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Nedarim Daf 35

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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

My Loaf is Forbidden to You

Rav Chiya bar Avin inquired of Rava: What is the *halachah* if one said to his fellow, “My loaf is forbidden to you,” and then, he gave the loaf as a gift to that fellow?

He explains: Do we say that since he said, “My loaf (is forbidden to you),” it is only when it is in the owner’s possession that the loaf is forbidden to the other fellow (however, when it is in the other fellow’s possession, it is not forbidden)? Or perhaps, since he said, “to you,” he has rendered the loaf *hekdesh* upon the other fellow (and it will remain forbidden to him even after it leaves the vower’s possession)? (See *Ra”n Elucidated for an elaboration of this inquiry.*)

Rava replied: It is obvious that the vower meant that the loaf should be forbidden even if he gives it to the fellow as a gift, for otherwise, what is the purpose of the *neder*? He surely does not mean to prohibit the loaf to the fellow if he steals it from him (*since people do not consider this possibility!*)

Rav Chiya bar Avin said to Rava: The vower may mean to prohibit the loaf to the other fellow when he invites him to eat with him (*the fellow would be benefiting from the vower*).

The *Gemora* asks on Rava from the following *Baraisa*: If one person said to another, “Lend me your cow,” and he responded, “*Konam* this cow that I possess to you if I have another cow besides this one” (*he refuses to lend him the*

cow because he claims that he only has one and he needs it; to prove his point, he makes this vow) or he says, “*Konam* all my property to you if I have another cow besides this one”; or one person said to another, “Lend me your spade,” and he responded, “*Konam* this spade that I possess to you if I have another spade besides this one” or he says, “*Konam* all my property to you if I have another spade besides this one,” if it emerges that he indeed owns another cow or spade, the *halachah* is as follows: As long as the vower is alive, the item is forbidden. However, if he dies or gives the item to the other fellow, it is permitted. (*This Baraisa would seemingly be a clear refutation to Rava, who holds that the item is forbidden even after the vower gives him the item!?*)

Rav Acha the son of Rav Ikka answers: The *Baraisa* is referring to a case where the item was given to him through a third party (*and then Rava would agree that the item is permitted*).

Rav Ashi proves from the language of the *Baraisa* that this is the correct interpretation, for the *Baraisa* states: that was given to him, and it does not state: that he gave it to him. (34b1 – 35a1)

Me’ilah by a Konam

Rava inquired of Rav Nachman: Do we apply the concept of *me’ilah* in respect to *konamos* (*a vow expressed through a konam; one who has unintentionally benefited from hekdesh or removed it from the ownership of the*

Beis Hamikdosh has committed the transgression of me'ilah, and as a penalty, he would be required to pay the value of the object plus an additional fifth of the value; he also brings a korban asham; Rava's inquiry is do we say that one who desecrates his word is also guilty of committing me'ilah; is it as if he is benefiting from something holy or not)?

Rav Nachman replied: Our *Mishnah* has stated: In a place where people usually give a finder's fee for returning a lost object, the finder's fee should go to *hekdesh*. This implies that a *konam* is similar to *hekdesh*. Just as *me'ilah* applies to *hekdesh*, so too, it would apply to *konamos* (for otherwise, the *Mishnah* should have said that the finder's fee should be cast into the Dead Sea, like it says elsewhere; since the *Mishnah* was already discussing *hekdesh*, the *Tanna* says that the forbidden money can go to *hekdesh*).

The *Gemora* comments that this inquiry is in fact a Tannaic dispute. If a person said, "Konam, this loaf is *hekdesh*," and either he or someone else ate it, he has committed *me'ilah*. Therefore, the loaf can be redeemed. If he said, "The loaf should be *hekdesh* to me," if he ate it, he has committed *me'ilah*; if someone else eats it, they have not committed *me'ilah*. These are the words of Rabbi Meir. The *Chachamim* say that even he himself has not committed *me'ilah*, for the concept of *me'ilah* does not apply by *konamos*. (35a1 – 35a2)

Who has Committed Me'ilah?

