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Is it Effective or not?

Ma’aser: The Gemora asks on Abaye: But is there not the case of a *ma’aser* animal in reference to which the Torah writes: *it shall not be redeemed*, and we have learned in a Mishna: All sacrifices (rendered unfit for the altar due to a blemish) are subject to redemption and their exchanges are also subject to redemption, except in the case of a *bechor* or *ma’aser* (and if one attempts to redeem them, nothing is accomplished – the animal retains its sanctity and the money used remains *chullin*). Evidently, we see that a forbidden act is not effective! Shall we say that this refutes Abaye?

The Gemora answers that Abaye can tell you that the case is different there, since draw an analogy (*gezeirah shaveh*) between the term *avarah* – *passing*, used in connection with *ma’aser* and the term *‘avarah* – *passing* used in connection with a *bechor* (and just as the redemption is not effective by *bechor*, so too it is not effective by *ma’aser*). (5b)

Terumah before Bikkurim: The Gemora asks on Rava: But is there not the case of one who separated *terumah* before *bikkurim*, concerning which the Torah writes: You shall not delay your fullness-offering and your mixture, and we have learned in a Mishna: If one separated *terumah* before *bikkurim*, although he is guilty of transgressing a negative commandment, what he did has been done (and the *terumah* is valid). Evidently, we see that a forbidden act is indeed effective! Shall we say that this refutes Rava?

The Gemora answers that Rava can tell you that the case is different, for the Torah says: *from all your gifts you shall separate*.

The Gemora notes that Abaye needs the verse for answering a question which Rav Pappa put to Abaye (elsewhere): [The Gemora

is referring to a case where the *Levi* preempted the *Kohen*, and took his *ma’aser rishon* when the grain was still “in its ears” (before the produce was smoothed in a pile – it therefore is regarded as being “not finished”) before the *Kohen* received his *terumah*. The *Levi* is exempt from giving *terumah gedolah* to the *Kohen* even though he has gained because of it. Ordinarily, a *Yisroel* gives one-fiftieth to the *Kohen* for *terumah* and one-tenth to the *Levi* as *ma’aser*. If he has one hundred bushels, he would give two bushels to the *Kohen* and 9.8 to the *Levi*. Here, the *Levi* received ten whole bushels. This exemption is derived from the following verse: *When you (the Levi) accept from the Children of Israel the ma’aser, you shall separate from it a tenth (to give to the Kohen) from a tenth (which he received from the Yisroel)*. This implies that the *Levi* is not required to give the *terumah gedolah* to the *Kohen*. This exemption, however, only applies when the *Levi* received the *ma’aser* before the produce was “finished.” If, however, it was already smoothed into a pile, the *Levi* would be required to give *terumah gedolah* (one-fiftieth) to the *Kohen* besides the tenth of the tenth – *terumas ma’aser*.] Rav Pappa asked Abaye: If this is so, then even if the *Levi* preempted the *Kohen* when the grain was smoothed in the pile, he should be exempt from the obligation of separating *terumah gedolah*? And Abaye answered him: Regarding your question the Torah says: *from all your gifts you shall separate*. But why do you see fit to include the case of when the produce was smoothed in the pile, and to exclude the case of produce “in the ears”? I include the case of produce smoothed in the pile because it is regarded as “grain,” and I exclude the case of produce in the ears because it does not come under the title of “grain.” (5b)

Widow to a Kohen Gadol: The Gemora asks on Rava: But is there not the case of a widow married to a *Kohen Gadol*, concerning which the Torah writes: A widow or a divorced woman, he shall not marry, and yet we have learned in a Mishna: Whenever the *kiddushin* (*betrothal*) is valid but there is a sin involved, the child



receives the status of the parent with a blemish. [*The Mishna cites this case as an example to that principle: If a widow is married to a Kohen Gadol, the child is halachically regarded as the mother, who was rendered a chalalah by having illegal relations with a Kohen.*] [Evidently, we see that a forbidden act is indeed effective! Shall we say that this refutes Rava?]

The Gemora answers that the case is different there since the Torah says: He shall not profane his offspring (*implying that such marriages produce chalalim - unfit for the Kehunah, but not mamzerim - illegitimate children; consequently we see that the betrothal in this case is valid.*)

The Gemora asks: What does Abaye use the verse for (*for according to him, we know that the betrothal is valid through simple logic*)?

