

26 Kislev 5776  
Dec. 26, 2016



Bava Metzia Daf 91

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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

### ***Punishment for Muzzling***

The *braisa* states that if one muzzles a cow and threshes with it, he receives lashes, and must pay the owner of the cow the food the cow would have eaten – 4 *kavs*/day for a cow, and 3 *kavs*/day for a donkey.

The *Gemora* questions whether this *braisa* violates the rule that we do not impose monetary punishment on someone who is punished by lashes or death.

The *Gemora* offers three answers:

1. Abaye says that this *braisa*'s author is Rabbi Meir, who holds that monetary punishment is imposed on someone punished by lashes.
2. Rava says that while the court does not impose monetary punishment on one who is punished by lashes, the monetary obligation is in force, and the one responsible fulfills his true obligation if he pays it. Rava proves this from the Torah's prohibition of sacrificing an animal which was used to pay a prostitute, even in the case of one who hired his mother. Even though the son is killed for this cohabitation, and therefore is not forced to pay his mother; if he does, it is considered legal payment, and may not be sacrificed.
3. Rav Pappa says that the thresher is obligated to pay, since his monetary obligation and lashes punishment are not incurred at the same time. When he received the cow for threshing, he was already obligated to pay the owner, while he became liable for lashes only when he muzzled the cow. (91a)

4.

### ***One Right, One Wrong***

Rav Pappa was asked two questions in the house of Rav Pappa bar Abba. In both cases, Rav Pappa prohibited the questioned act, one correctly and one incorrectly. (91a)

### ***Dairy or Meat Flavored Bread***

The first question was whether one may knead dough with milk. Rav Pappa correctly prohibited it. The *braisa* states that since people eat bread with all food – both dairy and meat – one may not knead dough with milk, nor bake bread in an oven coated with animal fat, to avoid coming to the prohibition of meat and milk. If one violated this prohibition, the bread may not be eaten, even on its own. (91a)

### ***Cross Breeding***

The second question was whether one may put in a pen a male and female of two species of animals, so that they mate. Rav Pappa prohibited it, as a violation of *kila'im* – mixing two species, but this was incorrect, since only actually inserting the male animal's organ into the female is prohibited.

Rav Pappa proved this incorrect from Shmuel's statement. Shmuel said that to testify concerning adultery, the witnesses need only see the man and woman behaving like adulterers, but not the actual act of cohabitation, while to violate the prohibition of *kila'im*, one must insert the male organ inside the female, like placing an eye makeup applicator into its tube.

The *Gemora* challenges the *kila'im* statement of Shmuel from a *braisa*, which states that one may not “hold” an animal in order to breed two different species. The *Gemora*



assumes that “holding” means holding the female in place, which Shmuel allowed.

The *Gemora* answers that “holding” is a polite way of referring to holding and inserting the male organ.

Rav Yehudah says that one may insert the male organ of one animal into the female, as long as they are from the same species. Although one is not allowed to look at animals mating, for concern of improper thoughts, in the case of breeding one’s own animals, he is preoccupied with his job to think improper thoughts.

The *Gemora* challenges this from the same *braisa*. The *braisa* begins with the verse that states that one may not breed animals. At that point, one may think that it is prohibited to hold any animal for breeding. The verse then continues with the word “*kila'im*” - mixture – telling us that only with different species is holding prohibited. The *Gemora* again assumes that the *braisa* is discussing the holding of the female animal in place, implying that only that is permitted in the case of the same species. However, actually inserting the organ seems to be prohibited in all cases.

The *Gemora* again answers that the *braisa* is politely referring to inserting the organ, permitting even that with animals of the same species.

Rav Ashi said that the people in the Exilarch’s house asked if they could place a group of animals in a pen, some from the same species and some from different species. Although the species may mix, the owner is not explicitly mixing them, and most likely the same species will mate. Although this is technically permitted, Rav Ashi prohibited it for the servants. Since the servants in the Exilarch’s house were not careful concerning the prohibition of *kila'im*, and may have come to explicitly mix the species if Rav Ashi permitted it, Rav Ashi was strict with them and prohibited it. (91a – 91b)

### **Who Eats while Working?**

The *Mishna* discusses the extent of work which entitles a worker to eat from his work. The Sages say that any type of work – whether only with hands, only with feet, or even only with shoulders – entitles the worker to eat. Rabbi Yosi the son of Rabbi Yehudah says that a worker eats only if he is working with both his hands and feet.

