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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

Investment Arrangements

[The *Gemara* earlier (68b) said that in order to avoid issues of interest on a loan, if one accepted money to invest, the investor must receive unfavorable terms. Specifically, he may receive only 1/3 of the profits, and ½ of the losses.] Therefore, Rava says that if one gave someone money to invest as one investment, but split up the terms into two contracts, the owner of the money will stand to lose. [If the investment is kept as one unit, any losses and gains offset each other, and the investor gains or loses based only on the net result. However, if the investment is split up, if one part (of the investment) loses and one gains, he (the investor) must incur a higher part of the loss, without being fully offset by the gains.] Similarly, if there are two investments that are put together in one contract - that results in a loss for the borrower. [This type of arrangement favors the investor, since he may now use the gains in one investment to offset any losses in the other, before calculating his share in the results.]

And Rava said that if one became an investing agent, lost some of the money, and then worked extra and recouped the losses, without ever telling the investor (about this losses), he may not (later) tell the investor, “Take part in the losses with me,” for the investor can reply to him, “It is for this reason that you worked extra recouping the loss (without telling me), for you didn’t want people calling you one who loses iska investments.”

¹ If one partner demands half of the current profits, the other may reply that the profits must be kept to buffer any future losses to the principal. If one partner demands half of the principal and profits, the other may reply that each half must be kept as a buffer to any losses on the other half. If the partner who wants to split agrees to pay for any future losses, the other may reply that two people jointly investing will be more successful than each on their own.

And Rava also said: If two men accept an iska investment and make a profit, and one says to the other, “Come, let us divide now” (before the time for winding up): then, if the other objects [saying], “Let us (remain in the business and) earn more profits,” he can legally restrain him [from closing the transaction]. - [For] if he claims, “Give me half the profits,” he can reply, “The profit is mortgaged for the principal.” While if he proposes, “Give me half the profits and half of the principal,” the other can answer, “[The parts of the] iska are interdependent.” While if he proposes, “Let us divide the profit and the principal, and should you incur a loss I will bear it with you”: he can answer, “No; the fortune of two is better than that of one.”¹ (104b4 - 105a2)

Leasing Responsibilities

The *Mishnah* says that if one leases a field to work, he may not tell the owner that he will not weed it, even if he will pay his fee. Since the field will be full of weeds, the field will be damaged, and paying his stipend will not address that. (105a2)

And should he [the tenant] say, “I will plow it afterwards,” he can reply, “I want good wheat.” And should he say, “I will buy for you wheat from the market,” he can answer, “I want wheat from my own soil.” Should he reply, “Then I will weed for you the area necessary for your portion,” he can retort, “You will give my land a bad name.”²

² The *Gemara* suggests that even if the lessee says that he will plow the field after the weeds have grown, or provide the owner with grain that he will buy elsewhere, the owner may demand good quality grain grown on his land. Even if he says he will weed the portion necessary to provide the grain, the owner may object, since his neighbors will be upset. The *Gemara* rejects these



But we learned in our Mishnah: Because it will be overgrown with weeds! — Rather [he is not heeded] because he can answer him, “Once a (weed) seed falls out, it has fallen.”³ (105a2)

Diminishing Returns

The *Mishnah* discusses at what point land is producing so little that the sharecropper may refuse to expend any work. The Sages say that when there is not enough crop to make a pile, the sharecropper may refuse to work the land. Rabbi Yehudah objects that this cannot be the same measure for any size field. Rather, if the field is not producing enough crop to replant itself, the sharecropper may refuse to work it. (105a3)

The Gemara cites a Baraisa: If a man leases a field from his fellow, and it does not yield [a satisfactory crop], and there is enough to make a stack, he [the tenant] is bound to go on working the field, because he writes him thus: “I will stand, plow, sow, reap, bind, thresh, winnow, and set up a stack before you, and you will come and receive half; while I will receive half in return for my labor and expenses.”⁴ (105a3)

And how much is meant by, ‘enough to make a stack’? — Rabbi Yosi son of Rabbi Chanina said: Sufficient for the winnowing shovel to stand up in it (in such a way that the scoop is not visible at all).

