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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

**Protecting Land**

Rava said: The verse, *for any lost object of your brother includes the loss of land (he should try to prevent the land from becoming ruined)*.

Rav Chananyah cited a *Baraisa* to support Rava: If one saw that water was flowing towards someone’s field, he should build a fence in front of it.

Rava said: Perhaps it is no proof to me, for the *Baraisa* can be referring to a case where there were bundles of wheat piled on the field. – If there are bundles of wheat, what purpose is there to even say that he must protect them?

The *Gemora* notes that the novelty of this might be in a case where the bundles still need the ground (*they are still rooted in the ground*). You might have said that since they need the ground, they should be treated as ground; the *Baraisa* teaches us that they are not treated as ground. (31a1)

**Running and Grazing On the Roads and Vineyards**

The *Mishnah* had stated: If one finds a donkey or cow grazing on the road, it is not a lost object. If he finds a donkey whose vessels are upside down or a cow running through the vineyard, this is a lost object.

The *Gemora* asks: The inferences from the *Mishnah* are contradictory!? We may infer from the first part of the *Mishnah* that if the animal was grazing on the road, it is not regarded as a lost object, but if it would have been running on the road or grazing in the vineyards, it would

be regarded as a lost object. However, we may infer from the latter part of the *Mishnah* that it is only regarded as a lost object if it was running in the vineyards, but if it would have been running on the road or grazing in the vineyards, it would not be regarded as a lost object!?

Abaye said: *Its friend sheds light on the other*. The *Mishnah* taught us that if the animal was grazing on the road, it is not regarded as a lost object, and the same *halachah* would apply if it would have been grazing in the vineyards. The *Mishnah* also taught us that if it was running in the vineyards, it is regarded as a lost object, and the same *halachah* would apply if it would have been running on the road. [*The Mishnah is teaching us that if the animal was found grazing, it is not regarded as a lost object; if it was found running, it is regarded as a lost object.*]

Rava asked: If *its friend was shedding light on the other*, should the *Mishnah* not have listed the most lenient cases and we would most certainly derive from there the stricter cases!? The *Gemora* explains: If the *Mishnah* would have stated that the animal running on the road is regarded as a lost object, we would most certainly derive from there that it is regarded as a lost object if it was running in the vineyards! And if the *Mishnah* would have stated that the animal grazing in the vineyard is not regarded as a lost object, we would most certainly derive from there that it is not regarded as a lost object if it was grazing by the road!?

Rather, Rava answers as follows: When we inferred from the first part of the *Mishnah* that if the animal would have been running on the road it would be regarded as a lost object, that is only when it was running towards the wilderness (*away from the owner*), and when we inferred from the *Mishnah* that it would not be regarded as a lost object, that is only when it was running towards the city (*the place where the owner resides*). And when we inferred from the *Mishnah* that if it would have been grazing in the vineyards, it would be regarded as a lost object, that was only with respect of the land (*which would suffer as a result of the lost animal; he is therefore obligated to return it*), and when we inferred from the *Mishnah* that if it would have been grazing in the vineyards, it would not be regarded as a lost object, that was only with respect of the animal, for it will not get injured by merely grazing in the vineyard (*as long as it was not running*).

The *Gemora* asks: But shouldn't the animal be returned because of the loss of land (*as a result of the animal's grazing*)?

The *Gemora* answers: In this case, the land belongs to a Cuthean (*and we are not obligated to be concerned for their land*).

The *Gemora* asks: But should we not be concerned that the Cuthean will kill the animal?

The *Gemora* answers: We are dealing with a case where they warn the owner before killing the animal.

The *Gemora* asks: But perhaps this is the second time (*and the owner was in fact warned already*)?

The *Gemora* answers: If his animal went there a second time, it is regarded as an intentional loss (*and the finder does not need to be concerned about it*). (31a1 – 31a3)

### **The Torah's Language**

The *Mishnah* had stated: If he returned the animal and it ran away, and he again returned it and again it ran away, even if it happens four or five times, he must keep on returning it, as the verse states, "*You shall surely return.*"

A certain Rabbi asked Rava: Perhaps the Torah only obligated the finder to return it two times? Rava replied: The word "*return*" indicates that he must return it even a hundred times. From here we only know that it can be returned to the owner's house. How would we derive that it may also be returned to his garden or to his ruins? It is written further: *You shall return them*. This teaches us that it may be returned everywhere. Now, to what kind of garden and ruins may it be returned? If you say that we are referring to a garden which is guarded and to ruins which are guarded, is this not obvious (*are these not equivalent to his house where the Torah already stated that the object can be returned there*)? Rather, it refers to a garden which is guarded and to ruins which are guarded, and the verse is teaching us that it is not necessary to notify the owner (*when returning his lost object*).

This is indeed supported by Rabbi Elazar, for Rabbi Elazar said: In all cases (*when something is being returned*), notification must be given to the owner, with the exception, however, of returning a lost object, as the Torah included many expressions of returning (*hasheiv teshiveim*). (31a3 – 31a4)

The *Gemora* cites other instances where the Torah writes a similar terminology:

1. *Send away, you shall send away the mother bird.*

Let us say that shaleach means once, teshalach twice? — He replied, shaleach implies even a hundred times. As for teshalach: I know [this law] only [when the bird is required] for a permissive purpose; how do I know it when it is required for the fulfillment of a mitzvah?

