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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

The master had stated: If one man buys a field in the name of another (such as the Exilarch), he cannot compel the seller to sell it to him again (and write his name in the deed). - But is this not quite obvious? — You might, however, have said that the buyer could argue: You very well knew that I was taking the field for myself, and that [in buying it in the name of the other person] I merely wanted protection, and as I was surely not prepared to throw away money for nothing I undoubtedly made the purchase on the understanding that a new deed should be drawn up for me [by you]. It is therefore made known to us that the seller can retort to him: It is for you to make arrangements with the person in whose name you bought the field that he should draw up for you a new title deed.

[the Baraisa had continued:] But if when buying it he explicitly made this stipulation, he could compel the seller to sell it to him again. - But is this not obvious? — No, it is required to meet the case where the buyer said to the witnesses in the presence of the seller: You see that I want another deed. You might in this case think that the seller could say to him: I thought that you referred to a deed to be drawn up by the one in whose name you bought the field; it is therefore made known to us that the buyer can reply to him: It was for that purpose that I took the trouble and stated to the witnesses in your own presence, [to show] that it was from you that I wanted the other deed. (103a1)

Rav Kahana transmitted some money for the purchase of flax. But as flax subsequently went up in price, the owners of the flax sold it [on his behalf]. He thereupon came before Rav and said to him: What shall I do? May I go and accept the purchase money? — He replied to him: If when they sold it they stated that it was Kahana's flax, you may go and receive the money, but if not, you may not accept it. - But was this ruling made in accordance with the view of the Western scholars who asked: Who was it that informed the seller of the wheat so that he might transfer the ownership of his wheat to the owner of the money? - [But what comparison is there?] Had Rav Kahana given four to receive eight [so that it was interest]? Was it not his flax which had by itself gone up in price and which was definitely robbed [by the vendors], and regarding this we have learned in a Mishnah that all kinds of robbers have to pay in accordance with the value at the time of the robbery? — It may, however, be said that there it was a case of advance payment, and Rav Kahana had never pulled the flax [to acquire title to it], and Rav was following his own reasoning, for Rav [elsewhere] stated: Advance payment [at present prices] may be made for [the future delivery of] products, but no advance payment [at present prices] may be made [if the value of the products will subsequently be paid] in actual money [in lieu of them]. (103a1 – 103a2)

MISHNAH: If one man robbed another to the extent of a perutah and took [nevertheless] an oath [that he did

not do so], he must pursue him with it [even as far as] to Media. He may not give it to his son nor to his agent, though he may give it to an agent of the court. If the victim died, the robber must restore it to the heirs.

If he refunded to him the principal but did not pay him the [additional] fifth, or if the other excused him the principal though not the fifth, or excused him both one and the other, with the exception, however, of less than the value of a perutah on account of the principal, he does not need to pursue him. If, however, he paid him the fifth but did not refund the principal, or where the other excused him the fifth but not the principal, or even where he remitted him both one and the other, with the exception, however, of the value of a perutah on account of the principal, he must pursue him. If he refunded to him the principal and took an oath regarding the fifth, he would have to pay him a fifth on top of the fifth and so on until the principal becomes reduced to less than the value of a perutah.

So also is the case regarding a deposit, as it is stated: in that which was delivered him as a deposit, or a loan, or a robbery, or he defrauded his neighbor, or he has found that which was lost and denied it and swore falsely, he has must pay the principal and the fifth and bring an asham offering. (103a3 – 103b1)

GEMARA: This is so [apparently] only where the robber had taken an oath against him, but if he had not yet taken an oath this would not be so. But would this be not in agreement either with Rabbi Tarfon or with Rabbi Akiva? For we have learned in a Mishnah: If a man robbed one out of five people without knowing which one he robbed, and each one claims that he was robbed, he may set down the stolen article between them and depart. This is the view of Rabbi Tarfon. Rabbi Akiva, however, said that this is not the way to liberate

him from sin; for this purpose he must restore the stolen article to each of them. Now, in accordance with whose view is the ruling of our Mishnah? If in accordance with Rabbi Tarfon, did he not say that even after he had sworn he may set down the stolen article among them and depart? If again in accordance with Rabbi Akiva, did he not say that even where no oath was taken he would have to restore the [value of the] stolen article to each of them? — It might still be in accordance with Rabbi Akiva; for the statement of Rabbi Akiva that he would have to pay for the stolen article to each of them was made only where an oath was taken, the reason being that Scripture stated: And give it to the one to whom it belongs on the day he admits his guilt. Rabbi Tarfon, however, held that though an oath was taken, our Rabbis have still made an enactment to facilitate repentance, as indeed taught in a Baraisa: Rabbi Elazar ben Tzadok says: A general enactment was laid down to the effect that where the expense of personally conveying the stolen article would be more than actual principal, he should be able to pay the principal and the fifth to the court and thereupon bring his asham offering and so obtain atonement. - And Rabbi Akiva? — He argues that the Rabbis made the enactment only where he knew whom he robbed, in which case the amount stolen would ultimately be restored to the owner, whereas where he robbed one of five people and does not know whom he robbed, in which case the amount stolen could not be restored to its true owner, our Rabbis did surely not make the enactment.

