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Change

Abaye said: Rabbi Shimon ben Yehudah, Beis Shammai, Rabbi Eliezer ben Yaakov, Rabbi Shimon ben Elazar and Rabbi Yishmael all maintain that a change leaves the article in its previous status.

That Rabbi Shimon ben Yehudah holds like this was proven above. How do we know that Beis Shammai holds like this? For it was taught in the following *Baraisa*: If a man gave a harlot wheat as her payment (*which cannot be used for a korban*), and she made them into flour, or olives and she made them into oil, or grapes and she made them into wine, it was taught in one *Baraisa* that the produce is still forbidden to be used as an offering, whereas it was taught in a different *Baraisa* that it is permitted. And Rav Yosef said: Guryon of Aspurk learned: Beis Shammai is the one who prohibit the produce (*for a change remains in its place*), whereas Beis Hillel permits it.

Now, what was the reason of Beis Shammai? — Because it is written ‘gam’, to include their transformation. But Beis Hillel maintains that ‘hem’ implies only them and not their transformations. Beis Shammai, however, maintains that though ‘hem’ is written, what it implies is ‘them and not their offsprings’. Beis Hillel still argue that you can understand both points from it: ‘them and not their transformations, them and not their offsprings’. But how could Beis Hillel explain the insertion of ‘gam’? ‘Gam’ offers a difficulty according to the view of Beis Hillel.

How do we know that Rabbi Eliezer ben Yaakov holds like this? For it was taught in the following *Baraisa*: Rabbi Eliezer ben Yaakov says: If one stole a *se’ah* of wheat and he grinded

it into flour, kneaded it and baked it and set aside a portion of it as *challah*, how would he be able to recite the benediction? He would surely not be pronouncing a blessing but blaspheming Him (*for although it has changed, it is still regarded as the stolen object*), as to such a one could be applied the words: *The robber pronounced a blessing but in fact blasphemed Hashem*.

How do we know that Rabbi Shimon ben Elazar holds like this? For it was taught in the following *Baraisa*: Rabbi Shimon ben Elazar laid down the following rule: In respect of any improvement carried out by the robber, he would have the upper hand; if he wants, he can take the improvement, or if he wants, he may say to the owner, “What is yours is before you.”

The *Gemora* asks: What is meant by this last statement (*why would the robber say this if the object appreciated in value*)?

Rav Sheishes explains: This is meant: Where the object has been improved, the robber may take the increased value, but where it has depreciated, he may say to the owner, “What is yours is before you,” as a change leaves the article in its previous status.

The *Gemora* asks: But if so, why should it not be the same even in the case where the object was improved?

The *Gemora* answers: It is because of an enactment in order to make matters easier for the robber to repent.

How do we know that Rabbi Yishmael holds like this? For it was taught in the following *Baraisa*: Rabbi Yishmael says: The *mitzvah* of *pe’ah* requires that it should be set aside

from standing crops. If, however, the owner did not set it aside from standing crops, he should set it aside from the sheaves. If he did not set it aside from the sheaves, he should set it aside from the pile of kernels so long as he has not evened the pile. But if he had already evened the pile, he must first take *ma'aser* from it (*for although pe'ah and all gifts to the poor are exempt from ma'aser, once the pile has been evened and pe'ah has not been removed from it, the ma'aser obligation takes effect*) and then set aside the *pe'ah* for the poor. Moreover, in the name of Rabbi Yishmael it was stated that the owner would even have to set it aside from the dough and give it to the poor (*for even after it was baked into bread, it is still the same item and there is still an obligation to give pe'ah from it*). (93b5 – 94a2)

Rav Pappa asked Abaye: Why was it necessary for all these *Tannaim* to teach a *halachah* in accordance with Beis Shammai? He replied: It was for the purpose of telling us that Beis Hillel and the Beis Shammai did not differ at all on this matter. (94a2 – 94a3)

Rava asked: On what basis do you have for saying that all these *Tannaim* follow one view? Why not perhaps say that Rabbi Shimon ben Yehudah meant his statement there to apply only to the case of dyeing on account of the fact that the color could be removed by soap? And perhaps Beis Shammai mean their view there to apply only to an offering to the Most High because it looks repulsive!? And perhaps Rabbi Eliezer ben Yaakov meant his statement there to apply only to a blessing because it is a *mitzvah* performed by the means of a transgression (*the brocha on the stolen object*)!? And perhaps Rabbi Shimon ben Elazar meant his view there to apply only to a deterioration which can be reversible!? And perhaps Rabbi Yishmael meant his view there to apply only to the law of *pe'ah*, on account of the repeated expression: *You shall leave*!?

