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Gittin Daf 61

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**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**  
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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

The Mishnah had stated: Prey caught in traps set for beasts, birds or fish is protected under the laws of theft etc. [Rabbi Yosi says: It is genuine theft.]

If loose or close nets are used, there is no difference of opinion between the Rabbis and Rabbi Yosi.<sup>1</sup> Where they differ is when fishhooks and traps [are used]. (60b3 – 61a1)

**Objects Found by a Minor**

The *Mishnah* had stated: An object found by a deaf-mute, an insane person, or a minor are treated as theft, in the interest of peace. Rabbi Yosi says: It is actual theft.

Rav Chisda explains that even Rabbi Yosi only meant that Rabbinically, it is regarded as theft.

What is the practical difference between them?>

The difference would be if judges would extract the stolen object from the thief or not. [Only according to Rabbi Yosi, who holds that it is actual theft, would the judges take the object from him.] (61a1)

**Stealing from the Poor**

The *Mishnah* had stated: A poor person who is gleaning olives at the top of the tree, whatever is under him is treated as theft, in the interest of peace. Rabbi Yosi says: It is actual theft.

<sup>1</sup> As these, having a hollow, certainly confer ownership on the one who set them, and to take the contents would be genuine theft.

It was taught in a *Baraisa*: If he took the olives and placed them on the ground with his hands, it would be treated as actual theft (*if someone would take it from there*).

The *Gemora* relates an incident: Rav Kahana was going to Hutzal and he saw a certain person who was throwing sticks at a palm tree so that the dates would fall to the ground. Rav Kahana picked up the dates and ate them. The person said to Rav Kahana, “You saw that I had picked some of the dates with my hand (*and therefore it is actual theft for you to take them*).”

Rav Kahana said to him: You must be from Rabbi Yoshiyah’s city (*who often gave public discourses in the city; that is why you know these halachos*). Rav Kahana applied the following verse to Rabbi Yoshiyah: *And a righteous man is the foundation of the world.* (61a1)

**In the Interests of Peace**

The *Mishnah* had stated: We do not prevent the poor idolaters from taking *leket*, *shich’chah* and *pe’ah*, in the interests of peace.

The *Gemora* cites a *Baraisa*: We support the gentile poor along with the Jewish poor, and visit the gentile sick along with the Jewish sick, and bury the gentile poor along with the Jewish Israel, in the interests of peace. (61a1 – 61a2)

### **Mishnah**

A woman may lend her neighbor who is suspected of transgressing the *halachos* of *Shemitah* (the produce of *Shemitah* may be kept as long as that produce is still available in the fields for the animals; afterwards, it may no longer remain in the house) a sifter, a sieve, a hand mill, or an oven; but, she may not separate or grind with her (because one is prohibited to directly assist a sinner).

The wife of a *chaver* (someone who accepts to meticulously observe all the *halachos* of *tumah* and *taharah*) may loan to the wife of an *am ha'aretz* (an ignorant person; someone who is not careful with respect of *terumah*, *ma'aser*, *tumah* and *taharah*) a sifter or a sieve; and she may separate, grind, or sift with her. However, once she pours water into the flour, she may not help her, because one may not assist a transgressor. And all the (above mentioned) leniencies were stated only in the interests of peace.

And one may assist idolaters during a *Shemitah* year, but not to Jews, and one may greet idolaters in the interest of peace. (61a2)

### **Am Ha'aretz**

The *Gemora* asks: Why is the *halachah* in the first case (that one may not separate or grind with a woman suspect of violating the *halachos* of *Shemitah*) different from that in the second (that a wife of a *chaver* is permitted to separate, grind, or sift with the wife of an *am ha'aretz*)?

Abaye answers: Most *amei ha'aretz* separate their *ma'aser* (and it is only a Rabbinical concern; we can therefore be lenient in the interests of peace).

