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The Gemora asks: But is a change in name that cannot revert to its original state considered a change? What then about a pipe, the material of which was originally called a block a wood, but now a pipe, and we have nevertheless been taught in a Baraisa that a pipe which was first hollowed out and subsequently attached [into a mikvah] will disqualify the mikvah, but where it was first fixed [in to the mikvah] and subsequently hollowed out, it will not disqualify the mikvah! But if you maintain that a change in name has a legal effect, why then, even where he fixed it first and subsequently hollowed it out, should it not disqualify the mikvah?

The Gemora answers: The law regarding disqualification through drawn water is different altogether, as it is only of Rabbinic sanction.

The Gemora asks: But if so, why even in the prior clause should it not also be the same?

The Gemora answers: There, however, the law of a receptacle applied to it while it was still detached, whereas here it was never subject to the law of a receptacle while it was detached.

An objection (to Rav Yosef's opinion) was raised [from the following Baraisa]: If a thief, a robber or an expropriator consecrates a stolen article, it will be consecrated; if he sets aside a portion for terumah, it will be terumah; or again if he sets aside a portion for ma'aser, the ma'aser will be valid. [Now, does this not prove that despair transfers ownership?]

They said: In that case there was also a change in name, as previously it was called tevel while now it is called terumah. So also in the case of consecration: previously it was called chulin, but now it is called consecrated.

Rav Chisda said in the name of Rabbi Yonasan: How do we learn [from Scripture] that a change transfers ownership? Because it is said: *He shall return the stolen object*. What [then] is the point of the words, '*that he stole*'? [It must be to imply that] if it still is as when he stole it, he shall return it, but if not, it is only the value of it that he will have to pay.

The Gemora asks: But is this [text] '*that he stole*' not needed to exclude the case of robbery committed by a father, in which the son need not add a fifth [to the payment] for robbery committed by his father?

The Gemora answers: But if so, the Merciful One should have written only '*he shall return the stolen object.*' Why should it further be written, '*that he stole*'? Thus we can draw from it the two inferences.

There were those who said as follows: Rav Chisda said in the name of Rabbi Yochanan: How do we learn [from Scripture] that a change does not transfer ownership? Because it is said: *He shall return the stolen object*, i.e., in all cases.

The Gemora asks: But is it not written, '*that he stole*'?

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The Gemora answers: That text is needed to indicate that it is only for robbery committed by himself that he must add a fifth, but he does not need to add a fifth for robbery committed by his father. (67a1 – 67a3)

Ulla said: How do we learn [from Scripture] that despair does not transfer ownership? Because it is said: *And you bring what is stolen, the lame and the sick*. The stolen animal is thus compared to the lame; just as 'the lame' has no remedy at all [to render it qualified for an offering (as its blemish renders it permanently unfit)], so also '*that which was stolen*' has no remedy at all, no matter before despair or after despair.

Rava said: [We derive it] from the following: *His offering*, but not one which was stolen. When is this? If we say before despair, is this not obvious? What then is the point of the verse? It must therefore apply to the time after despair, and it may thus be proven from this that despair does not transfer ownership.

The Gemora asks: But didn't Rava himself say that the text referred to a robber stealing an offering of his fellow?

The Gemora answers: If you wish I may say that he changed his mind on this matter. Alternatively, I may say that one of these statements was made by Rav Pappa. (67a3 – 67b1)

The Mishnah had stated: The measure of four-fold and five-fold payments does not apply except in the case of an ox or a sheep alone.

The Gemora asks: But why not compare [the term] 'ox' to 'ox' in the case of Shabbos (where your animals are forbidden from doing work), so that just as there the law with respect to wild animals and birds is the same as the law with respect to them [i.e. ox and donkey], so also here (regarding the four-fold and five-fold payments), the law with respect to wild animals and birds should be the same as the law with respect to them [i.e. ox and sheep]?

Rava said: Scripture says '*an ox and a sheep*,' '*an ox and a sheep*' twice, [to indicate that] only ox and sheep are subject to this law but not any other object whatsoever.

They said: Which of these would otherwise be superfluous? Shall we say that '*ox and sheep*' of the concluding clause would be superfluous, and the Merciful One should have written '*if a man shall steal an ox or a sheep and slaughter it or sell it, he should pay five cattle instead of it and four sheep instead of it*'? If the Merciful One would have thus written, would I not have thought that he should pay nine for each of them? And should you rejoin that it is written 'instead of it', 'instead of it' [twice in the text, so that] one 'instead of it' would then have been superfluous, [I might retort that] this is required for a further exposition, as taught in a Baraisa: It might be maintained that one who stole an ox worth a maneh would be able to pay for it five moribund oxen. The text says, however, 'instead of it', 'instead of it' twice. ['Ox and sheep' of the concluding clause is thus indispensable].

It thus appears that it is 'ox and sheep' of the prior clause which would have been superfluous, as the Merciful One should have written: '*If a man shall steal and slaughter it or sell it, he shall pay five oxen for the ox and four sheep for the sheep*.' - But had the Merciful One would have thus written, I might have thought that it was only where he stole the two animals and slaughtered them [that liability would be attached]!? - The Gemora answers: But surely it is written '*and slaughtered it*,' implying one animal!?

The Gemora asks: It might still be thought that it was only where he stole the two animals and sold them [that liability would be attached]! - The Gemora answers: But surely it is written, '*and he sold it*' implying one animal!?