Rav Acha the son of Rav Avya said to Rav Ashi: If one said, "My loaf is forbidden to you," and then he gave it to that fellow as a gift, who has committed *me'ilah*? The giver cannot be the one who committed *me'ilah*, for the loaf was never forbidden upon him. The recipient cannot be the one who committed *me'ilah*, for he can say, "I am only interested in acquiring permissible loaves; loaves that are forbidden to me, I do not want."

Rav Ashi replied: The recipient commits *me'ilah* only when he uses it, for anyone who spends money of *hekdesh* commits *me'ilah*, even though he assumed that the money was *chullin*. (35a2)

Mishnah

The *Mishnah* states: And he (*the one who was prohibited to grant benefit*) may set aside his *terumah* and his *ma'asros* with his knowledge, and he (*if he was a Kohen*) may sacrifice for him the bird-offerings of *zavin*, *zavos*, and women after childbirth, *chataos* and *ashamos*. And the vower may teach him Midrash, *halachos* and *aggados* (*for mitzvos were not given for the purpose of deriving benefit, and therefore the Torah learning is not regarded as a forbidden benefit*), but he may not teach him Scripture. He may, however, teach his sons and his daughters Scripture. (35b1)

Who are the Kohanim Agents for?

The *Gemora* inquires: When the *Kohanim* perform the service in the Beis Hamikdosh, are they acting as our agents, or are they acting as agents of Heaven.

The *Gemora* states: A practical difference between the two perspectives is with regard to someone who declared that he would not derive benefit from a certain *Kohen*. If the *Kohen* is our agent, he will not be permitted to perform the service for the one who vowed against him. However, if the *Kohen* is an agent of Heaven, he would be permitted to perform the service for him.

The *Gemora* states: This inquiry may be resolved from our *Mishnah*: And he (*the one who was prohibited to grant benefit*) may sacrifice for him the bird-offerings of *zavin*, *zavos*, and women after childbirth, *chataos* and *ashamos*. It is evident that he is the agent of Heaven, and that is why it would be permitted.

The *Gemora* rejects this proof: If a *Kohen* is an agent of Heaven, the *Mishnah* should state that the *Kohen* is

permitted to sacrifice all *korbanos* for him. The *Mishnah* specified these *korbanos*, for they are offered for someone who lacks atonement, and these *korbanos* are different. For Rabbi Yochanan said: *Korbanos* are only brought with the owner's consent. However, a *korban*, which is brought for one who lacks atonement, can be brought even without the owner's consent. This may be proven from the fact that a man can bring these *korbanos* for his sons and daughters who are minors, as it is written [Vayikra 15:32]: *This is the law of the zav*. This law is applicable whether they are adults or even minors. (If a person can bring a *korban* for his young son who is a *zav* even though the minor is not capable of consenting, the *Kohen* may also bring these *korbanos* without the consent of the other person.)

The *Gemora* asks: According to Rabbi Yochanan, who says that when the Torah states "the law," this indicates that the *halacha* applies to adults and minors, then when the Torah writes [Vayikra 12:7]: *This is the law of a woman who has given birth*, this should apply to adults and minors as well. Can this be true? But is a minor capable of giving birth? But Rav Bibi cited the following *Baraisa* in front of Rav Nachman: Three types of women are permitted to insert a wad into their bodies prior to engaging in marital relations in order to prevent conception. They are: A minor, a pregnant woman and a nursing woman. A minor is permitted because otherwise, she may become pregnant and die. (How, then, can we say that the verse is teaching us that a man is required to bring the *korbanos* for his dead wife who is a minor?)

The *Gemora* answers: This verse is coming to teach us that a man is required to bring a *korban* for his wife, whether she is normal or insane, for behold a man may bring an offering for his insane wife (after she has given birth) according to the viewpoint of Rabbi Yehudah, for it was taught in a *Baraisa*: Rabbi Yehudah said: A rich person is obligated to bring a rich person's *korban* for his wife, and likewise, he is obligated to provide her with the animals

for any of her *korbanos* that she must bring, for the following is what he wrote for her in the *kesuvah*: My properties are pledged for every claim you may have against me, even from before up to now. (35b1 – 35b3)

INSIGHTS TO THE DAF

Proof Against the Rambam

Rav Acha the son of Rav Avya said to Rav Ashi: If one said, "My loaf is forbidden to you," and then he gave it to that fellow as a gift, who has committed *me'ilah*? The giver cannot be the one who committed *me'ilah*, for the loaf was never forbidden upon him. The recipient cannot be the one who committed *me'ilah*, for he can say, "I am only interested in acquiring permissible loaves; loaves that are forbidden to me, I do not want."

