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**Kofer for different methods of killing**

The Baraisa had stated: An ox that kills by goring, its owner is liable to pay *kofer*, whereas if it committed an act of bestiality, the owner is not liable to pay *kofer*.

The Gemara asks: What scenario is this ruling addressing? If the ox copulated with a woman and killed her in the process, the method of killing should have no impact on its owners liability for *kofer*. If the woman did not die, why would we expect there to be a liability for *kofer*?

Abaye answers: The woman did not die as a direct result of the copulation, but she was sentenced to death by a court because she committed this act. Since the ox was a factor in causing her death, we might have thought its owner should be liable for *kofer*, hence the need for the Baraisa to teach us that the owner is not liable.

Rava answers: The Baraisa is referring to a case where the woman was killed by the ox during the act of bestiality, however the liability if *kofer* is only levied where the animal was acting with intent to inflict damage, whereas here, since the ox was intent on its pleasure, the owner would not be liable.

Regarding what case do they argue? If in the course of walking, an animal steps on a child in the domain of the victim, with no intent to inflict damage, Abaye would require the owner to pay *kofer* whereas Rava would not.

A Baraisa states in accordance with Rav: An ox trained for the arena that kills a person is not liable to be put to death, and it is valid to be used as a sacrifice since it was coerced. (40b5 – 41a1)

**Mishnah**

An ox that is a *muad* that kills, its owner must pay *kofer*, but an ox that is a *tam* that kills, its owner is not liable to pay *kofer*. In either case, the ox is put to death, and these laws apply even if the victim is a minor. If the victim was a Canaanite slave or maidservant, the owner of the ox must pay the owner of the slave 30 shekalim, regardless of the slave is worth one hundred maneh or only a single dinar. (41a1 – 41a2)

**Creating a muad**

The Gemara asks: Since an ox that kills is immediately put to death, how is it possible for an ox to be rendered a *muad*?

Rabbah answers: An ox can become a *muad* if it charges at people three times and we assess that its intent was kill, even though it was unsuccessful in completing the attack.

Rav Ashi disagrees and says that merely an assessment of its intent is insufficient to render it a *muad*. The scenario whereby the ox is rendered a *muad* is where it wounds three people but none of them die until all three attacks were perpetrated.



Rav Zevid answers: The ox killed three animals, thereby rendering it a *muad*, since killing an animal would not make it subject to the death penalty.

The Gemara asks that an ox that has become a *muad* with regard to killing animals is not rendered a *muad* with regard to people?

Rather, Rav Shimi answers: The ox killed three idolaters, thereby rendering it a *muad*, since killing an idolater would not make it subject to the death penalty.

The Gemara asks that an ox that has become a *muad* with regard to killing idolaters is not rendered a *muad* with regard to Jews?

Rather, Rabbi Shimon ben Lakish answers: The ox killed three people who were terminally sick, since killing a terminally sick person would not make it subject to the death penalty.

The Gemara asks that an ox that has become a *muad* with regard to killing people who are terminally sick is not rendered a *muad* with regard to healthy people?

Rather, Rav Pappa answers: After each attack, the ox ran away to a meadow where it hid.

Rav Acha the son of Rav Ikka answers: The first and second sets of witnesses were discredited through the process of *hazamah*, thereby exempting the ox from being killed. After the arrival of the third set of witnesses, the witnesses who had discredited the first two sets of witnesses were themselves discredited, retroactively re-validating all three sets of witnesses, rendering the ox a *muad*.

The Gemara asks: This solution works if the status of *muad* is applied to the ox; once we have proof of three

attacks, the nature of the ox has been determined as that of a *muad*. However, if the process of *muad* is applied to the owner, there needs to be a process of an attack, followed by a warning, repeated three times to render this ox a *muad*, and that would not be possible in the scenario depicted by Rav Acha and the owner can claim that he was not aware of his ox's actions.

Rav Acha would answer that witnesses say that the owner was present by the three attacks, and was therefore aware of his ox's actions.

Ravina provides a final answer to the original question: The witnesses initially were unable to identify the ox, and we were therefore unable to kill the ox. Only by the third attack were they finally able to identify the ox and recognize it as having been the same ox that had perpetrated the first two attacks.

The Gemara asks: If the owner had not been warned about a specific ox, what should he have done?

The Gemara answers: He should have provided a better level of guarding for all his cattle. (41a2 – 41a4)

### **Eating the meat of an ox that damaged**

The Mishnah had stated that both a *tam* and *muad* must be put to death.