Therefore, Scripture writes, 'teshalach', implying under all circumstances.<sup>1</sup>

2. *Rebuke, you shall rebuke your friend.*

One of the Rabbis said to Rava: *Rebuke, you shall rebuke your friend*. Perhaps *hocheiach* means once, *tochiach* twice? — He replied, *hocheiach* implies even a hundred times. As for *tochiach*: I know only that the master [must rebuke] the disciple; from where do we know that the disciple [must rebuke] his master? From the phrase, 'hocheiach tochiach,' implying under all circumstances.<sup>2</sup>

3. *Help, you shall help with him.*

[From this] I know it only if the owner is with it; from where do I know [the law] if its owner is not with it? From the verse, 'you shall surely help with him' — in all circumstances.<sup>3</sup>

4. *Raise up, you shall raise up with him.*

[From this] I know it only if the owner is with it; from where do I know [this law] if the owner is not with it? From the verse, 'you shall surely help him to lift them up again.'<sup>4</sup>

Why is it necessary to teach this by unloading and loading? I would have thought that this would be the *halachah* only by unloading where there is suffering to the animal and there is a monetary loss to the owner — therefore, the Torah needed to teach it by loading as well. I would have thought that this would be the *halachah* only

by loading where the owner is obligated to pay the helper - therefore, the Torah had to teach it by unloading as well. Thus both are required. But according to Rabbi Shimon's view that loading too is without remuneration, what can you say? — In Rabbi Shimon's view the verses are not explicit.<sup>5</sup>

Why is it necessary to teach this by unloading, loading and returning a lost object (*for these halachos are merely teaching us to help protect your friend's property*): I would have thought that this would be the *halachah* only by loading and unloading where there is suffering to the owner and to the animal — therefore, the Torah needed to teach it by returning a lost object as well. I would have thought that this would be the *halachah* only by returning a lost object, where the owner is not with the object (*and he cannot help*) - the Torah needed to teach it by loading and unloading as well. Thus both are required.

5. *He who hit the man shall die, he shall die.*

I know only [that he is to be executed] by the mode of death prescribed in his case; from where do I know that if you cannot execute him with the death prescribed for him, you may slay him with any death you are able? From the verse, 'He shall surely be put to death,' meaning under all circumstances.<sup>6</sup>

6. *Smite, you shall smite.*

I know only [that you may execute them] with the death that is prescribed in their case. From where do I know that if you cannot slay them with the death that is prescribed

<sup>1</sup> One must send away the mother bird even a hundred times (*if she returned before he took its young*). The verse teaches us that he must send her away even if he wants the young in order to fulfill a *mitzvah* (*such as in a case of a metzora*).

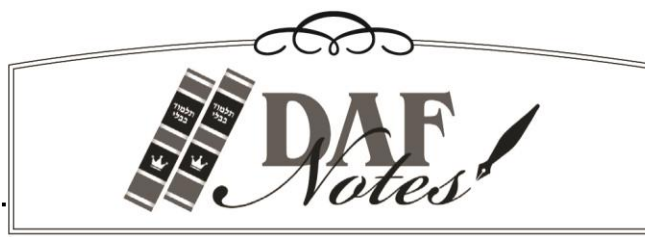
<sup>2</sup> One must rebuke his friend even a hundred times. The verse teaches us that even a student must rebuke his teacher (*if he is committing a transgression*).

<sup>3</sup> The verse teaches us that one must help the owner unload his donkey even if the owner is not helping (*if he is old or sick*).

<sup>4</sup> The verse teaches us that one must help the owner load his donkey even if the owner is not helping (*if he is old or sick*).

<sup>5</sup> It is not clear which refers to unloading and which to loading. Therefore, had there been only one verse, I would have taken it to refer to one or the other, but not to both.

<sup>6</sup> The verse teaches us that the murderer can be killed in any manner available to *Beis Din*, even if the method prescribed for him is not available (*if the murderer was running away and he cannot be executed by sword, he may be killed through the shooting of an arrow*).



in their case, you may smite them in any manner you are able? From the verse, 'You shall surely smite', implying under all circumstances.<sup>7</sup>

7. *Return, you shall return.*

From this I know it [sc. that the collateral must be returned] only if he [the creditor] distrained with the sanction of the court; from where do we know this regarding one who distrained without the sanction of the court? From the verse, 'You shall surely return it' — implying in all cases.<sup>8</sup>

If procure, you procure [your friend's garment, you shall deliver it to him by that the sun goes down]: from that I know it [sc. that the collateral must be returned] only if he [the creditor] distrained with sanction [of the court]; from where do we know it of one who distrained without sanction [of the court]? Because it is stated: 'Procure, you procure,' implying in all cases. And for what purpose are both of these verses necessary? — One refers to a day garment, the other to night clothes.