And if you will ask that we should derive the law (*that a change does not effect acquisition*) from the case of *pe'ah*, we can surely answer that gifts to the poor are different (*and you cannot compare it to other halachos*).

Rava proves that Rabbi Yishmael's *halachah* (*that pe'ah is given from dough*) is based upon the extra "*you shall leave*" from that which Rabbi Yonasan inquired. For Rabbi Yonasan inquired about the reason of Rabbi Yishmael: Was it because he held that a change does not transfer ownership, or does he as a rule hold that a change would transfer ownership, but here it is different on account of the repeated expression, "*you shall leave*"?

The *Gemora* asks: But if you assume that the reason of Rabbi Yishmael was because a change does not transfer ownership, why then did the Torah repeat the expression "*you shall leave*"? And furthermore, according to the Rabbis (*who disagree with Rabbi Yishmael*), why did the Torah repeat the expression "*you shall leave*"?

The *Gemora* answers: This verse was necessary for that which was taught in the following *Baraisa*: If a man declares his vineyard *hefker* and rises early on the following morning and picks his fruit, he is obligated in *peret* (*one or two grapes that fall off from the cluster during the cutting, which must be left for the poor*), *oleilos* (*a small, underdeveloped cluster of grapes*), *shich'chah* (*one or two vines which were forgotten while harvesting are left for the poor*) and *pe'ah* (*leaving over a corner of the field for the poor*); but he is exempt from giving *ma'aser*.

[*The Ra"n in Nedarim explains: Normally, ownerless crops are exempt from all of these; however, since in all these (excluding ma'aser) the Torah uses an extra expression of abandoning (ta'azov), it is inferred that the obligation applies in any case where he is keeping them for himself. But since there is no extra expression by ma'aser, there is no distinction between a case where others harvest it or if he himself harvests it; there is still no obligation for ma'aser.*]
(94a3 – 94a4)

Rav Yehudah said in the name of Shmuel: The *halachah* follows Rabbi Shimon ben Elazar (*who holds that if the stolen*



object depreciates in value, the thief may still return it to the owner “as is”).

The *Gemora* asks: Does Shmuel hold like this? But Shmuel said: No assessment was made for a thief or a robber (*if the stolen animal dies by them, they cannot use the carcass as part of the payment – they must pay for the animal in full*). *Beis Din* assesses (*the worth of the carcass*) only in cases of damages. Now, it is understandable according to Rava, who said that Rabbi Shimon ben Elazar maintains his opinion (*that the thief can return the depreciated object “as is”*) when it is a reversible change. Accordingly, we can answer that Shmuel said his *halachah* only regarding a case where the deterioration is irreversible, however, according to Abaye, who holds that Rabbi Shimon ben Elazar maintains his opinion even when the deterioration is irreversible, what is there to say?

Abaye taught the ruling as follows: Rav Yehudah said in the name of Shmuel: They have said that the *halachah* follows Rabbi Shimon ben Elazar, but he (*Shmuel*) does not hold like that. (94a5 – 94b1)

Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: Biblically, the *halachah* would be that a stolen object which has changed should be returned to the owner “as is,” as it is written: *And he shall return the stolen object that he stole*. We derive from here that in all cases the stolen object must be returned. And if you will ask from our *Mishnah* (*which states that if one steals wood and makes it into utensils, or wool and he makes of it garments, he pays their value as at the time of the robbery*), the answer is that the Rabbis instituted an enactment in order to help the thieves repent (*so they will not have to lose out on their improvements*).

