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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: But if he had already given the money to the members of the Mishmar etc.

Abaye said: We may infer from this that the giving of the money effects half of the atonement, for if it has no [independent] share in the atonement, I should surely say that it ought to be returned to the heirs, on the ground that he would never have parted with the money upon such an understanding. - But if this could be argued, why should a chatas offering whose owner died not revert to its (initial) unconsecrated state, for the owner would surely not have set it aside upon such an understanding? — It may however be said that regarding a chatas offering whose owner died there is a halachah handed down by tradition that it should be left to die. - But again, according to your argument, why should an asham offering whose owner died not revert to its (initial) unconsecrated state, as the owner would surely not have set it aside upon such an understanding? — With regard to an asham offering there is similarly a halachah handed down by tradition that whenever [an animal, if set aside as] a chatas offering would be left to die, [if set aside as] an asham offering it must graze (until it develops a blemish, and then it is redeemed). - But still, according to your argument why should a yevamah who falls for yibum to one affected with boils not be released [even] without the act of chalitzah, for surely she would not have consented to betroth herself upon this understanding? — In that case we all can bear witness that she was quite prepared to accept any conditions, as we learn from Rish Lakish; for Rish Lakish said: It is better [for a woman] to dwell as two than to dwell alone. (110b4 – 111a1)

***All in the right time... and order***

[If one steals from a convert (who subsequently died with no heirs), falsely swears his innocence, and then admits his theft, he must repay the principle and a fifth (chomesh) to the Kohanim, as well as bring an asham sacrifice, offered by the Kohanim. Both elements – the payment and the asham – are to be given to the Kohanim of the current rotation, with the payment being given before the asham. If the asham was offered before the principle, the asham is not valid, and another one must be brought after the principle is paid.] The Mishnah had stated that if one gave the money to the Kohanim of the Yehoyariv (the first Kohanim rotation of the year) etc. (and the asham to Yedayah (the last rotation of the year), he has fulfilled his obligation, since he brought the items in the correct order. If he gave the asham to Yehoyariv, and then the money to Yedayah, the asham was brought too early. Therefore, if the asham has not yet been offered by the Kohanim, it should be offered by the Yedayah rotation. If it has been offered, the thief must bring a new asham to the Yedayah rotation, since his first asham was invalid).

The Gemora cites a Baraisa that indicates that this last case is a dispute between Rabbi Yehudah and the Chachamim. Rabbi Yehudah says that the money is returned to the Yehoyariv rotation, while the Chachamim say that the asham should be returned to the Yedayah rotation (as the Mishnah stated).

What are the circumstances of the case? If the thief gave the asham and money to the rotations during their respective rotation week, all would agree that no adjustments are made, since each rotation got what was due to them in their allotted time. Rather, Rava explains that the case of the Baraisa is when both the asham and money were given during the Yehoyariv rotation week, but the asham was first given to the Yehoyariv Kohanim, and then the money was given to the Yedayah Kohanim. Rabbi Yehudah says that since the Yedayah Kohanim took something during another rotation week, they are fined, and the item is returned to the rightful rotation Kohanim. The Chachamim say that since Yehoyariv took the asham at an invalid point in the process – before the money was paid – we fine them, and take the asham from them, and give it to the rotation that received the money.

The Gemora brings three Baraisos in which Rabbi Yehudah Hanasi (Rebbe) discusses Rabbi Yehudah's opinion in variations of the case discussed in the original Baraisa.

1. In the first Baraisa, Rebbe says that according to Rabbi Yehudah, if the Yehoyariv Kohanim sacrificed the asham before the money was paid, they can keep the asham, but a new one must be brought, and given to the Yedayah rotation, and these (the Yehoyariv Kohanim) have acquired that which is in their hands. – they said: For what is the asham fit, as it is a disqualified asham? Rava explains that (although the original asham is invalid, and must be destroyed) its hides are kept by the Yehoyariv rotation.
2. In the second Baraisa, Rebbe states that according to Rabbi Yehudah, if the asham is still extant, it must be given to the Yedayah Kohanim. - But Rabbi Yehudah says (the opposite) that the money reverts to where the asham is? We are referring to a case where the Yehoyariv Kohanim only claimed the money once their rotation time was over. Since they waited that long, they already forfeited their claim, and forgave

the money to the Yedayah family, and must give them the asham.

3. In the final Baraisa, Rebbe states that according to Rabbi Yehudah, if the asham is still extant, the money must be returned to the Kohanim who received the asham. – Is this not obvious? – Here we are referring to a case where both rotation times have passed without either Yehoyariv and Yedayah stating a claim. I might have thought that once a rotation time passed, the claim was forfeited, Rebbe teaches us here that since both rotations passed, we revert back to the basic rule, that the money is given to the rotation which received the asham.

[The time line below summarizes the opinion of Rabbi Yehudah.