The Gemora answers: Let the Torah say: *Lo yachel (with one lamed)*; why does it say: *Lo yechalel (with two lameds)*? It is to teach us two profanations: one profanation refers to the child and the other to the woman herself (*that they are both rendered unfit for the Kehunah*). (5b)

Blemished Animals to the Altar: The Gemora asks on Rava: But is there not the case of one who consecrates blemished animals for the altar, concerning which the Torah writes: *Whatever has a blemish, you shall not offer.* And yet it has been taught in a braisa: If one consecrates blemished animals for the altar, although he has violated a negative commandment, the act is valid!? Evidently, we see that a forbidden act is indeed effective! Shall we say that this refutes Rava?

The Gemora answers that Rava can tell you that the case is different, for the Torah says: *but as a vow it shall not be accepted*, intimating that it is not acceptable (*and should not be offered*), but that its consecration is valid.

The Gemora asks: What does Abaye use the verse for (*for according to him, we know that the consecration is valid through simple logic*)?

The Gemora answers: If the Torah had not stated: *as a vow it shall not be accepted*, I might have thought that he (*who consecrated a blemished animal*) has transgressed a commandment, but the

animal is nevertheless fit to be offered; the verse therefore informs us that this is not so. (5b)

Unblemished Animals to the Temple Maintenance: The Gemora asks on Rava: But is there not the case of one who consecrates unblemished animals for the Temple maintenance, concerning which the Torah states: *you may offer it (a blemished animal) as a donation* - that is, for the Temple maintenance (*but you may not consecrate a blemished animal for the Temple maintenance*), and yet it was taught in a braisa: If one consecrates unblemished animals for the Temple maintenance, although he has violated a negative commandment, the act is valid!? Evidently, we see that a forbidden act is indeed effective! Shall we say that this refutes Rava?

The Gemora answers that Rava can tell you that from the same verse from which you included the case of blemished animals consecrated for the altar (*that they become sanctified*), you include the case of unblemished animals dedicated for the Temple maintenance. (5b – 6a)

Stealing: The Gemora asks on Rava: But is there not the case of one who steals, concerning which the Torah says: *You shall not steal*, and we have learned in a Mishna: 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. [*Whoever steals is obligated to return the stolen object itself. If the stolen object is still in existence, and underwent no change while in the possession of the robber, he is obligated to return it as it is. This Mishna teaches that if the stolen object underwent a change while in the possession of the robber, even though the owner had not yet despaired of retrieving it, the robber acquires it because of the change, and pays its value as at the time of the robbery.*] Evidently, we see that a forbidden act is indeed effective! Shall we say that this refutes Rava?

The Gemora answers that Rava can tell you that the case is different there, since the Torah says: *he shall restore that which he took by robbery*, intimating that if it still exists as the object that he stole, he returns it, and if not, he pays its value.

The Gemora notes that Abaye uses the verse for the following: That which he stole (*and swore falsely that he did not*) he adds a fifth, but not for that which his father stole (*and swore falsely and then died*). (6a)

Taking a Security: The Gemora asks on Rava: But is there not the case of one who takes a security (*illegally*), concerning which the Torah says: *You shall not go into his house to take his security*, and yet we have learned in a Mishna: [***This Mishna deals with the halachos concerning one who comes to take a security from his borrower for his debt. The Torah says about this: When you lend your fellow any manner of loan, you shall not go into his house to fetch his security. You shall stand outside, and the man to whom you lend shall bring forth the security outside to you. And if he is a poor man, you shall not sleep with his security; you shall surely restore to him the security when the sun goes down, that he may sleep in his garment, and bless you; and it shall be righteousness to you before Hashem your God. This Mishna teaches the detailed laws learned from these verses.***] He must return the pillow during the night and the plow during the day. Evidently, we see that a forbidden act is indeed effective! Shall we say that this refutes Rava?

The Gemora answers that Rava can tell you that the case is different there, since the Torah says: *Return, you shall return the security to him.*

The Gemora notes that Abaye needs the verse, for if the Torah would not have stated it, I might have thought that he has only committed a transgression, and if he wishes, he can return the security, and if he wishes, he does not need to; the verse therefore informs us that this is not so (*and he must return it*). (6a)

Pe'ah: The Gemora asks on Abaye: But is there not the case of *pe'ah* (*a corner of the field is left over for the poor*), concerning which the Torah writes: *You shall not finish off the corner of your field when you reap*, and yet it was taught in a braisa: 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. 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). Evidently, we see that a forbidden act is not effective! Shall we say that this refutes Abaye?

The Gemora answers that Abaye can tell you that the case is different there, since the Torah says "*you shall leave*," "*you shall leave*" an extra time (*which teaches us that pe'ah should be given even though the produce has changed*).