A Baraisa elaborates: Since the verse states in Shemos 21:28 that "The ox must be stoned", the ox, as a *neveilah*, is already forbidden to be eaten, so why must the verse continue and tell us that "Its flesh may not be eaten"? The extra clause is referring to a scenario where the owner slaughtered the ox after it had been sentenced but before the sentence was carried out, so even though it is not a *neveilah*, nevertheless it is still forbidden to be eaten. Furthermore, not only is it not allowed to be eaten, it is also forbidden for anyone to have benefit from it, as is

derived from the next clause in the verse that states “And the owner of the ox is clean”. How is this implied? Shimon ben Zoma answers that the term “clean” is sometimes used in this context, as people say “so-and-so has been cleaned out of his possessions and can no longer benefit from them”.

The Gemara asks: Why do we apply the verse “It’s flesh may not be eaten” to a case where it was slaughtered after it was sentenced, perhaps we could say that in that scenario, the meat would actually be permitted to be eaten, and the verse is teaching us that in a case where it’s sentence was carried out and it was stoned, it is forbidden to be benefitted from. This would be in accordance with Rabbi Abahu, for Rabbi Abahu said in the name of Rabbi Elazar that any time the Torah uses the term “He may not eat”, “You (singular) may not eat” or “You (plural) may not eat”, it is implying both a prohibition against eating and also against benefitting from it, unless the Torah explicitly permits its benefit, as we find by *neveilah*.

They said: That rule is applicable where both the prohibitions are derived only from the verse, whereas in our case, the prohibition of eating is an automatic extension of its status of a *neveilah* that is automatically applied to an animal that dies without a kosher slaughtering. Therefore, if the Torah wanted to tell us the ox is forbidden to be benefitted from, it would not have used the term “It’s flesh *may not be eaten*” but would have explicitly told us that it may not be benefitted from. Alternatively, it would have sufficed for the verse to say “It may not be eaten”. The extra wording of “Its flesh” teaches us that even if he slaughtered it in a kosher manner before its sentence was carried out, rendering it like kosher meat, it may still not be eaten.

Mar Zutra asked: This rule should be limited to a case where the slaughtering was effected with a stone, which makes its manner of death similar to its sentence of

stoning, but if it was slaughtered with a knife, it should be permitted to be eaten.

They said: Is “knife” written in the Torah? [Kosher slaughtering is never limited to a specific material.] why, it was taught in a Mishnah: One who slaughters with a scythe, with a stone, or with a sharp reed, his slaughtering is valid!?

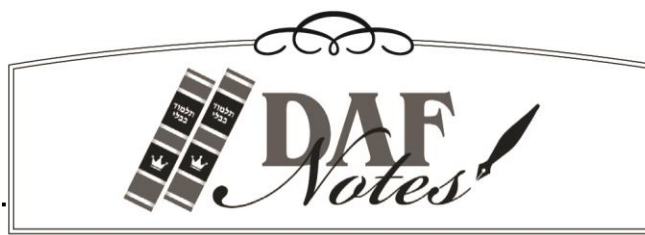
The Gemara asks: Now that we have derived both the prohibition to benefit from the ox as well as the prohibition to eat its flesh from the verse “Its flesh may not be eaten”, what do we derive from the verse “And the owner of the ox is clean”?

The Gemara answers: This teaches us that the hide is also forbidden to be benefitted from. For otherwise you might have been inclined to think that it was only the meat that had been forbidden for benefit, whereas the hide should be permitted for benefit; we are therefore told [that this is not the case but] that ‘the owner of the ox is clean.’

The Gemara asks: According to those who use this verse for a different purpose (discussed later on this page and on 42a), how do they know that the hide is forbidden for benefit?

The Gemara answers: From the word “Es” in the verse of “*Es besaro* - Its flesh”.

Our Baraisa which derives the law of the hide from “And the owner of the ox is clean” does not view the word “es” as extra. This is in accordance with a Baraisa that states: Shimon Ha’amsoni, others say it was Nechemiah Ha’amsoni, expounded every instance of the word “es” in the Torah until he reached the verse in Devarim 6:13 “*Es Hashem Elokecha tira* – You should revere Hashem your G-d”. Since he was unable to expound this verse he desisted from expounding the word “es”. His disciples asked him; “What about all the laws you expounded until



now?” He answered them: “Just as I received reward for expounding those laws, so too will I now receive reward for not expounding those laws”. Then Rabbi Akiva came and expounded that verse as well to teach us that a person must revere Torah scholars. (41a4 - 41b2)

### **Does a *tam* pay half of *kofer*?**

The Rabbis taught in a Baraisa: The verse states “And the owner of the ox is absolved”. Rabbi Eliezer says: This teaches us that a *tam* does not pay even half of *kofer*. Rabbi Akiva said to him: Why do we need a verse to teach us this? Since a *tam* only pays from its own value, and an ox that kills is put to death, there is no possibility of a *tam* being used as a resource for a payment of *kofer*. Rabbi Eliezer replied: Do you think so little of me that I would make such a suggestion? My rule is applicable in a case where the testimony against the ox was provided by only one witness, so the ox is not put to death. Alternatively, the testimony was provided by the owner of the ox himself confessing voluntarily, in which case again the ox is not put to death.