<b>Rotation week:</b>	Yehoyariv		.....	Yedayah	...
<b>Event:</b>	Asham	Money (Yedayah)			
<b>Halacha:</b>	Money transferred		Asham transferred	Money transferred	

(111a1 – 111a2)

### ***Elements of Atonement***

The Gemora discusses the basic rule of the Mishnah that if one brought the asham before paying the principle, he has not fulfilled his obligation.

From where is this derived? Rava explains that this is due to the wording of the verse. The Torah says that the thief must pay the principle (the guilt payment – asham) that he returns to the kohain, *milvad ail ha'asham asher yechaper bo alav – beside the ram of the asham sacrifice, with which he will be atoned for*. The Gemora first thought that the proof was due to the word *milvad – beside*, which implies that the item in the first clause (the money) is primary, and the item in the second clause (the asham

sacrifice) is secondary. One of the scholars then challenged Rava: But according to this reasoning will it not follow that in the verse: You shall offer these beside the morning olah, it is similarly implied that the mussaf offering will have to be sacrificed first? But was it not taught in a Baraisa: From where do we know that no offering should be sacrificed prior to the morning tamid? Because it is stated: And he shall arrange the olah upon it, and Rava stated: The olah means the first olah? — Rava explains that his source was not from *milvad*, but rather from the tense of the second clause. The verse refers to the asham sacrifice, that *yechaper – he will be atoned for*, indicating that the asham will only be brought at a time later than the money. (111a2 – 111a3)

#### **Hekdesh vs. Laymen**

[The Gemora concludes the perek with a halachah which is parallel to the thief who pays principle and brings an asham sacrifice. When one mistakenly takes hekdesch property (me'ila), he must pay to hekdesch the value of the hekdesch, as well as a fifth (chomesh), and he must bring an asham sacrifice.]

The Mishnah had stated: If he gave the Kohen the principal etc.

Our Rabbis taught in a Baraisa: From where could it be derived that if he brought the principal due for his misappropriation of hekdesch but had not yet brought the asham offering, or if he brought the asham offering but had not yet brought the principal due for me'ilah, he did not thereby fulfill his obligation? Because it says: With the ram of the asham offering and it shall be forgiven for him. And from where could it be derived that if he brought his asham offering before he brought the principal due for the me'ilah he did not thereby fulfill his obligation? Because it says: With the ram of the asham, implying that the asham [itself] has already been made good. It might be thought that just as the ram and the asham are indispensable, so should the fifth be indispensable? It is

therefore stated: With the ram of the asham offering and it shall be forgiven for him, implying that it was only the ram and the asham which are indispensable in [the atonement for the me'ilah of] consecrated things, whereas the fifth is not indispensable. Now, the law regarding consecrated things could be derived from that regarding private belongings and that of private belongings could be derived from the law regarding consecrated things. The law regarding consecrated things could be derived from that regarding private belongings: just as 'asham' there denotes the principal so does 'asham' here denote the principal. The law regarding private belongings could be derived from that regarding consecrated things: just as in the case of consecrated things the fifth is not indispensable, so in the case of private things the fifth is similarly not indispensable. (111a3 – 111a4)

#### **WE SHALL RETURN TO YOU, HAGOZEL EITZIM**

##### **Inheritance**

[The last chapter in Bava Kamma continues discussing halachos of theft and robbery.] The Mishnah states that if one robbed an item from someone, fed his children with it, or left the item to them, and then died, the children are not obligated to pay the victim. However, if the item was one with "responsibility", the children must pay. [The Gemora will discuss at length the parameters of the Mishnah, including what occurred subsequent to the theft, and what responsibility means.] (111b1)

##### **Despair**

Rav Chisda said that if one robs an item, without the victim despairing of retrieving the item, and then another person robbed the item from the first burglar, the victim may collect from either thief. What is the reason for this? Until the victim despairs of recovering the item, it is in his possession. [Therefore, both thieves have stolen it from him, and are liable.]

The Gemora asks a question on Rav Chisda from our Mishnah. The Mishnah stated that the children who inherited and ate the stolen item are not liable, indicating that one who seizes a stolen item from a burglar is not liable. This is a refutation of Rav Chisda!

Rav Chisda explains that this Mishnah is referring to a case where the victim despaired (and therefore is not the owner at the time that the children received or ate the stolen item). (111b1)

The Mishnah had stated: If he left it before them (as an inheritance), they are not liable to pay.

Rami bar Chama said that the Mishnah indicates that the transfer of ownership accomplished by inheritance is equivalent to the transfer of ownership accomplished through a sale. [Rami bar Chama assumes, like Rav Chisda, that the Mishnah refers to a case where the victim despaired. Rami bar Chama holds that despair removes the item from the legal possession of the victim, only when combined with a change of domain. Therefore, the mechanism in the Mishnah whereby the children acquire the stolen item is despair, coupled with the inheritance, which is a bona fide change of domain.] Rava disagrees, and says that domain of an heir is not like the domain of a buyer. And our Mishnah refers to a case where the item was eaten (and cannot be returned). [Since the children did not steal, they have no further monetary obligation.]

