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Gittin Daf 45

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Daf Notes is currently being dedicated to the neshamot of

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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

We Penalize the Buyer

Abaye asked Rav Yosef: Why is that we penalize the buyer of the slave (*he must release the slave and he loses his money*); let us penalize the seller (*for he was the one who sold the slave outside of Eretz Yisroel*)?

Rav Yosef replied: It is not the mouse who is the thief; it is the hole (*where the mouse can escape to; so too, it is the purchaser who is held responsible; not the seller*).

The *Gemora* asks: But if not for the mouse, what would the hole do (*and similarly, it is the seller who is initiating the sale*)?

The *Gemora* answers: It is logical that wherever the prohibited item is, that is where we impose the penalty. (45a)

Escape to Eretz Yisroel

A certain slave escaped from abroad to *Eretz Yisroel* and was pursued by his master. The master came before Rabbi Ami, who said to him, “Let us write out for you a document for his value (*which he will then owe you*), and (*in exchange*) you write out a deed of emancipation for him. Otherwise, we will make you forfeit him in accordance with the opinion of Rabbi Achi the son of Rabbi Yoshiyah. For we learned in a *braisa*: It is written: *They (from the seven nations of the land of Canaan) shall not dwell in your land lest they make you sin against me*, etc. Shall I say that this prohibition is relevant to an idolater who has undertaken not to

practice idolatry? The Torah teaches us that this is not the case, for it is written: *You shall not deliver unto his master a slave who escaped from his master to you*. What is to be done with him? He shall dwell with you. [*This teaches us that if an idolater decides not to practice idolatry, he may remain in your land.*] Rabbi Yoshiyah found it difficult to accept this interpretation, because instead of “from his master,” it should have written “from his father”!? Therefore Rabbi Yoshiyah explained the verse to be referring to a man who sells his slave abroad (*and the Torah is telling us that he should be freed*). Rabbi Achi the son of Rabbi Yoshiyah found it difficult to accept this interpretation, because instead of “who escaped to you,” it should have written “who escaped from you”!? Rabbi Achi the son of Rabbi Yoshiyah therefore explained the verse to be referring to a slave who escapes from abroad to *Eretz Israel*. [*The Torah is teaching us that if a slave escapes into Eretz Yisroel, he should not be returned to his master outside of Eretz Yisroel.*]

The *Gemora* cites another *braisa*: It is written: *You shall not deliver unto his master a slave who escaped from his master to you*. Rebbe said: This is referring to a person who buys a slave on the condition that when he buys the slave, the slave will immediately be set free. He is indeed not allowed to use him for any labor after the purchase.

Rav Nachman bar Yitzchak explains the case: The master wrote the following: When I purchase you, you

are retroactively acquired for yourself from now. [*The Gemora elsewhere proves from here that Rebbe holds that a person can convey ownership of something even though it did not come into existence yet, for he is freeing the slave even before he is a slave.*]

The *Gemora* cites an incident: A slave of Rav Chisda's escaped to Bei Kusai (a place where the Cutheans resided). He sent word to them that they should return him. They quoted to him in return the verse: *You shall not deliver unto his master a slave who escaped from his master to you.* He sent back to them: That refers only to a slave who escapes from abroad to *Eretz Yisroel*, as explained by Rabbi Achi the son of Rabbi Yoshiyah.

The *Gemora* asks: Why did he quote to them the interpretation of Rabbi Achi the son of Rabbi Yoshiyah (and not Rebbe's interpretation)?

The *Gemora* answers: It is because this accords more with the literal meaning of the verse (and that is what the Cutheans acknowledge).

Abaye lost a donkey among the Cutheans. He sent to them saying: Send it back to me. They sent back to him: Give us a mark of identification. He sent to them: Its belly was white. They sent him back: Were you not Nachmeini, we would not send it back to you, for all donkeys have white bellies! (45a)

Mishna

We do not redeem captives for more than their true value for "the benefit of the world." We do not aid captives in escaping for "the benefit of the world" (for then, they will begin to lock them up in chains). Rabban Shimon ben Gamliel states that we do not redeem

captives for more than they are worth for "the benefit of the captives." (45a)

Benefit of the World

The *Gemora* inquires: Does "the benefit of the world" (with respect to redeeming the captives for more than their worth) relate to the burden which may be imposed on the community (they will all become impoverished), or to the possibility that the bandits will take more captives? [*The difference would be in a case where a private individual, such as a relative, wishes to redeem him.*]

Come and hear: Levi ben Darga ransomed his daughter for thirteen thousand golden *dinars*.

