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Shechitah of a Cuthean

The *Gemora* cites a *braisa*: The *shechitah* (slaughtering) of a Cuthean (*they were 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*) is permitted, but only where a Jew is standing over him; however, if one found that he slaughtered (*without supervision*), one should cut off an olive’s volume of its meat and give it to him; if he eats it, others may also partake of his slaughtering (*for the Cutheans are careful not to eat neveilah*), but if he does not eat it, others are forbidden to eat of his slaughtering. Similarly, if strings of slaughtered birds were found in his hand, one should cut off the head of one of the birds and give to him; if he eats it, others may also partake of his slaughtering, but if he does not eat it, others are forbidden to eat of his slaughtering.

Now, Abaye infers (*his viewpoint*) from the first part of this *braisa*, whereas Rava infers from the second part of the *braisa*: Abaye infers as follows: The reason why the slaughtering of a Cuthean is permitted in the first instance is because a Jew was standing over him, which implies that if the Jew was merely going in and out, it is not sufficient (*and would not be permitted in the first instance*). Rava infers as follows: The reason why the prescribed test is performed is because the Jew came and found that the Cuthean had already slaughtered, which implies that if the Jew was going in and out, it is fine (*for in such instances, the Cuthean may slaughter in the first instance and the meat is permissible*).

Abaye will explain the latter part as follows: A person going in and out is regarded as one who came and found that he had

slaughtered (*and the test must be performed even in a case where a Jew was going in and out*).

Rava will explain the first statement as follows: A Jew going in and out is regarded as one who is standing over him (*and in both cases it is permitted for the Cuthean to slaughter in the first instance, for he is afraid to slaughter in an improper manner*).

The *braisa* had stated: Similarly, if strings of slaughtered birds were found in his hand, one should cut off the head of one of the birds and give to him.

The *Gemora* asks: Is this (*one bird*) a sufficient test? Perhaps it was only this one bird that he slaughtered properly (*and that is why he ate from it*)?

Rav Menasheh answers: The *braisa* is referring to a case where the Jew put all the birds under the folds of his garments (*and took one bird from there and cut off its head; the Cuthean does not know which one was taken*).

The *Gemora* asks: But perhaps the Cuthean had made an identifying mark on the bird (*and therefore he recognized it*)?

Rav Mesharsheya said: It is a case where the Jew has crushed the head of the bird before showing it to the Cuthean.

The *Gemora* asks: But may it not be that the Cutheans maintain that there is no Biblical obligation to slaughter a bird?

The *Gemora* answers: If you employ this argument you can ask the following: Are the laws against pausing, pressing, burrowing, cutting in the wrong area and tearing explicitly written in the Torah? [*The answer is, “no,” and yet, we do rely*



on his shechitah of an animal!]) What you must therefore admit, is that, since they have established that they follow these rules, the Rabbis regarded them to be established as trustworthy in this respect; so too regarding birds, since they have established that they follow the rule of slaughtering a bird, the Rabbis regarded them to be established as trustworthy in this respect.

Now, as to the issue of whether the Cutheans were established to be trustworthy or not with respect to laws that are not written explicitly in the Torah is a matter disputed by the *Tannaim*, for it was taught in a *braisa*: It is permissible to eat *matzah* on *Pesach* made by a Cuthean (*for we can rely on them that they will prevent it from becoming chametz*), and the eating of such bread will discharge his obligation on *Pesach* (*it is assumed that they made the matzah with the intent that it should be used for the mitzvah*). Rabbi Elozar forbids the eating of such *matzah*, because they are not familiar with the details of the *mitzvos* (*and we are concerned that it is chametz*). Rabban Shimon ben Gamliel says that in all the *mitzvos* which it has been established that the Cutheans do observe, they are much more particular than the Jews themselves.

The *Gemora* asks: Isn't Rabban Shimon ben Gamliel and the *Tanna Kamma* saying the same thing?

The *Gemora* answers: The difference between them would be regarding a case where a law was written in the Torah, but it has not been established that they observe it (*with all its intricacies*). The *Tanna Kamma* holds that since it is written in the Torah they can be trusted even though it has not been established that that they observe it. Rabban Shimon ben Gamliel maintains that they can only be trusted if it has been established that they observe it.

The *Gemora* asks: if this is the argument, Rabban Shimon ben Gamliel should have said, 'if it has been established,' not, 'in all the *mitzvos* which it has been established that the Cutheans do observe'!?