The Gemara asks: If the owners voluntarily admitted their guilt, they should be exempt from any payments because of the rule that admitting to a *kenas* (punitive payment) renders them exempt?

The Gemara answers that Rabbi Eliezer holds that *kofer* is an atonement, and not a *kenas*, i.e. not a punitive payment.

A second Baraisa recorded a different response from Rabbi Eliezer, where he replies to Rabbi Akiva: “Do you think so little of me that I would make such a suggestion? My rule is applicable in a case where the ox intended to kill an animal and inadvertently killed a human, or intended to kill an idolater and inadvertently killed a Jew, or intended to kill a nonviable infant and inadvertently killed a viable person.

The Gemara asks: Which response did Rabbi Eliezer offer first?

Rav Kahana said in the name of Rava: First Rabbi Eliezer gave the answer of intent - in the second Baraisa. Rav Tavyumi said in the name of Rava: First Rabbi Eliezer answered the answer of an ox that killed - in the first Baraisa.

Rav Kahana said in the name of Rava: First Rabbi Eliezer gave the answer in the second Baraisa, that the ox intended to kill a victim whose death would not subject the ox to the death penalty (and later he provided the less satisfactory answer from the first Baraisa we quoted, that the testimony was provided either by only one witness or by the owner himself). This (that Rabbi Eliezer gave the better answer first) is analogous to a fisherman who fishes from the sea; he first gathers in the large fish he traps and then gathers in also the smaller fish.

Rav Tavyumi said in the name of Rava: First Rabbi Eliezer answered the answer of (the more questionable case where) an ox that killed - in the first Baraisa (and later he gave the answer we quoted in the second Baraisa). This is analogous to a fisherman who fishes from the sea; when he catches only small fish, he will take them (for he has nothing better), and if he later catches larger fish, he will discard the smaller fish and gather in the larger fish. (41b2 – 42a1)

### **DAILY MASHAL**

#### **Deference Toward Talmidei Chachamim**

Our *daf* cites R. Akiva’s interpretation of the verse, “*Es Hashem, your G-d, you shall fear*” (*Devarim* 6:13), as an injunction to honor Torah scholars. The *Tosafos* (s.v., *lerabos*) explains that the verse teaches us that there are special ways to honor one’s *rav muvhak* the teacher who

passed on to him most of the Torah he knows] or “someone recognized as the *gadol hador* the leading Torah authority of the generation]” (Remo, *Y.D.* 244:10). Showing respect for other *talmidei chachamim* is based on another verse, “In the presence of an old person you shall rise and you shall honor the presence of a sage” (*Vayikra* 19:32).

The difference between the honor accorded to a *talmid chacham* and to a *rav muvhak* is evident in several halachos. The obligation to stand before a *rav muvhak*, for example, even applies when the *talmid* sees him at a distance, but one must only stand for a *talmid chacham* when he comes within four *amos* (*Y.D.* 244:9). Likewise, when someone tears his clothing when a *talmid chacham* passes away, he is allowed to mend them the next day, whereas one can never mend a tear made for a *rav muvhak* (*Y.D.* 340:17). Furthermore, when a person finds a lost object belonging to his *rav* and another belonging to his father, he must first return his father’s lost object. However, a lost object belonging to his *rav muvhak* takes precedence over his father’s lost object (*C.M.* 264:2).

The *Terumas HaDeshen* (§138) also rules that the same halacha applies to *gadol hador* and a *rav muvhak*. The Chida (*Midbar Kadeimos, Ma’areches Mem, Os* 7) explains that the *neshamah* of a *gadol hador* contains a spark of Moshe Rabbeinu *a’h*, who received the Torah from Hashem, and therefore the halacha regarding a *rav muvhak* also applies to *gadol hador*.

The Brisker Rav *zt’l* (*Chidushei HaRiz Halevi* on the Rambam, *Hilchos Talmud Torah* 5:11) analyzes the fundamental difference between honoring a *talmid chacham* and honoring a *rav muvhak*. The Rambam rules (*ibid.*), “The *rav muvhak* may waive his honor...if he chooses to do so.” This implies that only a *rav muvhak* may waive his honor, whereas other *talmidei chachamim* may not. What is the difference?

The Brisker Rav explains that the mitzvah of honoring *talmidei chachamim* is not a personal obligation towards them, but is a mitzvah in recognition of their tremendous efforts in Torah study. On the other hand, the obligation to honor a *rav muvhak* is a personal obligation incumbent on the *talmid* to his *rav* for having taught him. The *rav muvhak* is allowed to waive the additional honor he deserves, since it stems from the *talmid’s* personal obligation toward him, whereas the honor toward a *talmid chacham* cannot be waived since it is not a personal obligation. Nevertheless, the halacha states that any *rav* can waive his honor (*Y.D.* 244:14, *Kesef Mishnah*, *ibid.*).