Abaye asked: But are you sure that he acted with the consent of the Sages? Perhaps he acted against their will!

The *Mishna* had stated: We do not aid captives in escaping for "the benefit of the world" (for then, they will begin to lock them up in chains). Rabban Shimon ben Gamliel states that we do not redeem captives for more than they are worth for "the benefit of the captives."

The *Gemora* asks: What is the practical difference between them?

The *Gemora* answers: The difference would be if there was only one captive. (45a)

Rav Nachman's Daughters

The daughters of Rav Nachman used to stir a boiling hot pot with their hands (without burning their hands, apparently on account of their piety). Rav Ilish was puzzled about this. It is written: *One (righteous) man*

among a thousand have I found, but a woman among all those have I not found. But behold there are the daughters of Rav Nachman (*who seem to be righteous*)!? A misfortune happened to them (*in order to show Rav Ilish that they were not, in fact, righteous*) and they were taken captive, and he was also taken with them. One day a man was sitting next to him who understood the language of birds. A raven came and called to him, and Rav Ilish said to him, "What did it say?" He replied, "It said, 'Ilish, run away, Ilish, run away'." He said, "The raven is a liar, and I do not trust it." Then a dove came and called. He again asked, "What did it say?" The man replied, "It said, 'Ilish, run away, Ilish run, away'." Rav Ilish said, "*Klal Yisroel* are likened to a dove. This shows that a miracle will be performed for me." He then said to himself, "I will go and check if the daughters of Rav Nachman have retained their virtue, and if they did, I will bring them back as well." He said to himself, "Women talk over their business in the bathroom." He (*went there and*) overheard them saying, "These men are our husbands just as the Nehardeans were our husbands. Let us tell our captors to remove us to a distance from here, so that our husbands may not come and hear where we are and redeem us." Rav Ilish then rose and fled, along with the other man (*who understood the language of birds*). A miracle occurred for him, and he got across the river, but the other man was caught and put to death. When the daughters of Rav Nachman came back, he said, "They stirred the pot by witchcraft." (45a)

Mishna

One cannot purchase Torah scrolls, *tefillin* and *mezuzos* from an idolater for more than their worth because of "the benefit of the world." [*This is either because the burden which will be imposed on the community (they will all become impoverished), or to the possibility that the bandits will take more sacred objects.*] (45a – 45b)

Sacred Objects Written by an Idolater

Rav Budya said to Rav Ashi: It may be inferred from the *Mishna* that if they are selling them for their true worth, we may purchase from them (*and we seemingly are not concerned that the idolaters wrote them for the sake of idolatry*). This would prove that it is permitted to read from a Torah scroll which was found among idolaters.

The *Gemora* rejects the proof: Perhaps they are purchased from the idolaters in order to store them away (*because perhaps they are sacred*).

Rav Nachman said: The *halachah* has been established that a Torah scroll which has been written by a Jewish apostate should be burned, and one written by an idolater should be stored away. One that is found in the possession of a Jewish apostate should be stored away. Concerning one that is found in the possession of an idolater, some say that it should be stored away and some say that it may be read.

Concerning a Torah scroll written by an idolater, it has been taught by one *braisa* that it should be burned, and another *braisa* taught that it should be stored away, and a third *braisa* taught that it may be read. There is, however, no contradiction. The *braisa* that taught that it should be burned follows Rabbi Eliezer, who said that the intention of an idolater is normally idolatrous. The *braisa* that taught that it should be stored away is in accordance with the following *Tanna* of a *braisa* taught by Rav Hamnuna the son of Rava of Pashrunia: A Torah scroll, *tefillin* or *mezuzos* written by an informer, an idolater, a slave, a woman, a minor, a Cuthean and a renegade Jew are disqualified, since it says: *And you shall bind them ... and you shall write them*. This indicates that those who are subject to the *mitzvah* of



binding (*tefillin*) are eligible to write, but those who are not subject to the *mitzvah* of binding are not eligible to write. And the *braisa* which taught that they may be read follows the *Tanna* of the following *braisa*: Torah scrolls may be bought from idolaters anywhere provided only that they are written in the prescribed manner. It happened in Tzidon that an idolater was writing Torah scrolls, and Rabban Shimon ben Gamliel permitted them to be bought from him.