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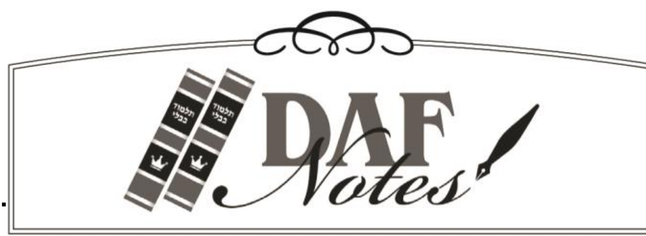

The Gemora asks: It could still be argued that I might have thought that it was only where he stole the two animals and slaughtered one and sold the other [that liability would be attached]! - The Gemora answers: But surely it is written, '*or he sold it*' [indicating that slaughtering and selling were alternative]!?

The Gemora asks: I might nevertheless still argue that it was only where he stole the two of them and slaughtered one and left the other, or sold one and left the other! - We must say therefore that it is 'ox' of the concluding clause and 'sheep' of the first clause which would have been superfluous, as the Mercifiul One should have written: '*If a man shall steal an ox and slaughter it or sell it, he shall pay five oxen instead of it and four sheep instead of the sheep*.' Why then do I require 'ox' of the concluding clause and 'sheep' of the first clause? To prove from it that only ox and sheep are subject to this law, but not any other object whatsoever. (67b1 – 67b3)

INSIGHTS TO THE DAF

Is a Reinforced Cement Mikvah Kosher?

Our daf teaches us that even if a keli [a utensil] is installed into the ground it remains a keli capable of receiving tumah since it is still considered detached. Nevertheless, if something other than a keli, such as a rock, is fixed into the soil and then carved into the shape of a keli, rabbinically it is considered an integral part of the ground, but in terms of Torah halachos it takes on the stringencies of a regular keli.

Our daf is the basis for an involved discussion among the leading poskim, who sought to resolve the contradiction between our sugya and another sugya in Bava Basra (66b). The Noda B'Yehudah (Tannina §142) and the Gra (Be'ur HaGra 201:34) rule that in practice one should follow the stringent ruling of our sugya.

Their ruling had ramifications in many cases of mikva'os that were slated for construction near a riverbank, but excavation was infeasible or unpractical. In such situations, the engineers sometimes proposed bringing rigid building materials to the riverbank, attaching them to the ground and then carving out a basin to be filled with water. However, since the poskim ruled that such a receptacle should be considered a keli and not ground, this type of mikveh would not be kosher, because the Torah defines a mikveh as a "gathering" of water in the ground—not in a keli (Toras Kohanim, Vayikra 11:36).

A mikvah made of cement: How can present-day mikva'os made of cement be kosher? Pouring cement creates a basin—essentially a large keli in the ground—and immersing oneself in a keli is ineffective.

Actually there are two types of cement mikva'os. In the past, to form the water basin cement was poured without reinforcing rods. The poskim (Responsa Tzemach Tzedek, Y.D. §172; Responsa Maharsham II §102) write that such a water basin is not considered a keli since it would break into pieces if moved. Only when it remains in the ground can such a pit hold water. The ground is therefore considered the permanent site for the water pit, and it retains the same halachic status as the ground.

The London Mikveh: In 5693 (1933), when halachic doubts were raised regarding the old London mikvah, a new one was built to replace it. For the first time in the history of mikvah construction, iron bars were laid into cement, rendering it potentially transferable. The poskim were soon debating whether the mikvah was kosher (see the introduction to the responsum of Maharam Shapira in the eighth annual edition of Moriyah).

Some rabbanim ruled that the mikvah was unsuitable. HaRav Yitzchak Weiss zt'l sided with this opinion, and even relates that when he was in charge of building a modern mikvah, he stipulated that the contractor not use

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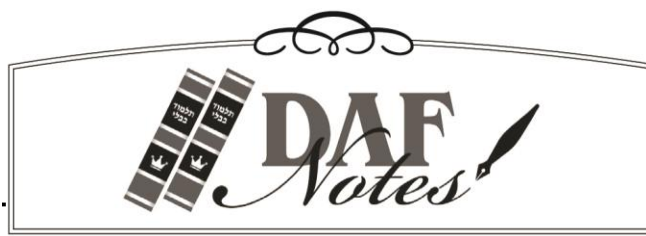

metal bars when building the water basin. However, HaRav Chaim Ozer Grodzinsky zt'l, HaRav Meir Shapira zt'l and many other poskim permitted the use of a water basin made from a combination of cement and metal bars.

The main reasoning behind the lenient opinions is that although this type of water basin is transferable, in practical terms mikva'os are never moved, so the water basin can be considered part of the ground and not a keli. (See Shevet HaLevi V, who assumes a lenient position. Igros Moshe, Y.D. I discusses whether the iron bars can receive tumah and is inclined to be lenient. For a strict opinion see Divrei Yo'el, Y.D. §77 and Minhas Pitim, Y.D. 271.)

DAILY MASHAL

Only a Giver Can Offer a Korban

Our daf teaches that the words "his korban" (Vayikra 1:3), teach us that a stolen korban cannot be offered since it does not belong to the thief.

In his commentary on Vayikra, Rashi explains the verse, "A person [adam] from you who will give a korban" (1:2) as follows: "Just like Adam HaRishon did not offer a korban from a stolen animal since everything belonged to him, so you should not offer a stolen animal as a korban." But why did Rashi choose to use this verse rather than the one cited in our sugya?

HaRav Eliyahu Dessler (Michtav MeEliyahu I, pg. 126) explains that this halacha is derived from the verse cited on our daf. By citing another verse Rashi is revealing to us a principle in offering korbanos. A korban is essentially a hakravah—an opportunity to come closer to Hashem. This spiritual level applies to a "giver," but not to a "taker." An individual who aspires to take from others lacks the necessary preparation to sacrifice of himself and to come closer to his Maker.

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