The scholars inquired: What if the winnowing fan protrudes from both sides? — Come and hear: Rabbi Avahu said: I received an explanation regarding this from Rabbi Yosi son of Rabbi Chanina: Providing that the scoop does not see the sun.

It has been stated: Levi said: Three se'ahs; the school of Rabbi Yannai said: Two.

suggested objections, and explains instead, as the *Mishnah* indicates, that the weeds themselves will damage the land.

³ Even if the lessee agrees to remove the weeds after they've grown, the seeds of the weeds will exist and grow after he leaves.

Rish Lakish said: The two se'ahs mentioned are exclusive of expenses (incurred by the farmer). (105a3)

Quantifications

The *Gemara* cites other instances of the Beis Medrash of Rabbi Yannai's measurements:

1. The *Mishnah* records a dispute about *peritzei zeisim v'anavim* – wicked olives and grapes – which will never ripen. Beis Shammai say (that since they have reached the end of their ripening, they are considered food, and) they are susceptible to tumah, while Beis Hillel say (that since they are not edible as regular olives, they are not considered food,) they remain tahor. What is meant by ‘peritzim of olives?’ — Rav Huna said: Wicked olives [i.e., which yield very little oil]. Rav Yosef said: And what verse [warrants this interpretation]? — [And the sons] of the wicked [peritzei] of your people shall lift themselves up to establish the vision; but they shall stumble. Rav Nachman bar Yitzchak said: It is from this verse: If he beget a wicked [paritz] son, a shedder of blood. — And how ripe can these wicked olives be? — Rabbi Elazar says that olives are considered *peritzim* as long as a press full of these olives only produces four *kavs* of oil. The Beis Medrash of Rabbi Yannai says that the measure is when a press full of olives will produce only two *se'ahs* (12 *kavs*). The *Gemara* explains that there is no dispute. Rabbi Elazar is referring to a press that can hold one *kor* of olives, while the Beis Medrash of Rabbi Yannai is referring to a press that can hold three *kors*, producing three times the oil.
2. The *Gemara* cites a *Mishnah* regarding an impure *zav* and a pure person, who simultaneously climb a weak tree, or a weak branch. [Since the structure they share is weak,] the pure person becomes tamei (since they are effectively resting on each other). What is the case of a weak tree? The Beis Medrash of Rabbi Yannai says that a weak tree is defined as one whose trunk does not contain $\frac{1}{4}$ *kav* of wood. Rish Lakish says that a weak

⁴ Since the sharecropper obligates himself to do all the work necessary until the stage of presenting a pile of grain that he will split with the owner, his obligation is a function of being able to produce a pile of grain.

branch is defined as one that is small enough for one to cover with his hand.

3. The *Mishnah* says that if one crosses a *bais hapras* – a field near a grave which was plowed, and which may therefore have pieces of human bone in it – and treads on stones that move, or on a weak person or animal, he is tamei. [In these situations, if he went over a bone, he is considered to have moved it himself.] What is the case of a weak person? Rish Lakish explains that a weak person is defined as one whose knees are shaking when someone is riding him. What is the case of a weak animal? The Beis Medrash of Rabbi Yannai explains that a weak animal is defined as one who defecates when someone rides him.
4. The Beis Medrash of Rabbi Yannai says that the measure of four *kavs* is relevant to prayer and *tefillin*:
 1. What is the ruling for prayer? The *Baraisa* says that if one is carrying a heavy bundle and the time for prayer arrives (to ensure concentration, he must put it down); if the bundle is less than four *kavs* (it is considered light), he may swing it over his shoulder and pray. If it weighs four *kavs*, he must place it on the ground and pray.
 2. What is the ruling for *tefillin*? The *Baraisa* states that if someone was wearing *tefillin* on his head, if the *tefillin* are being crushed, he may not carry the burden; but if not, it is permitted. What type of burden are we referring to? A burden of four *kavs*. Rabbi Chiya taught a *Baraisa* that if one is carrying compost on his head, and he is wearing *tefillin* on his head, he should not move the *tefillin* to the sides of his head and he should not tie them to his waist, for this would be regarded as a disgrace to the *tefillin*. Rather, he may tie them to his arm at the place of *tefillin*. In the name of the academy of Rabbi Shila, they said that even the *tefillin* bag itself may not be placed on the head when one is wearing *tefillin*. And how much (is prohibited)? Abaye said:

Even if it is merely one-quarter of the quarter litera of Pumbedisa. (105a3 - 105b2)

Grain to Plant

The *Gemara* discusses Rabbi Yehudah's measure of enough grain to replant the field. How much is enough for sowing the field again? Rabbi Ami quotes Rabbi Yochanan saying this is four *se'ahs* of grain for land of one *kor*, while Rabbi Ami himself says it is eight *se'ahs* of grain for a *kor* of land.