The Gemora objects to this based on the latter part of the Mishnah, where the Mishnah stated that if the item was one with responsibility, the children must pay. This indicates that the first part of the Mishnah as well refers to a case where the item still exists (and even then, only an item with responsibility must be returned). - Rava explains that this part of the Mishnah means that if the father left the children property that has responsibility, i.e., real estate, they must use this real estate to pay (since

the theft put a lien on the estate before the father's death.)

The Gemora objects to this explanation, based on the lesson Rebbe taught his son Rabbi Shimon. Rebbe told him that the Mishnah is not just referring to a theft of land, but rather any item, such as a cow with which the heir plows, or a donkey with which he walks after it (that is recognizable and publicly used). Such an item must be returned, so as not to shame their father when people see them using it.

Rava therefore said: When I pass away Rabbi Oshaya will come out to meet me, since I am explaining the Mishnah's text in accordance with his teaching, for Rabbi Oshaya taught the following Baraisa: Where he misappropriated [foodstuff] and fed his children, they would not be required to make restitution. If he left it to them [as an inheritance] so long as the misappropriated article is in existence they will be liable, but as soon as the misappropriated article is no more intact they will be exempt. But if their father left them property constituting [legal] security they would be liable to pay.

The master had stated: As soon as the misappropriated article is no more intact they will be exempt. – Is this not a refutation of Rav Chisda? – Rav Chisda would answer that the Baraisa refers to a case where the victim despaired (and therefore lost ownership of the item).

The master had stated: So long as the misappropriated article is in existence they will be liable. – Is this not a refutation of Rami bar Chama? – Rami bar Chama would answer that the Baraisa refers to a case where the victim did not despair (and therefore inheritance, like a sale, will not remove ownership). (111b1 – 112b1)



## INSIGHTS TO THE DAF

### Eating cheese after a large quantity of meat

A Jew was stricken with a severe illness that prevented him from eating normally and he was equipped with an apparatus that introduced food directly into his stomach. He asked the author of Chelkas Yaakov (O.C., 52, 216) if he should say a blessing before the alimentation, though the food would not enter his body orally. To answer this question, we must define the conditions obligating a blessing before eating.

Our sugya explains that a satiated person, who cannot eat any more, is not allowed to observe the mitzvah of eating a portion of a sacrifice. Such an act would be considered “forced eating” (achilah gassah) and not regarded as eating at all Rashi: “Achilah gassah”; see Shaar HaTziyun, O.C. 602:15). This law originates from the Gemara (Yoma 80b) stating that someone who eats achilah gassah on Yom Kippur, such as someone who became sated just before the fast and continued to eat after nightfall, is not regarded as having broken the fast because achilah gassah is not regarded as eating but rather as damage to the body. Such a person is therefore not considered as having violated the fast since he has no benefit from the food. Indeed, according to Mishnah Berurah, no blessing should be pronounced on achilah gassah as it is not considered eating.

Eating lends us two sorts of pleasure: (a) the pleasure felt in the palate and throat while chewing and swallowing and (b) the feeling of satiety and elimination of hunger while the food is in the stomach. We may therefore say that someone must make a berachah only if he feels pleasure in his mouth. Someone who eats achilah gassah will not feel hungry for a long time but is exempt from blessing as his action is not considered eating. Hence, someone who is nourished non-orally is exempt from making a blessing as his throat and palate have no

pleasure therefrom. Apparently, since achilah gassah is not regarded as eating, we now consider another case: May someone who has eaten a large quantity of meat – to the point where he cannot eat any more – eat milk products immediately? According to what we have learnt, his consumption of the dairy products is not considered eating. Still, Mishneh LaMelech (Hilchos Yesodey HaTorah 5:8) rules that he must not eat dairy products as the Torah does not mention the term “eating” in regard to this prohibition. Rather, the Torah says “You must not cook a kid in its mother’s milk” (Shemos 26:9) and therefore we cannot rely on the loophole of achilah gassah. (See Mishneh LaMelech, *ibid.*, as to his doubts regarding the prohibition of eating neveilah by means of achilah gassah).

## DAILY MASHAL

### Rashi’s Visit to Cracow

In our sugya Rava says he was used to explaining the opinions of his teacher Rabbi Oshaya and was sure that at his death Rabbi Oshaya would come to greet him.

The gaon Rabbi Yehoshua bar Rav Yosef of Cracow, teacher of the Shach, composed a special work to reconcile the objections of the Tosefos to Rashi and even called it Meginey Shlomo (“Shields of Shlomo”, as Shlomo was Rashi’s first name). His grandson wrote in the preface that Rashi appeared before the author and said, “Happy are you in this world and you will enjoy the next. As you save me from the lions, the geniuses of the Tosefos, I shall come to greet you in the World to Come with all my students.”

Indeed, shortly before his demise, Rabbi Yehoshua spoke to the great personalities of Cracow who surrounded his bed and said, “Make way for Rabbi Shelomo Yitzchaki and all his holy students as they have come to show me the way of life as I have always supported him to answer the Tosefos” (Chida, Shem HaGedolim)