah in our *Gemora*, and appears in many other *Gemoros*.

Choosing a Techum

The *Gemora* (here) discusses various *Eruvei Techumim*, where the actual details of the *Eruv* are left for later clarification, using *Bereirah*. The *Gemora* includes a lengthy discussion of Rabbi Yehudah's position on *Bereirah*, based on multiple conflicting sources.

Why does (or doesn't) it work?

Tosfos (*Eruvin* 37b Ela) states that those who do not accept *bereirah* feel that later designation is meaningless, and therefore the action is not effective at all. In our case, this means that the separation that will happen after *Shabbos* is meaningless, and therefore, the declaration at the onset of *Shabbos* has no wine to take effect on, and is not effective at all. Rashi (*Chulin* 14b osrin), on the other hand, states that those who do not accept *bereirah* simply hold that the later designation cannot resolve the initial

uncertainty. In the case of the wine, when the person declares that he is taking the tithes from wine that will be designated later, the tithes now exist in the wine, but the person cannot designate them later. Therefore, this wine has indeterminate tithes, and none of it can be used.

See *Shaarei Yosher* (3:22 v'af shera'isi) for a more detailed discussion of how *bereirah* does work, and what are its limitations. See Shiurei R. Dovid Lifshitz (*Chulin*, #29) for a further discussion of this dispute.

How much is unclear?

The *Ran* in *Nedarim* (55b v'ika) suggests that the case of partners' use in a courtyard can be considered full ownership, even according to those who generally do not accept *bereirah*, since the bulk of the "split" is already done, with only the exact time that it will be used left for later clarification.

Will it definitely be clarified?

Tosfos (*Gittin* 25b Rabbi Yehudah) states that some cases of *bereirah* are less acceptable, since there may never be any clarification. For example, as opposed to our case of the wine - where *some* wine will be taken, but it's not known which - a case of one who consecrates the coin that he will take from his pocket, is a case where it's possible that no coin will be chosen at all.

Who decides?

The *Gemora* in *Gittin* (25a-b) raises the possibility that *bereirah* may be more acceptable in the case where the area left for later clarification depends on another party. If *bereirah* is unacceptable because the party doing the action must decide before acting, then if the only clarification is external, the active party has done his part, and left the rest up to something else. Examples of this are:

1. A person who betroths a woman, but stipulates that it will only take effect if the woman's father agrees.
2. A person who gives his wife a *Get*, which should be effective one moment before he dies. This is making it dependent on outside party, i.e., Hashem.

Explicit exceptions

There are cases where the Torah states an explicit detail, which overrides the general rules of *bereirah*.

The Torah explicitly states that a *Get* must be written "la" - for her (the wife), and from this the *Gemora* learns (*Gittin* 2b) that a *Get* must be written "lishma" - explicitly for the wife's sake. From this verse, *Tosfos* (24b l'aizo) suggests that even those who accept *bereirah* may invalidate a *Get* which was written for the sake of "the wife that I choose"

The *Gemora* (*in Bava Kamma*) mentions the case of brothers who split their father's estate as a case of *bereirah*. *Tosfos* (*Gittin* 48a Ee) suggests that, even without *bereirah*, inheriting brothers could be not subject to return on the Yovel year, due to the inherent nature of inheritance and Yovel.

Torah vs. Rabbinic

The Ri in *Tosfos* (*Nedarim* 56b) rules that we accept *bereirah* in all areas of *halachah*. The Rambam (*Eruvin* 8:7, *Trumos* 1:21, *Yom Tov* 5:20) rules that in Rabbinic areas of *halachah*, we accept *bereirah*, while in areas of Torah *halachah*, we do not accept *bereirah*.

Two Lugin

The *Gemora* cites a *braisa*: If someone buys wine from amongst the Cutheans (*converts to Judaism after an outbreak of wild animals in Eretz Yisroel and their*

conversion was debated as to its validity; they observed some commandments, but not others), he should say the following: "The two *lugin* (a measurement) that I will eventually separate (*from the one hundred lugin in total*) are *terumah* (*tithe for the kohen*), ten are *ma'aser rishon* (*tithe for the Levite*), nine are for *ma'aser sheini* (*to be eaten in Yerushalyim*)," and after redeeming the *ma'aser sheini* (*with coins*), he can drink right away. These are the words of Rabbi Meir. Rabbi Yehudah, Rabbi Yosi, and Rabbi Shimon forbid this leniency.