A certain elder said to Rav Chama the son of Rabbah bar Avuha: I will explain it to you that in the times of Rabbi Yochanan, the land was more fertile, so only four *se'ahs* were necessary to plant a *kor* of land, while in Rabbi Ami's time, the land needed double that amount.

The *Mishnah* states that if wind blew away bundles of grain from a field, the owner must estimate how much would have fallen down, and give that to the poor in lieu of the *leket* (*one or two ears of grain that fall from his hand while harvesting must be left for the poor*) that they would have collected. Rabban Shimon ben Gamliel says: The owner must pay the poor the amount of grain that normally falls. – How much is the amount that normally falls? When Rav Dimi came (from Eretz Yisrael), he said in the name of Rabbi Elazar, or others say (in the name of) Rabbi Yochanan: That amount is four *se'ahs* per *kor* of land.

Rabbi Yirmiyah asked whether the land of a *kor* mentioned in the *leket* payment is land on which a *kor* is planted, or on which a *kor* grows. And (if it is seed) is it seed planted by hand or by oxen?⁵ Come and hear, for when Ravin came, he said in the name of Rabbi Avuha, who said in the name of Rabbi Elazar, and some say that he said it in the name of Rabbi Yochanan: Four *kavs* (of *leket*) per *kor* of seed. – But the inquiry still stands: Is it seed planted by hand or by oxen? – This remains unresolved. (105b2 – 105b3)

⁵ Sowing was done either by hand, a man walking along and scattering the seed, or by oxen drawing a cart with a perforated bottom, in which the seed was

placed. The latter method was more wasteful, and required a greater quantity of seed for a given area than the former.

General Misfortune

The *Mishnah* discusses who is responsible when someone leases a field and the grain was destroyed by locusts or blight. If the destruction was part of a general plague, then the lessee may deduct from his fee, but if it was not part of a general plague, he may not deduct from his rental. Rabbi Yehudah says that if the lessee stipulated to pay a monetary amount, he must pay the full amount, regardless of what type of misfortune befell the field. (105b3 – 105b4)

The *Gemara* details what constitutes a general misfortune:

1. Rav Yehudah - most of the fields in the valley were windblasted.
2. Ulla - the four fields along the four sides were windblasted.

Ulla says that in *Eretz Yisroel* they questioned the parameters of his example:

1. If one row along the entire field was windblasted, what is the law?
2. If one row along the entire field was spared, what is the law?
3. How similar must be the adjoining fields to be included in this determination? Specifically, if the adjoining fields were unaffected (but the next fields were affected), but the unaffected fields were:
 - (a) fallow
 - (b) planted with animal feed
 - (c) planted with a different crop
 - (d) wheat next to barley
4. What if the entire world were affected with windblast, but his was struck with yellowing, or the entire world was struck with yellowing, while his was windblasted, what is the law?

All of the questions remain unresolved. (105b4 - 106a1)

INSIGHTS TO THE DAF

Investment Limits

Rava discussed two investing agents who dispute whether to continue investing or split their gains now.

The Rishonim (Tosfos 105a Hani, Rosh 9) state that it is obvious that an individual investing agent may end his investing arrangement at any time, since he has no less rights than a worker, whom Rav says may end his employment at any time. Similarly, it is obvious that the investor may not terminate the investment before the stipulated period is over.

Rashi and the Rosh understand Rava's case to be where the investment was for a specified period of time, and during that period, the agents must work together. The Rif, however, says that Rava is also discussing merchandise which has standard selling times, and it is until those times that neither agent may split the gains. However, if the investment arrangement is an open term, either party may choose to end the investment at any time.