The *Gemora* explains that the Sages learn from the verse that says *ki savo b'cherem rai'echa* - if you enter your friend’s vineyard – indicates that once one enters his friend’s vineyard to work, he may eat, regardless of the nature of the work. Rabbi Yosi the son of Rabbi Yehudah derives the work requirements from the Torah’s stipulation that a working ox must eat. Just as an ox works with all four legs, so too a person must work with both hands and feet in order to eat.

Rabbah bar Rav Huna asked what Rabbi Yosi the son of Rabbi Yehudah would say in the case of one who threshes with birds (e.g., chickens and geese), using only their feet. They are not using front and back appendages like an ox, but they are using all their working implements, like an ox. This remains unresolved.

Rav Nachman says that workers who are pressing grapes may eat from the grapes right away. However, only once they have passed through the length and width of the press, pressing grapes on the way, may they eat from wine. Until that point, there is no indication that they are working with wine, and are therefore not entitled to partake of the wine. (91b)

### **What and when to Eat**

The *Mishna* further defines the parameter of what and when workers may eat. A worker may eat only from the food he is working with, but he may opt out of eating early in his work, to save his appetite for later, when he will encounter better produce. A worker may eat only while he is working. However, to ensure a more efficient workplace, the Sages advised that workers take a snack break, when proceeding from one row to another, and when they return from the



wine press. Although they are not working during that time, if they eat then, they will not have an appetite later, and will limit their work interruption. A donkey may eat from its load until it is unloaded.

The *Gemora* asks whether one who is working in one vineyard can eat grapes from another one. Specifically, when the Torah states that one may eat from the food he is putting into his employer's utensils, does that stipulate only the same *type* of food, or the *location* of the food as well?

The *Gemora* asks how an ox may ever eat from produce attached to the ground, if one may only eat from the location being worked on. When an ox is used to harvest grapes, the workers sit in a wagon after the ox, putting the ox out of reach of the produce being worked on.

The *Gemora* answers that the case may be where the vine is long, and reaches from the wagon to the ox's mouth.

The *Gemora* tries to prove from the *Mishna* that one may eat from a different vineyard. The *Mishna* said a worker working on grapes may not eat figs. The *Gemora* assumes that the grapes and figs are in different places, and the *Mishna* precludes a worker only from eating a different type of food, implying that the same food in different places would be permitted.

The *Gemora* deflects this by saying that the *Mishna* is discussing a case where the two types of food are intertwined, and even so, the worker may not eat from the other type.

The *Gemora* tries to prove from the continuation of the *Mishna* that one may not eat from a different vineyard. The *Mishna* allowed a worker to pass up on the current produce in order to have an appetite for better produced later in the day. If one may eat from a different vineyard, the worker should not wait, but rather take the better produce to his current work location and eat it there now.

The *Gemora* deflects this by saying that the worker may not do that, since this would waste his employer's time. The option of eating from a different vineyard is only relevant for the worker's wife and children, who can eat that produce while the worker is working.

The *Gemora* tries to resolve the question from the enactment of the Sages. The *Mishna* states that the Sages enacted that workers take a break when proceeding from one row to the next, in order to increase workplace efficiency. The *Gemora* first assumes that walking from one row to another is considered work, which would entitle the worker to eat. When the *Mishna* states that the worker eats in this case only due to the Sages' enactment, this indicates that he otherwise would not be entitled to eat, because the food is in a different place than the work.

The *Gemora* deflects this by stating that the walking is not considered work, necessitating an enactment for the worker to eat at that time.

The *Gemora* quotes a second version of this attempted resolution. The *Gemora* assumes that walking is not work that entitles a worker to eat. Only due to the inferior status of the work did the Sages need to enact their rule, but otherwise, a worker would be entitled to eat in this situation from Torah law, even though the food and work are not in the same place.

The *Gemora* deflects this by stating that walking between rows is work, but would still not entitle the worker to eat, due to the food being in a different place than the work. (91b – 92a)

### ***Eating while Carrying***

The *Mishna* stated that a donkey may eat from the food it is carrying when it is unloaded.

The *Gemora* asks how this is so – once the food bundle is unloaded (*in one action*), there is no chance for the donkey to eat!?



The *Gemora* modifies the text of the *Mishna* to say that the donkey may eat from the food *until* it is unloaded. The *Mishna* is teaching us what is stated in the *braisa*, that an animal may eat from a load it is carrying, but no one may take the food and feed it to the animal. (92a)

## INSIGHTS TO THE DAF

### ***Unenforceable Obligations***

Rava explained that although one who muzzles an ox is punished with lashes, and therefore is not forced by the court to pay the ox's owner the damages of the withheld food, he is still fundamentally obligated to pay. Rava compares it to the case of one who paid his mother an animal in exchange for cohabitating with her. Although the son is killed, and therefore the court cannot enforce his obligation to pay his mother, if he did so, he fulfilled a contractual obligation, and the animal is unfit as a sacrifice.