Rava answers: We are dealing here of the *am ha'aretz* defined by Rabbi Meir (who is suspected of eating his *chullin* produce in a state of *tumah*), and this is only a Rabbinical prohibition (for the produce is not *tumah* or *kodoshim*), as it has been taught in the following *Baraisa*: Who is an *am*

*ha'aretz*? One who does not insist on eating his *chullin* produce in a state of *taharah*; these are the words of Rabbi Meir. The *Chachamim*, however, say that an *am ha'aretz* is one who does not separate *ma'aser* from his produce.

The *Gemora* asks: But since it says in the later clause of the *Mishnah*: "once she pours water into the flour, she may not help her" (because of the laws of *tumah*), does this not indicate that the earlier clause of the *Mishnah* is not discussing *halachos* dealing with *tumah* and *taharah*?

The *Gemora* answers: Both cases are dealing with *halachos* involving *tumah* and *taharah*. The first case is discussing a *tumah* of *chullin* produce (and since the prohibition of contaminating such produce is only Rabbinical, the *am ha'aretz* may be assisted), whereas the second case is discussing the *tumah* of *challah* (since the water was added; and now that there is a Biblical transgression against rendering the mixture *tumah*, she cannot be assisted).

The *Gemora* asks a contradiction from the following *Baraisa*: One is allowed to grind (his tithed grain) and deposit it with those who eat produce of the *Shemitah* year (illegally) and with those who eat their produce in *tumah* (for they are trusted not to switch this produce with their own and that they will not touch the produce), but one is prohibited to grind for those who eat produce of the *Shemitah* year (illegally) and with those who eat their produce in *tumah* (because one cannot assist them in their sins)!? [Rava explained our *Mishnah* that one may grind together with someone who eats his *chullin* produce in a state of *tumah*, for contaminating *chullin* is only a Rabbinical prohibition!?!]

Abaye replied: The *Baraisa* is dealing with a *Kohen* who is suspected of eating *terumah* in *tumah*, which involves a Biblical transgression. [Rava would agree that one cannot assist such a person with grinding.]

The *Gemora* asks: If that is so, how could the food be entrusted to him? Would not that contradict the following *Baraisa*: *Terumah* may be entrusted to a *Yisroel am ha'aretz*,

but not to a *Kohen am ha'aretz*, because he is familiar with it (and he might touch it and make it *tamei*)!?

Rabbi Il'a answered: The first *Baraisa* is discussing produce contained in an earthenware vessel with a close fitting cover (which cannot become *tamei* from the outside).

The *Gemora* asks: But should we not be concerned that his wife might move it while she is a *niddah* (and that will render the *terumah tamei* even though it was not touched by her)?

Rather, Rabbi Yirmiyah replied: There is no difficulty, for the first *Baraisa* is referring to *terumah* produce which is not capable of becoming *tamei* (for it did not previously become wet).

The *Gemora* asks a contradiction from the following *Mishnah*: If a man takes wheat to a Cuthean miller (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, such as *terumah* and *ma'aser*) or to a miller who is an *am ha'aretz*, it is presumed to remain in its original permitted condition with respect to *ma'aser* and *Shemittah* (he did not switch the produce), but not as regards to *tumah*!?! [The first *Baraisa* ruled that a *chaver* can deposit produce by someone who eats his produce in *tumah*!?!]

The *Gemora* answers: What refutation is there here? Didn't we just explain that the *Baraisa* is referring to produce which is not capable of becoming *tamei*?

The *Gemora* asks: What then was the point of the question (when the answer was so obvious)?

The *Gemora* answers: It is because the questioner wanted to ask another contradiction from that *Mishnah* (and therefore brought up that *Mishnah*). The *Mishnah* has taught us that the wheat is presumed to have remained in its original permitted condition with respect to *ma'aser* and *Shemittah*, and we are not concerned that it was switched. This seems

to contradict the following *Mishnah*: If a *chaver* gives produce to his mother-in-law (the wife of an *am ha'aretz*; he arranged that she immersed in a *mikvah* first), he is required to separate *ma'aser* what he gives to her (for he does not want her to eat his untithed produce) and what he takes back from her, because she is suspected of changing anything that becomes spoiled!?