Rather, the difference between them is regarding a law which is not written explicitly in the Torah, but it is established that they do observe it. The *Tanna Kamma* holds that since it is not written in the Torah they cannot be trusted even though it has been established that that they observe it. Rabban Shimon ben Gamliel maintains that they can be trusted since it has been established that they observe it. (3b – 4a)

Mumar **(a Jewish Apostate or Renegade)**

It was stated above: Regarding a *mumar* (*a Jewish apostate or renegade; one that violates one of the Torah's mitzvos*) who eats *neveilah* (*carcass of an animal that was not slaughtered properly*) in order to satisfy his appetite; we may examine the knife (*that it is free from nicks*) and give it to him (*that he may slaughter with*), and then we are permitted to eat of his slaughtering. What is the reason for this? It is because of the following: since there is the possibility of permissible and forbidden food, he would not abandon what is permitted and eat what is forbidden. However, the knife needs to be examined for him, for otherwise, he will not trouble himself to look for another knife.

The Rabbis said to Rava: The following *braisa* provides support for your reasoning: The *chametz* (*leavened bread*) of transgressors (*those who do not destroy their leavened bread before Pesach because of the loss it entails*) is permitted immediately after *Pesach* (*to other Jews*), because they exchange it (*for permitted food; chametz that belonged to a gentile over Pesach is not forbidden for benefit*).

Now, it was thought that the *Tanna* of this *braisa* was Rabbi Yehudah, who holds that *chametz* which has remained over *Pesach* is forbidden by Biblical law, and yet the *braisa* says that it is permitted because they exchange it. This proves the principle that a person would not abandon that which is permitted and eat that which is forbidden.

The *Gemora* asks: How do you know that your explanation is correct? Perhaps the *Tanna* of the *braisa* is Rabbi Shimon, who holds that *chametz* which has remained over *Pesach* is forbidden only by Rabbinic law, and since it is only a Rabbinical prohibition, we were lenient (*and relied on the assumption that he will not abandon the permitted method for the forbidden one*); however, with respect to a Biblical prohibition, we would not rule leniently?

The *Gemora* answers: Even if the *braisa* is in accordance with Rabbi Shimon, it is still a proof, for the *braisa* does not say, '(it

is permitted) for perhaps they exchanged it'; it says, '(it is permitted) for they did exchange it,' i.e., they certainly exchange it. And if in connection with Rabbinic laws, we say for certain that a person would not abandon that which is permitted and eat from that which is forbidden, how much more so in connection with a Biblical law!

The *Gemora* cites another *braisa* that supports Rava's view: All may slaughter, even a Cuthean, even an uncircumcised person, even a *mumar* (a Jewish apostate or renegade; one that violates one of the Torah's mitzvos). Now, what is meant by an uncircumcised person? It cannot be referring to one whose brothers have died as a result of circumcision, for surely such a person is an ordinary Jew! Clearly, then, it can only be referring to one who is a *mumar* regarding the law of circumcision; and the *Tanna* is of the opinion that one who is a *mumar* with respect of one law is not regarded as a *mumar* for the entire Torah (and that is why he is qualified to slaughter). But let us consider the last ruling, which states: even a *mumar*. What is this referring to? If it means one who is a *mumar* to one particular law, then it is in essence the same as an uncircumcised Jew. It must therefore be referring to one who is a *mumar* for this matter itself (he is not concerned about eating meat that hasn't been slaughtered), and yet he is permitted to slaughter – like Rava (who states that one that who eats *neveilah* in order to satisfy his appetite; we may eat of his slaughtering)!

The *Gemora* rejects this proof: Indeed, it might be said that one who is a *mumar* for this matter itself (he is not concerned about eating meat that hasn't been slaughtered) may not slaughter. Since he is accustomed to eating meat that hasn't been slaughtered, it is to him like something permissible. The case of the *braisa* is regarding one who is a *mumar* in respect of idolatry, and it is in accordance with the view of Rav Anan, for he said in the name of Shmuel regarding one who is a *mumar* with respect of idolatry - we may eat of his slaughtering (for he maintains that he is not regarded as a *mumar* for the entire Torah).

It was stated: Rav Anan said in the name of Shmuel: One who is a *mumar* with respect of idolatry - we may eat of his slaughtering, for so we find it written concerning Yehoshaphat, king of Yehudah, that he partook of the feast of Achav, as it is written: And Achav slaughtered sheep and cattle for him in abundance, and for the people that were there with him, and persuaded him to go up to Ramos-Gilead. [Now, Achav, who was a *mumar* with respect of idolatry (and we do not find that he was a *mumar* with respect of *neveilah*) – yet, Yehoshaphat ate from his *shechitah*!]