Rava made the same statement (Bava Kamma 70b) in relation to one who transferred a stolen animal to a customer on *Shabbos*, concurrent with a violation of *Shabbos*. Although the court cannot enforce the sale, it is valid, just as the son's payment to the mother is considered a bona fide payment.

The Rishonim discuss the extent of Rava's statement. The Raavad quotes those who say that this applies only to obligations explicitly taken. In the case of paying his mother, the son obligated himself to pay, and in the case of the sale of the stolen animal, the thief entered into the sale.

The Raavad disproves this from our *Gemora*, where Rava is discussing the obligation of the thresher to feed the ox. This does not seem to be an instance of anyone explicitly undertaking an obligation, yet the *Gemora* applies Rava's statement.

Rav Chaim Soloveichik (Rambam Me'ilah 8:1) states that while the obligation to allow a worker to eat from the food

he's working with is a monetary obligation, the prohibition of muzzling an ox is fundamentally a religious obligation.

The Kehilos Yaakov (BK 13:4) suggests that our *Gemora* therefore indicates that when the Torah stipulated a religious obligation, any resultant recipient of monetary payment is considered a bona fide owner of that money. Therefore, the obligation of the thresher to the owner of the ox is still considered a bona fide obligation. He discusses whether one can apply this to other religious obligations that require monetary payment (*e.g., meats from a sacrifice given to Kohanim*).

### ***Bread - only Pareve?***

The *Gemora* introduces the prohibition on producing meat or dairy bread. The Tur and Shulchan Aruch discuss this prohibition at length in YD 97. Below are a number of issues related to this topic.

### ***Rationale***

The *Gemora* explains that these breads are forbidden due to a concern that one may eat the bread with meat or milk. This is true even if the bread was baked with bird fat, even though bird meat and milk is only Rabbinically prohibited.

The Poskim question why this is not a *gezeirah l'gezeirah* – a Rabbinic decree applied to a Rabbinic decree.

The Pri Megadim (Sifsei Da'as 97:1) answers that bread is such an essential staple that indiscriminately eating bread with meat or milk – i.e., assuming it is *pareve* – is so pervasive and common, as to be certain. Therefore, the Rabbinic prohibition on a milk and bird meat mixture includes the prohibition of such bread.

### ***Other Applications***

The Taz (YD 97:1) applies this prohibition to other essential foods that are assumed *pareve*, including spices. Therefore, the Taz says, that if one had a spice grinder which was used as *pareve*, and then one ground meat in it, it may not be used for any spices, even for use with meat.

### Exceptions

The *Gemora* (Pesachim 36a) allows one to make such bread when made *k'ain tura* – like an ox. Rashi says this means that when one bakes only a small amount, which will be eaten in one meal, we are not concerned that it will be accidentally eaten with the wrong type of food, and is therefore permitted.

The Rif says that this means that if the bread baked has a distinctive shape and/or appearance, we are not concerned that one will eat it with the wrong food. For example, a muffin type of bread, or bread with obvious cheese or meat in it, would be permitted.

The Rama (YD 97:1) says that this is why it is customary to bake bread with milk for *Shavuos*, and with fat for *Shabbos*, since the bread looks different, and only a small amount is baked this way.

### Taste Once Removed

The *braisa* says that if one coated an oven with fat, one may not bake bread in it until he burns out the fat.

The Rishonim discuss why simply cleaning the fat from the surface is not sufficient. The Rashba says that cleaning the surface is sufficient, but the *braisa* gave the more common action of burning it out.

Tosfos (Pesachim 30 Dilma) says that since the fat is so hard to clean at the surface, we assume that cleaning the surface will not be done thoroughly enough, and therefore one must burn it out.

The *Poskim* discuss whether the case of the oven whose surface is cleaned out is a case of *nat bar nat* – an embedded taste that is one step removed. If it is, the question and answers given by the Rishonim may indicate their position on whether one may intentionally create food that is *nat bar nat* for eating with meat or milk. See Yalkut Yosef YD 89, footnote 35.

### Coffee Breaks

The *Mishna* discusses at what point in the work day a worker can eat from the food he is harvesting. Most Rishonim read the *Mishna* and *Gemora* as saying that from the Torah, while the worker is working with the fruit – until it is harvested – he may eat, while the Sages allowed him to eat during breaks between sections of the vineyard.