Rav Huna bar Yehudah raised an objection [from the following Baraisa]: Rabbi Shimon ben Elazar said: Rabbi Tarfon and Rabbi Akiva did not argue on the ruling that where a person bought something from five men and does not know from which of them he bought, he may leave the money for the purchase among them and

depart. They disagree only in the case where a person stole from one of five men. Rabbi Tarfon rules that the man deposits the stolen object among them and may then depart, while Rabbi Akiva rules that the man is not exempt until he pays the amount of the robbery to each and every one of them. Now, if you assume that an oath was taken here, what difference is there between purchasing and stealing?

Rava further objected [from the following]: It once happened that a certain pious man bought an article from two people without knowing from whom he had bought it, and when he consulted Rabbi Tarfon, the latter said to him: Leave the purchase money among them and depart, but when he came to Rabbi Akiva he said to him: There is no remedy for you unless you pay each of them. Now, if you assume that a [false] oath was taken here, would a pious man swear falsely? Nor can you say that he first took an oath and subsequently became a pious man, since wherever we say that 'it once happened with a certain pious man,' he was either Rabbi Yehudah ben Bava or Rabbi Yehudah the son of Rabbi Il'ai, and, as is well known, Rabbi Yehudah ben Bava or Rabbi Yehudah the son of Rabbi Il'ai were pious men from the very beginning!

[The ruling of the Mishnah] must therefore be in accordance with Rabbi Tarfon, for Rabbi Tarfon would agree where a false oath was taken, the reason being that Scripture stated: And give it to the one to whom it belongs on the day he admits his guilt, but Rabbi Akiva maintained that even where no oath was taken, a fine has to be imposed.

Now, according to Rabbi Tarfon, let us see. Where he took an oath he would surely not be subject [to the law] unless he admitted his guilt. Why then only in the case where he took an oath? Wouldn't the same hold good

even where no oath was taken, as indeed taught in a Baraisa: Rabbi Tarfon agrees that if a man says to two people, "I have robbed one of you and do not know whom," he would have to pay each of them a maneh since he made a voluntary admission? — Rava therefore said: The case of our Mishnah is different altogether, for since he knows whom he robbed and in fact has admitted it, so that it is possible to restore the stolen value to the owner, it is considered as if the victim had said to him: Let it [for time being] be in your possession. It is therefore only in the case where an oath was taken that though [it is considered as if] he said to him: Let it [for time being] be in your possession, yet since the robber is in need of atonement, this is not sufficient until it actually comes into the victim's hands, whereas where no oath was taken, the stolen article is considered as a deposit with him until the owner comes and takes it. (103b1 – 104a1)

#### DAILY MASHAL

##### Fundamentally Pious

It once happened that a certain pious man bought an article from two people without knowing from whom he had bought it, and when he consulted Rabbi Tarfon, the latter said to him: Leave the purchase money among them and depart, but when he came to Rabbi Akiva he said to him: There is no remedy for you unless you pay each of them. Now, if you assume that a [false] oath was taken here, would a pious man swear falsely? Nor can you say that he first took an oath and subsequently became a pious man, since wherever we say that 'it once happened with a certain pious man,' he was either Rabbi Yehudah ben Bava or Rabbi Yehudah the son of Rabbi Il'ai, and, as is well known, Rabbi Yehudah ben Bava or Rabbi Yehudah the son of Rabbi Il'ai were pious men from the very beginning!

The Gemara in Sukkah 53a states: The pious and the men of action would dance before the people who attended the celebration. The Sages taught in the Tosefta that some of them would say in their song praising God: Happy is our youth, as we did not sin then, that did not embarrass our old age. These are the pious and the men of action, who spent all their lives engaged in Torah and mitzvos. And some would say: Happy is our old age, that atoned for our youth when we sinned. These are the penitents. Both these and those say: Happy is he who did not sin; and he who sinned should repent and God will absolve him.

Rashi says that “chassid” “pious man” always connotes one who is fundamentally pious “chasid meikaro”, therefore they look at their youth with contentment. Chasam Sofer asks: Our Gemara indicates that a chassid can also be a penitent, as the Gemara only rejects this possibility due to the tradition that “chassid echad” is always either Rabbi Yehuda ben Bava or Rabbi Yehuda, son of Rabbi Il’ai.

Some commentaries answer that “chassid meikaro” more correctly translates as “fundamentally pious”, not “originally” or “always pious”. Therefore, Rashi only meant relative to the penitent, the chassid does not look back at his youth with regret, as he was fundamentally pious. This does not rule out that somehow a formerly sinful person could still achieve the level of chassid.

Rav Simcha Feurman says that this is an important distinction. The pre-requisite for being pious is not necessarily to be free of sin, however there must be a certain depth of wisdom and basic decency in order to properly act pious. As the Mishnah in Avos states: An ignorant person cannot be pious. From a psychological

perspective, we might say that to be pious one must be mostly free from personality and character flaws, which are fundamental. When a person has an imbalanced personality, though he or she may believe that his behavior choices, or interpretations of the actions of others, are based on piety, it may be the opposite. Sin is behavior and can be changed, but distorted beliefs and forms of attachment, are much harder to correct because these are the cognitions and feelings that drive, and even justify the sin. Such attitudes are modeled and internalized from our family and social milieu, which underscores the value of a healthy upbringing. While it is not at all impossible to change, it does require reevaluation of the basic assumptions and beliefs that lead to the behavior. If your instrumentation gives you false data, your actions will follow the faulty readings instead of reality.