[Evidently, Rabban Shimon ben Gamliel holds that a Torah scroll does not have to be written for their purpose!] The *Gemora* asks that it would seem strange that he would hold that the tanning of the *tefillin* boxes must have been for the specific purpose, and yet, the writing of the Torah scrolls does not have to be written for their specific purpose!? For it was taught in a *braisa*: If a man coats the *tefillin* with gold or covers them with the skin of an unkosher animal, they are disqualified. But if he uses the skin of a kosher animal, they are fit for use, even though he did not tan it for the specific purpose. Rabban Shimon ben Gamliel says: Even if covered it with the skin of a kosher animal, they are disqualified unless it has been tanned for their specific purpose!?

Rabbah bar Shmuel explained that the case of Tzidon was referring to a convert who had reverted to his previous ways (*and the scrolls are valid, for he knows what intent is required*).

The *Gemora* asks: But then it should be worse, for he is a *Min*?

Rav Ashi said: We are referring to one who reverted to his old religion out of fear (*that the idolaters might kill him*). (45b)

INSIGHTS TO THE DAF

Ransom for More than their Value

The *Mishna* had stated: We do not redeem captives for more than their true value for “the benefit of the world.”

The *Gemora* inquires: Does “the benefit of the world” (*with respect to redeeming the captives for more than their worth*) relate to the burden which may be imposed on the community (*they will all become impoverished*), or to the possibility that the bandits will take more captives? [*The difference would be in a case where a private individual, such as a relative, wishes to redeem him.*]

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Abaye asked: But are you sure that he acted with the consent of the Sages? Perhaps he acted against their will!

Rashi explains that “more than their true value” is referring to the amount that they would fetch if they would be sold in the slave market.

The Meiri writes that their value is based upon their individual wealth and prominence.

The Radvaz rules that we may ransom any captive with the amount of money that is usual to redeem other captives during that time period.

He adds: It has become the custom to redeem captive for more than their worth in the market, for an elderly person or a minor are not worth more than ten *dinars*, and nevertheless, they are ransomed for more than



one hundred *dinars*. His explanation why there is no concern that the bandits will take more captives is because the captives are not being ransomed for any more than their gentile counterparts. He concludes that nothing should be told to *Klal Yisroel* about this, for they are a charitable nation, and it is better for them to remain that way.

Tosfos and the Ramban disagree regarding the *halachah* if the captive himself is allowed to ransom himself for more money than he is actually worth.

The *Gemora* in Kesuvos (52b) states: If one's wife was captured and the kidnapers sought ten times her fair value for redemption, the first time - the husband must redeem her; afterwards, if he wants he can and if he does not want he does not have to. Rabban Shimon ben Gamliel states that we do not redeem captives for more than they are worth for "the establishment of the world" (*that captors should not thereby be encouraged to demand exorbitant prices for the ransom of their captive*).

There is a question whether according to Rabban Shimon ben Gamliel a man would be permitted to ransom his wife if the ransom exceeds her worth. The Ritva holds that he may do so, and the Chelkas Mechokeik disagrees.

DAILY MASHAL

This issue had an extraordinary public application about 700 years ago. The leader of Ashkenazic Jewry at the time was Rabbi Meir ben Boruch of Rottenberg. He was imprisoned by a German ruler, Rudolph, whose voracity knew no bounds. Rabbi Meir (*known as Maharam Mi'Rottenberg*) was imprisoned until his death, and his body was not released. The community

did not ransom him, as he himself had ruled. Seven years after his death, a private member of the community paid almost all of his own money to release the body, with the stipulation that he be buried next to him.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF to refresh your memory

Q: If a slave is sold to a *ger toshav*, does he go free?

A: Yes.

Q: What is the penalty for one who sells his slave to an idolater?

A: He must redeem him for either up to ten times his value, or, according to a different version, one hundred times his value.

Q: What are five cases where there is an issue if we penalize a person's son for something that the father did wrong?

A: If he sells his slave to an idolater and then dies; if a *Kohen* cuts the ear of a firstborn animal and then dies; if one scheduled his work for *Chol Hamoed* and then he died; if one fertilized a field during *shemittah* and then died; if a man intentionally contaminates stuff belonging to another which he desired to keep ritually clean, and then dies.