The Ran writes that this is a refutation to the Rambam's opinion, who holds that one who forbids another person benefit from himself and then feeds him will incur lashes because he has violated the transgression of "he shall not desecrate his word."

The meaning of the Ra"n seems to be that if the Rambam is correct that if the vower provides the forbidden item to the other fellow, he has desecrated his word; then, the giver may be guilty of *me'ilah* as well! Why does our *Gemora* assume as an obvious point that the giver has not committed *me'ilah*?

The Machaneh Efraim (35) and the Lechem Mishnah answer that although it might be prohibited for the vower to give the other fellow the forbidden item, but that does not mean that he has committed *me'ilah*. He has desecrated his word, but he is not guilty of *me'ilah*, for it was not regarded as *hekdesh* for him.

Reb Shlomo Zalman Auerbach explains that the Ran's proof was from the language of the *Gemora*. The *Gemora* stated unequivocally that there can be no prohibition on



the giver, for the loaf is not forbidden to him. It would seem from the *Gemora* that there is no prohibition on the giver at all! This is not correct according to the Rambam.

DAILY MASHAL

A Woman's Sacrifices and Recital

Rabbi Yehudah used to expound common terms. For it has been taught in a *Baraisa*: Rabbi Yehudah said: A rich person is obligated to bring a rich person's *korban* for his wife, and likewise, he is obligated to provide her with the animals for any of her *korbanos* that she must bring, for the following is what he wrote for her in the *kesuvah*: My properties are pledged for every claim you may have against me from before up to now.

Rashi explains that it is the husband's obligation to provide for the sacrifice of his wife, and Rabbi Yehudah rules that when the husband is doing so, he must bring a sacrifice according to his financial status. He cannot claim and say, "My wife has no possessions of her own and she is therefore poor, and I should therefore only be obligated to bring a poor man's sacrifice for her."

Our *Gemora* cites a verse which teaches us that a man is required to bring a *korban* for his wife, whether she is normal or insane. This, however, is only true regarding sacrifices that are offered for someone who lacks atonement, for these *korbanos* are different in the following respect: *Korbanos* are only brought with the owner's consent; however, a *korban*, which is brought for one who lacks atonement, can be brought even without the owner's consent. Therefore, all other *korbanos*, the woman would be required to bring them; her consent is a necessity.

Rabbi Yaakov Emden in *Mor U'Ketzieh* (47) writes that women, in general, have no connection to *korbanos*, except for those that are her personal obligations, e.g. the

birds of a *zavah* or for a woman who gave birth. The *Peri Megadim* disagrees and writes that they are included in the general sacrifices, and certainly with the recital of the *korbanos*, which we do nowadays, as a replacement for the actual offering of the sacrifices.

The *sefer Toras Hayoledes* brings that a woman who gave birth, on the forty-first day if she had a son, and on the eighty-first day if she had a daughter, should recite the verses in *Parshas Tazria* dealing with the *korbanos* she would have been required to bring if there was a *Beis HaMikdash* in existence. And she should conclude with the following prayer, "Master of the Universe, it should be the will of our G-d and the G-d of our forefathers that this recital which I said should be significant and accepted before You as if I actually brought my prescribed sacrifices. And it should be the will of our G-d and the G-d of our forefathers that You should build the *Beis HaMikdash* speedily in our days."

The *Pischei Zuta* discusses if she would be required to recite the passages that deal with the sacrifices that she would bring if she was poor and could afford the animals. For perhaps that dispensation was only in the times of the *Beis HaMikdash*, when *korbanos* were being brought; however, now, that we are merely reciting the verses, every woman should say the same thing.

In the *siddur Keser Nehura*, it is written that on the day following a woman's immersion in a *mikvah* for her menstrual impurity, she should recite the passages from *Parshas Metzora* that deal with those *halachos*. And she should conclude by saying, "It should be the will of our G-d and the G-d of our forefathers that this recital which I said should be significant and accepted before You as if I actually brought my prescribed sacrifices."