The *Gemora* asks: Does Rabbi Yochanan actually hold like this? But Rabbi Yochanan said that the *halachah* always follows an anonymous *Mishnah*, and we learned in a *Mishnah*: If the owner did not manage to give the first of the shearings to the *Kohen* until it had already been dyed, he would be exempt (*from giving it to the Kohen, for now that*

it has been changed, it is not regarded as being “the first of his shearings”!)? [We see that change can be effective Biblically!?!]

Rabbi Yaakov answered: Rabbi Yochanan was referring to a case where he stole planed wood and made them into utensils. Since it is a reversible change, it Biblically does not effect acquisition. (94b1)

Returning Stolen Goods

The *Gemora* cites a *Baraisa*: If robbers or lenders on interest repent and wish to return their misappropriated articles, it is not right to accept the money from them, and he who does accept from them does not obtain the approval of the Sages.

Rabbi Yochanan said: It was in the days of Rebbe that this teaching was taught, as we learned in a *Baraisa*: It once happened with a certain man who was desirous of making restitution (*and return that which he stole*) that his wife said to him, “Empty one! If you are going to repent, even the belt you are wearing would not remain yours,” and he thus refrained altogether from making repentance. It was at that time that it was declared that if robbers or lenders of interest are prepared to make restitution, it is not right to accept the money from them, and he who does accept from them does not obtain the approval of the Sages.

The *Gemora* asks that this would be a contradiction to the following *Baraisa*: If a father left to his children money accumulated from interest, even if the inheritors know that the money was taken as interest, they are not obligated to restore the money to the owners.

Now, does this not imply that it is only the children who are not obligated, whereas the father would be obligated to return the money!?

The *Gemora* answers: The *halachah* might be that even the father himself would not be obligated to return the money, and the reason why the ruling was stated with reference to

the children was that since it was necessary to state in the following clause: If the father left them a cow or a garment or anything distinct, they are obligated to return it in order to uphold the honor of the father, the first clause similarly spoke of them.

The *Gemora* asks: But why should they be obligated to return it in order to uphold the honor of the father? Why not apply to them that which is written: *and a prince among your people you shall not curse*, which is explained to mean so long as he is acting in the ways of “*your people*” (*but if he is a sinner, there should be no obligation to honor him*)?

The *Gemora* answers: It is as Rav Pinchas answered elsewhere: We are referring to a case where the father had made repentance.

The *Gemora* asks: But if the father made repentance, why were these monies still left with him? Should he not have returned it?

The *Gemora* answers: It might be that he had no time to return it before he suddenly died. (94b1 – 94b3)

The *Gemora* asks from a *Baraisa*: Robbers and lenders of interest, even after they have collected the money, they must return it.

The *Gemora* asks: But what collection could there have been in the case of robbers? If they robbed something, they committed robbery, and if they did not rob anything, they were not robbers at all? It must therefore read as follows: Robbers, that is to say those who lend with interest, even after they have already collected the money, they must return it. [*This is against the Baraisa above, which stated that the interest should not be returned!?*]

The *Gemora* answers that although they have to make restitution of the money, it would not be accepted from them. If so, the *Gemora* asks: Why should they return it?

The *Gemora* answers: It is to fulfill their duty to Heaven. (94b3)

Come and hear from the following *Baraisa*: For shepherds, tax collectors and customs collectors it is difficult to make repentance, yet they must make restitution [of the articles in question] to all those whom they know [they have robbed]. — It may, however, [also here] be said that though they have to make restitution, it would not be accepted from them. - If so why do they return it? — [To make it quite evident that out of their free will] they are prepared to fulfil their duty before Heaven. - But if so why should it be difficult for them to make repentance? And furthermore, why was it said in the concluding clause that out of articles of which they do not know the owners they should make public utilities, and Rav Chisda said that these should be cisterns, trenches and vaults? — There is, however, no difficulty, as this teaching was enunciated before the days of the enactment, whereas the other statements were made after the enactment.

An alternative explanation: And now, as Rav Nachman has stated that the enactment referred only to a case where the misappropriated article was no more intact, it may even be said that both teachings were enunciated after the days of the enactment, and yet there is no difficulty, as the latter deals with a case where the misappropriated article is still intact whereas the other teaching refers to a case where the misappropriated article is no more intact. - But what about the belt [referred to above], in which case the misappropriated article was still intact? — What was meant by ‘belt’ was the value of the belt.