Taking Care of Tefillin

The *Gemara* discusses the parameters of what may be on one's head at the same time as *tefillin*. The *Gemara* cited three statements:

1. A *Baraisa* that states that if one has a burden on his head, which presses down on the *tefillin*, it is prohibited. The *Baraisa* clarifies that a burden of four *kavs* or more is prohibited. (*This is the measure which the Beis Medrash of Rabbi Yannai referred to.*)
2. Rabbi Chiya's *Baraisa*, which said that if one is carrying refuse on his head, he must remove the *tefillin* and keep them respectfully on his arm.
3. Rabbi Shila's students said that even the bag of the *tefillin* may not be placed on the head. Abaye explains that this is very light.

Rabbi Chiya's statement need not contradict either statement, since Rabbi Chiya was limited to a case of refuse, which is qualitatively a disgrace to place next to *tefillin*, regardless of the burden's size. However, at first glance, Rabbi Shila's position is at odds with the first *Baraisa*. In fact, the Rambam (*Tefillin* 4:23) rules like Rabbi Shila, permitting nothing aside from a usual head covering.

The Gr"א explains that the Rambam allowed normal head coverings, since the *Gemara* refers to Dovid Hamelech wearing a crown together with *tefillin* (Avoda Zara 44a), and the Kohen Gadol wearing the *mitznefes* together with the *tefillin* (Zevachim 14a-b).

However, the Rif (Brachos 14b) and the Rosh (Brachos 3:31) cite all three statements, without ruling like any one in particular.

To explain this position, the Rishonim and Acharonim suggest various distinctions between the statements to reconcile the seeming contradiction:

1. Rabbi Shila is stating that optimally one should not place anything on his head with *tefillin*, while the *Baraisa* is stating that if one placed the burden on, he may leave it there unless it is four *kavs* or heavier. [Bais Yosef (OH 41) in the name of Mahari Abuhav]
2. The *Baraisa* is referring to one who is carrying a load for his work, and therefore is more lenient. [Bais Yosef in the name of Mahari Abuhav]
3. The *Baraisa* is referring to one who is first carrying the burden, and then wants to put on *tefillin*, while Rabbi Shila is referring to one who is first wearing *tefillin*, and wants to place the burden on his head. When the burden was there first, it need not be removed unless it is four *kavs* or heavier. [Bais Yosef]
4. The *Baraisa* is referring to a burden that is on one's head, but not on the *tefillin*. Since a burden of four *kavs* is likely to be heavy enough to crush *tefillin*, the Sages prohibited one from putting such a burden on his head. Rabbi Shila is referring to a burden on the *tefillin* itself, which is prohibited at any size. [Bais Yosef]
5. Rabbi Shila is referring to a burden not usually placed on the head, which is never allowed, since it is a disgrace to the *tefillin*. The *Baraisa* is referring to a normal head covering (e.g., hat), which is only

prohibited when it is heavy enough to crush the *tefillin*. [Rama] (See MB 41:4, who rules that one should not place a hat on the *tefillin* if it rests heavily on it).

6. Rabbi Shila is referring to someone wearing *tefillin* at home, who has no need to put anything on his head, while the *Baraisa* is referring to someone outside who is transporting the burden. [Aruch Hashulchan]

See Taz and Prisha for more details.

DAILY MASHAL

Wicked Olives

The *Mishnah* records a dispute about *peritzei zeisim* – *wicked olives* – which will never ripen. Beis Shammai say that since they have reached the end of their ripening, they are considered food, and may become impure, while Beis Hillel say that since they are not edible as regular olives, they are not considered food, and may not become impure.

What is the meaning behind these “wicked olives”? People may be righteous or wicked, but not food!?

The Ben Yehaydah explains that a wicked person can come back as a *gilgul* (*reincarnation*) as fruit and his *neshamah* (*soul*) receives a *tikkun* when a person recites a blessing on this fruit. Unfortunately, there are some evil people that are so wicked that when they return as fruit, they come back as *peritzim*, or fruit that will never ripen. They are not even considered a food (*and therefore cannot become tamei*). One does not recite a blessing on *peritzim* and the wicked person does not receive his *tikkun*.

Now we can conclude how important it is to say a proper blessing before we eat food, and perhaps, we should have a new *kavanah* when we recite a *brochah*, and keep mind that that this *brochah* may be a *tikkun* for a *neshamah* that wishes to repent.