The Gemora notes that Rava will need the verse for a different case of "leaving," for it was taught in a braisa: 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.*] (6a)

Practical Difference between them: Rav Acha the son of Rava said to Rav Ashi: And now that we have given all these answers, where practically do Abaye and Rava disagree (*where Abaye will say that his actions were effective and Rava will say that they are not*)?

He answered: They differ in the case of stipulated interest (*when the charge of interest was arranged at the time of the loan*), and it will be in accordance with that which Rabbi Elozar taught, for Rabbi Elozar said: Prearranged *ribbis* is taken away by the judges. "*Dust of ribbis*" (*which is interest prohibited by Rabbinic law*) is not. Rabbi Yochanan says: Even prearranged *ribbis* is not taken away by judges. [*Abaye maintains that his taking of the interest is effective, and need not be returned, like R' Yochanan, whereas Rava holds like R' Elozar that it is not effective, and must be returned.*]



Rav Acha responded to him: But do they (*R' Elozar and R' Yochanan*) differ merely in opinion? Do they not differ in the interpretation of Scriptural texts (*and therefore it cannot be related to the disagreement between Abaye and Rava*)? For Rabbi Yitzchak says: What is Rabbi Yochanan's reasoning? The verse states, "*With neshech he gave and tarbis he took, and he will not live, he did all of these abominations.*" This shows that he is destined to die, but does not have to return the money. Rav Acha bar Adda says: His source is the verse, "*Do not take from him neshech and tarbis, and you will fear your God.*" This implies that the result should be fear of God, but he does not have to return the money. Rava says: He derives this from the verse, "*He will surely die, his blood will be on him.*" People who lend with interest are compared to murderers. Just as murder cannot be retracted, so too, this is not fixed by being retracted (*paying back*). Rav Nachman bar Yitzchak said: What is Rabbi Elozar's reason (*that prearranged interest is returned by Beis Din*)? It is because it is written: *your brother may live with you*. This teaches us that the money (*the interest paid*) should be returned to him so that he may live.

The *Gemora* asks: But then where do Abaye and Rava really disagree?

The *Gemora* answers: It is on the question whether a change from the Torah's commandments is effective or not (*and consequently, how they would respond to all the challenges mentioned above*). **[Rashi's first explanation: There will not actually be a practical difference except in the kind of explanation they will provide in answer to the *braisa* or *Mishna* as quoted above in the *Gemora*. Abaye, who says a forbidden act is effective, will explain any particular *braisa* or *Mishna* which appears to contradict this according to his view, and Rava, who holds that a prohibited act is not effective, will explain any particular *braisa* or *Mishna* according to his point of view.]**

Another version: The difference will be regarding the various answers given above (*and according to Rashi's first explanation above, there is no difference between these two answers, except that one was written in the Yerushalmi's wording, and one was written in the Bavli's wording*).

Another version: The difference between them will be in the matter of prearranged interest. According to Abaye, the debtor

does not to return the interest, whereas according to Rava, he is required to return the interest.

The *Gemora* asks: But does Abaye hold that we reclaim stipulated interest through the judges? But Abaye said: Someone was owed four zuz of interest by his friend. This friend paid him with his coat that was worth five (*for the payment of his four zuz of interest*). When we take away the interest, we take away four zuz, as we say that he just gave him a good price. Rava says: We take away five zuz, as the entire payment was due to interest.

Rather, the *Gemora* concludes that the difference of opinion between Abaye and Rava is on the question whether a change from the Torah's commandments is effective or not (*and consequently, how they would respond to all the challenges mentioned above*). (6a – 6b)

DAILY MASHAL

Lending with Interest

The Medrash says that a person who lends money with interest does not "wake up" by Techias HaMeisim... In the town of Rabbi Akiva Eiger there lived a very wealthy man who was very stingy and would charge interest when lending money to his fellow Jew. When he died, the Chevra Kadisha in revenge for his wicked behavior, charged an exorbitant price to bury him far more than they usually charged to even the wealthy residents of the town. His children protested bitterly, to no avail. Ultimately the feuding sides went to the Rov of the town, Rabbi Akiva Eiger, to hear his thoughts on the matter.

To the shock and dismay of the children, Rabbi Akiva Eiger sided with the Chevra Kadisha. He then explained to them as follows: When someone dies and is buried, it is only temporary because the person will only need the plot until Techias HaMeisim. However since your father lent money with interest, he will never get up from that plot. Considering the amount of time he will use the plot, he is getting a tremendous bargain and better price than all the other town's people.