But is it really the fact that so long as the misappropriated article was intact our Rabbis did not make this enactment? What then about the beam in which case the misappropriated article was still intact and we have nevertheless learned in a Mishnah: [Rabbi Yochanan ben Gudgada testified] that if a misappropriated beam has been built into a house, the owner will recover only its value? — That matter is different altogether, for since the house



would otherwise be damaged. the Rabbis regarded the beam as being no longer intact. (94b3 – 95a1)

INSIGHTS TO THE DAF

Reciting a brachah on Forbidden Food

In our daf it is taught that if one has made a dough from stolen wheat one should not say the brachah when performing the mitzvah of separating challah. "This is not a blessing, it is a blasphemy." The very dough intended for the performance of a mitzvah was acquired in an unlawful manner.

Brachos on Forbidden Food: Does the same principle apply to the brachah we recite when partaking of food, i.e., if someone on his own volition were to eat something that is halachically forbidden should he recite a brachah. Since eating the forbidden food is committing an offense, apparently the brachah would be an abomination. A differentiation can be made: A brachah on a mitzvah gives praise to Hashem upon fulfilling His will and as a person is commanded not to sin, his deeds are contradicting his words. The brachah on food, however, is thanksgiving for sustenance and though the food is forbidden, it is still satisfying. (See Kaf Hachaim §196 S.K. 4) This question is disputed by the Rambam and Ravad (Hilchos Brochos 1:19) According to the Ravad since one is deriving pleasure from the food one must recite a brachah. The Rambam maintains that one should not recite a brachah and it is this opinion that the Shulchan Oruch follows. (O.C. 196:1).

A brachah on Stolen Food: Even after reaching the above ruling there is an instance in dispute amongst the poskim. Does one recite a brachah on a food that was acquired in an illegal fashion; though by eating per se there is no transgression. The example given is grapes that were stolen and processed into wine. By having undergone this change, the thief has assumed ownership and is not forbidden to drink the wine. Some poskim are of the opinion that he must recite a brachah since there is no transgression involved in

the drinking of the wine. Other poskim maintain that since the food was acquired in an illicit fashion one should refrain from making the brachah. (See Mishnah Berura 196 S.K. 4). In practice the brachah should not be said, for he might be blaspheming.

Reciting Kiddush on Stolen Wine: There is a novel proposal mentioned by the Achronim that if one were to mistakenly make Kiddush on this wine, the mitzvah would be achieved and the brachah would not be a blasphemy. By closely analyzing the brachah recited before performing a mitzvah and the brachah recited before eating, one will observe certain characteristics that turn the blessing into a blasphemy when recited on stolen foodstuff. In the case of the brachah on a mitzvah we proclaim, "Asher kidishanu bemitzvosav v'tzivanu..." The language clearly implies that we are doing Hashem's will. This is blasphemous for it is obviously not His will that we steal in order to fulfill a mitzvah. Similarly, the essence of the brachah that precedes our eating is a thanksgiving to Hashem for providing food. Thanking Hashem for food received in an illegal manner is blasphemous. (See Korban Nesanel Pesachim Ch. 2 18:100 and Dvar Avrohom I 16:28) The brachah of Kiddush is unique in that it has neither of these problems. It is not a brachah uttered to thank for food, nor does it explicitly mention that we are performing a mitzvah. (Tziz Eliezer XIV 41:5).

DAILY MASHAL

A Measure for a Measure

It is told that the reason why Sarah passed away before Avrohom Aveinu is because she complained that he did not pray for her to have children. The author of Hafla'ah (in Panim Yafos Bereishis 16:5) gives us a fascinating explanation. Since a woman is not obligated by the Torah to bear children, it must be that Sarah's desire stemmed from her concern as to who would assist her in her old age, or who would look after her burial. These were legitimate concerns if she would outlive Avraham. So by complaining she was hinting at his early demise. This was therefore the punishment that she received; to die before Avraham.