The *Gemora* answers: There, the reason why she is suspected of exchanging the produce is like it was stated in that *Mishnah*: Rabbi Yehudah said: She cares for the well-being of her daughter and she is ashamed for her son-in-law.

The *Gemora* asks: But in general are we not concerned that an *am ha'aretz* will exchange the produce! Have we not learned in the following *Mishnah*: If a Yeshivah student gives produce to the mistress of his boarding house, he is required to separate *ma'aser* what he gives to her (for he does not want her to eat his untithed produce) and what he takes back from her, because she is suspected of exchanging!?

The *Gemora* answers: There also she finds an excuse for herself, saying, "Let the student eat hot bread and I will eat cold."

The *Gemora* asks: But in general are we not concerned that an *am ha'aretz* will exchange the produce! Have we not learned in the following *Baraisa*: The wife of a *chaver* can grind along with the wife of an *am ha'aretz* when she (the *chaver's* wife) is *temei'ah* (since she is not accustomed now to touch the *tahor* grain, we are not concerned that she will eat from the *am ha'aretz's* untithed produce), but not when she is *tahor*. Rabbi Shimon ben Elozar says: Even when she is *temei'ah*, she should not grind with her, because the other will give it to her and she will eat it. Now, if the wife of the *am ha'aretz* is capable of stealing (from her husband), will she not also exchange!?

Rav Yosef said: There too she finds an excuse for stealing by saying, "The ox eats from his threshing (and therefore I am



entitled to give my friend some of the produce)." (61a3 – 62a1)

## DAILY MASHAL

### ***Rav Kahana and the Poor Man's Dates***

The *Gemora* relates an incident: Rav Kahana was going to Hutzal and he saw a certain person who was throwing sticks at a palm tree so that the dates would fall to the ground. Rav Kahana picked up the dates and ate them. The person said to Rav Kahana, "You saw that I had picked some of the dates with my hand (*and therefore it is actual theft for you to take them*)."

Rav Kahana said to him: You must be from Rabbi Yoshiyah's city (*who often gave public discourses in the city; that is why you know these halachos*). Rav Kahana applied the following verse to Rabbi Yoshiyah: *And a righteous man is the foundation of the world.*

Tosfos asks: Even if Rav Kahana did not know that the person picked the dates with his hand, he still should not have eaten them!? Why was he not concerned with our *Mishnah's* ruling that we do not take from the poor in the interest of peace?

Tosfos answers that the man was taking the branches off the tree and the dates were falling off themselves. Rav Kahana thought that the man had no interest in the dates.

The Ramban answers that Rav Kahana thought that he was an idolater and the *Mishnah* did not rule that the produce of an idolater is protected because of harmony.

The Rashba answers that Rav Kahana himself was a poor person (*or he was regarded as one since he was traveling*). [*This answers why he would have been permitted to take the dates that was seemingly reserved for the poor.*]

The Meiri writes that the decree of promoting harmony was instituted primarily for a poor person who would be taking

for himself and eating in his house; however, the enactment for the interest of peace would not affect a passerby, such as Rav Kahana, who would be eating on the road.

The Vilna Gaon says that this decree was instituted only with respect to olives, but not for dates.

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

Q: Can you read the Haftorah from a Sefer that only has the Haftorah written and not the whole Navi?

A: Rabbah and Rav Yosef say no. Mar Bar Rav Ashi says that it is even Muktza. Rav Yochanan and Rish Lakish hold you may read from it since not every Tzibbur can write the entire Navi.

Q: What does Rabbi. Yehudah bar Nachmeini learn from the Pasuk "Ksav Licha Es HaDevarim HaEileh Ki Al Pi HaDevarim HaEileh...?"

A: He learns that verses that are written cannot be recited from memory, and oral teachings cannot be written down.

Q: Why do we always keep the Eiruv Chatzeiros in the same house?

A: So no one should suspect that there is no Eiruv after it moves to another house.