8. *Open, you shall open your hand to him.*

I know this only of the poor of your own city; from where do I know it of the poor of another city? — From the expression, 'You shall surely open,' implying, in all cases.<sup>9</sup>

9. *Give, you shall give to him.*

I know only that a large sum must be given; from where do I know that a small sum too must be given? From the expression, 'You shall surely give' — in all circumstances.<sup>10</sup>

10. *Grant, you shall grant upon him severance gifts.*

I know only that if the house [of the master] was blessed for his [the slave's] sake, a present must be made. From where do we know it even if the house was not blessed for his sake? Scripture teaches, 'You shall grant upon him severance gifts,' under all circumstances.<sup>11</sup> But according to Rabbi Elazar ben Azaryah, who maintained: If the house was blessed for his sake, a present is made to him, but not otherwise; what is the purpose of 'ta'anik'? The Torah merely talks in the way people are accustomed to talking.

11. *Lend, you shall lend to him.*

I know this only of one [a poor man] who has nothing and does not wish to maintain himself [at your expense]; then Scripture said, 'you shall lend to him.' From where do I know it if he possesses his own but does not desire to maintain himself [at his own cost]? From the verse, 'Lend, you shall lend to him.'<sup>12</sup> But according to Rabbi Shimon, who says: If a man has means to support himself, but he does not wish to use his own money, we do not get involved with him; why does the verse say, 'You shall lend'? The Torah merely talks in the way people are accustomed to talking. (31a4 – 31b3)

<sup>7</sup> The verse teaches us that the residents of the idolatrous city can be killed in any manner available to *Beis Din*, even if the method prescribed for them is not available.

<sup>8</sup> The verse teaches us that the creditor must return the collateral (*if the debtor is poor and he needs it – such as a pillow*) even if it was taken without *Beis Din*'s permission (*the creditor seized the debtor's property without going to Beis Din*).

<sup>9</sup> The verse teaches us that one should give charity even to poor people that do not reside in his city.

<sup>10</sup> The verse teaches us that one should give charity even if he could only afford a small amount.

<sup>11</sup> One might think that if a blessing was apparent in the house since the Jewish servant arrived, he should be given a severance gift, but if not, he does not have to be given a gift. The verse therefore states, *Grant, you shall grant upon him severance gifts*, implying no matter whether there was a blessing or not.

<sup>12</sup> If a man has no means to support himself, but he does not wish to be maintained out of the charity fund, he should be granted the necessary sum as a loan. This verse teaches us that even if a man has means to support himself, but he does not wish to use his own money, he should be granted the necessary sum as a loan.

The Mishnah had stated: If his lost time is worth a sela, he must not demand, “give me a sela,” but is paid as a worker.

A Tanna taught: He must pay him as an unemployed worker. - What is meant by ‘an unemployed worker’? — As a worker unemployed in his particular occupation. (31b3)

The Mishnah had stated: If a Beis din is present, he may stipulate in their presence.

Issur and Rav Safra entered into a business partnership. Then Rav Safra went and divided it [the stock] without Issur's knowledge in the presence of two people. When he came before Rabbah son of Rav Huna, he said to him: Go and produce the three people in whose presence you made the division; or else two out of the three, or else two witnesses that you did divide in the presence of three [others]. How do you know this? he asked him. — He replied: Because we learned: If a Beis din is present, he may stipulate in their presence; but if there is no Beis din before whom to stipulate, his own takes precedence. What comparison is there? he retorted. In that case, seeing that money is being taken from one and given to another, a Beis din is needed; but here I took my own, and mere proof [is required that I shared fairly]; hence two are sufficient. This can be proven from that which we learned in a Mishnah: A widow may sell [of her deceased husband's estate] without the presence of Beis din! — Abaye said to him: But was it not stated regarding this: Rav Yosef bar Manyumei said in the name of Rav Nachman: A widow does not need a Beis din of ordained scholars, but a Beis din of laymen is necessary? (31b3 – 32a1)

#### QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: Why, if the finder of a lost garment has guests, should he not spread it out whether it is for his need or its need?

A: He is opening it up to either an evil eye or tempting people to steal it (*i.e. one of the jealous guests*).

Q: If a *Kohen* sees a lost article in a cemetery, should he enter in order to return it?

A: No.

Q: When will an elderly person be obligated to return a lost article, even if it is beneath his dignity?

A: If he hit the animal (*for he started the returning process*).

#### DAILY MASHAL

##### A cow running through the vineyards

We have learnt in our sugya that one who finds a cow running through vineyards in a manner suggesting that it is lost must return it to the owner. The Gemara adds that the Torah therefore uses a double wording – “always return them” (*hashev teshivem*) – to teach us that even if the same article gets lost 100 times, we must still return it over and over. In reference to this Gemara, Rabbi Moshe zt”l of Kobrin said that if the Torah warns us to care for another’s property on its way to getting lost, we must certainly never ignore a fellow Jew if we see him wandering in alien fields. “Return them!” You have an obligation to awaken them and return them in *teshuvah sheleimah* (complete repentance) to their Father in Heaven (‘Al HaTorah, Yerushalayim, 5722).