The *Gemora* challenges the proof: But is it not possible that he merely drank his wine, but he did not eat of his meat?

The *Gemora* answers: But what would be the difference between the two? If drinking his wine is permitted (and is not forbidden on account of *yayin nesech*), it is because we maintain that one who is a *mumar* with respect of idolatry is not regarded as a *mumar* for the entire Torah; the same then holds true with regard to eating his meat, for one who is a *mumar* with respect of idolatry is not regarded as a *mumar* for the entire Torah.

The *Gemora* asks: How can the two be compared? With regard to drinking, the only ground for its prohibition is the law concerning the ordinary wine of idolaters (for he was not observed pouring his wine as a libation to an idol), and at that period in time, the ordinary wine of idolaters was not yet prohibited; but with regard to eating, I can say that one who is a *mumar* with respect of idolatry is regarded as a *mumar* for the entire Torah!?

The *Gemora* answers: It is not proper for a king to drink without eating. Alternatively, I can answer that the verse itself indicates that he ate from his slaughtering.

The *Gemora* asks and answers the following questions:

Challenge	Response
Perhaps Ovadyah (who was righteous) slaughtered the animals?	He could not have slaughtered so many animals.

Perhaps the seven thousand Jews slaughtered the animals?	They were in hiding from Izevel (Achav's wife).
Perhaps Achav's men were righteous?	A verse states that the servants of a wicked ruler are also wicked.
Perhaps Yehoshaphat's men were wicked, and they ate from Achav's servants' slaughtering; and Yehoshaphat himself ate from Ovadyah's slaughtering?	A verse implies that the servants of a righteous ruler are also righteous.
Perhaps Yehoshaphat and his men ate from their slaughtering; and Achav and his men ate from their slaughtering?	Yehoshaphat did not distance himself from Achav.

(4a – 5a)

INSIGHTS TO THE DAF

A Question of Value

If, for the purpose of *kiddushin*, a man gives a woman an item such as meat cooked in milk, from which it is forbidden to derive any benefit, the *kiddushin* is invalid. If he sells that forbidden item, however, and gives the woman the money derived from the sale, the *kiddushin* is valid.

An interesting question regarding this ruling of the *mishna* is raised by Mishneh Lamelech in his commentary on Rambam (*Laws of Marriage 5:1*). What if the woman is sick and requires the forbidden item to save her life, in which case she is allowed to derive benefit from it? Is *kiddushin* with a forbidden item invalid because the item has no value to the *man*, and it is therefore considered as if he gave her nothing; or, is it because such *kiddushin* taking effect will be considered as him deriving benefit from the forbidden item? If either of these is the reason, then the *kiddushin* will not be valid in a case where the seriously ill woman is allowed to derive benefit from the forbidden item.

But perhaps the reason that *kiddushin* with a forbidden item is invalid is that the woman received nothing of value to *her*. If this is so, then in a case where her health condition allows her to benefit from the forbidden item, she has received something of value and the *kiddushin* is valid.

Rabbeinu Nissim (Ran), at the conclusion of the second *perek* of our *mesechta*, cites a statement by Rashi (*Mesechta Chullin 4b*) that the funds received from the sale of an item forbidden for benefit are only permissible for others, but not for the seller himself. According to this, Ran points out, the reason that our *mishna* rules valid a *kiddushin* made with funds derived from the sale of a forbidden item is that since the woman is permitted to benefit from those funds, it is considered as if she received something of value.

Mishneh Lamelech cites the above Rashi and Ran as sources for concluding that everything depends on whether the *woman* is receiving something of value to *her* and that in a case of an ill woman the *kiddushin* would be valid. In contrast, he cites the view of Ritva on this *mishna* that even if the woman receiving the forbidden item may eat it because her life is in danger, the *kiddushin* is not valid because the matter depends on whether it has value to the giver as well.

DAILY MASHAL

We are told in Tanach of Yehoshafat's joining forces with Achav's son for the building ships in Etzyon Gaver. The Navi informs Yehoshafat: "Because you have allied yourself with Achazya, HaShem has wrecked your undertakings" and the boats were subsequently destroyed. One should not associate with a wicked person even for positive reason.