Rashi explains the *braisa* to be referring to a case where he does not have a vessel to separate the tithes required to allow him to drink the wine in an orderly fashion.

Some explain it that he did not have any *tahor* vessels.

Rashi in *Sukkah* (23b) explains that the fellow purchased the wine *bein hashemashos* (*close to sunset*) on Friday and he did not have time to separate the *ma'aser* before *Shabbos*. Since it is forbidden to separate *ma'aser* on *Shabbos*, he did not have what to drink.

Tosfos challenges Rashi's explanation, for if that would be the case, he would not even be allowed to orally declare it to be *ma'aser*, for it is forbidden to fix his produce on *Shabbos*!?

The Kaftor va'Ferach answers that Rashi holds that the manner prescribed in the *Gemora* is permitted, for he is not actually fixing it on *Shabbos*. He is separating the *ma'aser* after *Shabbos* and retroactively the produce is remedied on *Shabbos*. It emerges that he did nothing on *Shabbos*.

Tosfos explains that the remedy discussed in the *Gemora* is only when it is still *bein hashemashos*. At that time, there was a Rabbinic decree not to separate *ma'aser*, but one, at that time, is permitted to orally declare it to be *ma'aser*.

Cutheans

The Gemora cites a *braisa*: If someone buys wine from amongst the Cutheans (*converts to Judaism after an outbreak of wild animals in Eretz Yisroel and their conversion was debated as to its validity; they observed some commandments, but not others*), he should say the following: “The two *lugin* (*a measurement*) that I will eventually separate (*from the one hundred lugin in total*) are *terumah* (*tithe for the kohen*), ten are *ma’aser rishon* (*tithe for the Levite*), nine are for *ma’aser sheini* (*to be eaten in Yerushalyim*),” and after redeeming the *ma’aser sheini* (*with coins*), he can drink right away. These are the words of Rabbi Meir. Rabbi Yehudah, Rabbi Yosi, and Rabbi Shimon forbid this leniency.

Tosfos explains that although the Cutheans observed the *mitzvos* that are expressly written in the Torah, and therefore, it would be safe to assume that they already separated *terumah* and *ma’aser*, nevertheless, they are only trusted with respect to the food which they eat. However, the produce which they sell to others, they are not trusted, for the Cutheans were not particular about the transgression of *lifnei iver* (*placing a stumbling block in front of a blind man*). Tosfos in *Sukkah* (23b) explains further that understood that verse only in its literal sense. They maintained that it is forbidden to place a stumbling block in front of a blind man, but there is no prohibition against causing someone else to sin.

However, Tosfos asks: Would selling the produce without separating *terumah* and *ma’aser* not be regarded as stealing from the *Kohanim*? Stealing is a prohibition that they seemingly did observe!

Tosfos answers that since *terumah* and *ma’aser* is considered money that has no claimants (*for which Kohen is regarded as its owner*), it was not considered stealing in their eyes.

Other Rishonim add that, in truth, it is not regarded as stealing. Stealing is only when one takes something away from an owner who can make a claim to it. Since the *Kohanim* cannot forcibly take the produce from him, it is not considered stealing.

DAILY MASHAL

Nusach as Proof

The Gemora relates that there was one who said over a certain version of the order of the Kohen Gadol on Yom Kippur. The Gemora asks on it and corrects the version. This version is the way it is said in the nusach of “*atah konanta*” which is nusach sfard. The Ritva says this explicitly that this was the nusach that was said. Sheorim Metzuyanim b’Halachah quotes Rashi and Tosfos that they also said “*atah konanta*,” which is a bit odd, considering that their main nusach was Ashkenaz.

The Noda Beyehudah's son (113) brings down different proofs that even though something might have been recited in one of the Tefilos, we cannot bring a proof from there as to what the halachah is. One of the proofs is from our Gemora which stated that the version which was said over in front of Rava was half like the Rabbis and half like Rabbi Yehudah.

I am not sure of the proof, because that was precisely the Gemora's challenge, and the Gemora was forced to change due to that, so if anything, it is a proof the other way!?