The Rambam (Sechirus 12:2) says that from the Torah a worker may eat only *after* he has harvested, since before then he will be wasting work time on eating. The Sages allowed the worker to eat before the harvest is fully done, during breaks between sections, to limit the break time taken once the harvest is done.

The Rambam's text in the *Mishna* seems to be like the Rif's – that one may eat only "*b'shas gmar m'lachah*" – at the time of the end of work, as opposed to our text – "*b'shas m'lacha*" – at the time of work.

The Maggid Mishnah says that the Rambam's position is similar to Rashi's. Rashi says that the *Mishna* says that a worker may not take a break from his work in order to eat, indicating that eating out of the permitted time is prohibited due to idling from the required work. See Drisha HM 337:4 for further details on the positions of the Rambam and Rashi. See Even Haezel for an alternate explanation of the Rambam's position.

### Halachic definitions and allowed uses of dairy bread

Chazal decreed many regulations to prevent the prohibition on mixing meat with milk. (The three acts originally forbidden by the Torah are to cook meat with milk or eat or benefit from such a mixture). One decree is not to knead dough with milk. Furthermore, bread baked from such dough must not be eaten: people may forget the bread is dairy and eat meat with it as meat is usually eaten with bread. Still, the Gemara in Pesachim 36a states that the decree does not pertain to "bull's-eye bread", which differs from other bread and is unlikely to be eaten with meat.



Rashi (ibid, s.v. “Ke’ein”) holds that small loaves are called “bull’s-eye bread” just as a bull’s eye is small in relation to its huge body. Such loaves are eaten quickly and Chazal did not suspect people to leave some for later by which time they may forget the bread is dairy.

Rambam (Hilchos Maachalos Asuros 9:22) defines “bull’s-eye bread” as a sort of bagel and its unusual round form reminds people that it’s dairy.

As for the halachah, Shulchan ‘Aruch (Y.D. 97:1) rules that an irregular shape or a small amount may be baked from dough containing milk. Defining “a small amount”, Remo (ibid) states that “people have the custom to knead dough with milk on Shavu’os as this is regarded as a small quantity”. ‘Aruch HaShulchan (ibid, 4) remarks that a “small quantity” is enough bread to last a family for just one day.

A woman once inadvertently baked a big loaf from dough containing milk and asked the advice of a posek in Baghdad. He suggested breaking it into crumbs and mixing them with rice, reasoning that the above decree pertains only to bread, being that people usually eat meat with bread. The posek was apparently right. However, on examining the parameters of the decree to refrain from eating such bread, we learn that the matter is far from simple. There are two sorts of forbidden food: that innately prohibited (issur cheftza) and that forbidden to the person (issur gavra). Someone, for example, who eats on a fast-day is not regarded as having eaten forbidden food: the food itself is allowed; rather, the person is just then prohibited to eat. By contrast, pork, for instance, is innately forbidden: the prohibition is in the food. Was dairy bread decreed to be issur cheftza, innately forbidden and forever impermissible, or prohibited such that people must not eat it in certain circumstances whereas it may be allowed in some form? If it is forbidden because of issur cheftza, it can’t become permitted by mixing it with rice. Indeed, HaGaon Rav Yosef Chayim zt”l prohibited it in any form unless it was baked as “bull’s-eye bread”, understanding that the poskim forbade it as issur cheftza (Rav Pe’alim, II, Y.D. 11)

About 50 years ago the Israeli government imposed measures of economic austerity. Food was rationed and nutritionists suggested ordering bakers to add milk powder to their dough, bettering the health of children and the elderly. The prohibition on dairy bread would be averted by labeling the loaves accordingly in big letters on both ends of each loaf. The Kol Mevasser (Responsa, I, 10) forbade the plan since as the bread would be in its usual form, it would become issur cheftza and no label could permit it. Moreover, a label would avail only someone who eats a whole loaf and not one who eats slices from the middle, where there would be no label.

#### DAILY MASHAL

##### Why are dairy knishes triangular?

Kashrus authorities require bakeries to produce dairy knishes only in triangular form. Potato knishes are usually eaten with meat and if all knishes looked the same, people might inadvertently eat meat with dairy knishes. Some years ago a family in Petach Tikvah bought rectangular dairy knishes for Shavu’os at a bakery that failed to heed the said requirement. While others were having their holiday meal, members of the family ran from one rabbi to another asking what could be done with the meat mistakenly warmed with those knishes.