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Frequent and Sacred

The *Gemora* inquires: That which is more frequent and that which is more sacred, which takes precedence? Do we say that that which is more frequent takes precedence, because it is more frequent; or does that which is more sacred take precedence, because it is more sacred?

The *Gemora* attempts to resolve this from a *Mishna*: The *tamid* (sacrifice brought every morning and afternoon) is brought before the *mussaf* (sacrifice; this is because the *tamid* is more frequent). This is true although the *mussaf* sacrifice is more sacred!

The *Gemora* deflects this proof by asking rhetorically: Does the sacredness of *Shabbos* affect only the *mussaf*, but not the *tamid*? [It most certainly does; and they are both equally sacred!]

The *Gemora* attempts to resolve this from the next ruling of the *Mishna*: The *mussaf* of *Shabbos* is brought before the *mussaf* of *Rosh Chodesh*. [This is true although the *mussaf* of *Rosh Chodesh* is more sacred!]

The *Gemora* deflects this proof by asking rhetorically: Does the sacredness of *Rosh Chodesh* affect only its *mussaf*, but not the *mussaf* of *Shabbos*? [It most certainly does; and they are both equally sacred!]

The *Gemora* attempts to resolve this from the next ruling of the *Mishna*: The *mussaf* of *Rosh Chodesh* is brought

before the *mussaf* of *Rosh Hashanah*. This is true although the *mussaf* of *Rosh Hashanah* is more sacred!

The *Gemora* deflects this proof by asking rhetorically: Does the sacredness of *Rosh Hashanah* affect only its *mussaf*, but not the *mussaf* of *Rosh Chodesh*? [It most certainly does; and they are both equally sacred!]

The *Gemora* attempts to resolve this from a *braisa* (explaining *Beis Hillel's* opinion as to why, at *Kiddush on Shabbos* or the *Festivals*, the blessing on the wine precedes the blessing on the day): Additionally, the blessing on the wine is the more common of these two blessings (as it is recited all throughout the year whenever one drinks wine); the blessing on the day is not as common (as it is only recited on *Festivals*). Accordingly, we should invoke the rule of “*tadir v’she’aino tadir, tadir kodem.*” [This means that when presented, at the same time, with a *mitzvah* which is more frequent than another *mitzvah*, the more common one takes precedence.] This is true although the blessing on the day is more sacred!

The *Gemora* deflects this proof by asking rhetorically: Does the sacredness of *Shabbos* affect only the blessing on the day, but not the blessing on the wine? [It most certainly does; and they are both equally sacred!]

The *Gemora* attempts to resolve this from the ruling of *Rabbi Yochanan*: The *halachah* is that one should first pray *Minchah* and then pray *Mussaf* (if he did not pray *Mussaf*



in the morning; now, *Mussaf*, which is prayed on the account of *Shabbos*, is more sacred, and yet, *Minchah* is prayed first!).

The *Gemora* deflects this proof by asking rhetorically: Does the sacredness of *Shabbos* affect only the prayer of *Mussaf*, but not the prayer of *Minchah*? [It most certainly does; and they are both equally sacred!]

The *Gemora* attempts to resolve this from our *Mishna*: Yesterday's *shelamim* and today's *chatas* or *asham* offering – yesterday's takes precedence. We may infer from here that if they would be today's sacrifices, the *chatas* or *asham* would take precedence. Now this is true even though the *shelamim* offering is more frequent. [Evidently, the fact that the *chatas* or *asham* is more sacred gives it significance!]

Rava deflects the proof: You speak of what is more prevalent (for voluntary *shelamim* offerings are not offered at regular intervals, but rather, they are brought more times than a *chatas* or an *asham*); we are asking about what is frequent, not about what is merely more prevalent (for that certainly does not take precedence over that which is sacred).

Rav Huna bar Yehudah asked to Rava: Is then what is more prevalent not the same as what is more frequent? Surely it was taught in a *braisa*: I would exclude the *pesach* offering (from being liable to a *chatas* if one inadvertently did not bring it), which is not frequent, but I would not exclude circumcision, which is frequent. [Although circumcision is not done regularly; but rather, it is prevalent, and nevertheless called "frequent."]

The *Gemora* answers: Circumcision is frequent means that is more frequent in its commandments (for it's written many times in the *Torah*; the *braisa* is not discussing at all

the amount of times the mitzvah is performed). Alternatively, circumcision is frequent in comparison with the *pesach* offering (and since it is far more prevalent than circumcision, it may be regarded as frequent; however, *shelamim* offerings are only slightly more prevalent than *chatas* and *asham*, and perhaps, it is not regarded as being more frequent). (90b – 91a)

After the Fact

The *Gemora* inquires: If one offering was frequent and another was infrequent, and the *Kohen* slaughtered the infrequent one first, what is the *halachah*? Do we say that since he slaughtered it, he must offer its blood first, or perhaps he must give it to another to stir the blood (to prevent it from coagulating) until he offers the frequent one, and then offer the infrequent one?

Rav Huna of Sura said: This can be resolved from our *Mishna* which states: Yesterday's *shelamim* and today's *chatas* or *asham* offering – yesterday's takes precedence. [Evidently, the *shelamim* was left overnight and slaughtered today, and the *Mishna* rules that the blood of the *shelamim* is sprinkled first.] But if it was today's *shelamim* - analogous to that of yesterday – e.g., if he (incorrectly) slaughtered the *shelamim* first, the blood applications of the *chatas* and the *asham* offering would take precedence!

The *Gemora* deflects the proof: Perhaps the case of yesterday's *shelamim* and today's *chatas* or *asham* offering meant that he slaughtered both of them (and the *Mishna* rules that the blood of the *shelamim* is sprinkled first, for it was slaughtered first; and the inference would be that if it would be the same case with today's *shelamim*, he would give the blood of the *shelamim* to be stirred and apply the blood of the *chatas* and *asham* first); where, however, he did not slaughter both of them (but merely

slaughtered the *shelamim*), there the inquiry would still remain.

The *Gemora* attempts to resolve this from a *braisa* (explaining *Beis Hillel's* opinion as to why, at *Kiddush on Shabbos or the Festivals, the blessing on the wine precedes the blessing on the day*): Additionally, the blessing on the wine is the more common of these two blessings (as it is recited all throughout the year whenever one drinks wine); the blessing on the day is not as common (as it is only recited on *Festivals*). Accordingly, we should invoke the rule of “*tadir v’she’aino tadir, tadir kodem.*” [This means that when presented, at the same time, with a *mitzvah* which is more frequent than another *mitzvah*, the more common one takes precedence. Although the infrequent one (the day) actually preceded the other (for the wine was not on the table yet), since the sanctity of the day automatically commenced at nightfall. This is analogous to a case where one slaughtered the infrequent sacrifice first; and just as here, the blessing for the wine must be recited first, by analogy, the blood of the frequent one must be sprinkled first.]

The *Gemora* deflects the proof: Here too, since they arrived (the day of *Shabbos* and the wine – when he decides to begin *Kiddush*), it is analogous to the case where both offerings were slaughtered already.

The *Gemora* attempts to resolve this from the ruling of *Rabbi Yochanan*: The *halachah* is that one should first pray *Minchah* and then pray *Mussaf* (if he did not pray *Mussaf* in the morning; now, *Mussaf*, whose time has come earlier in the day, and yet, *Minchah* is prayed first!).

The *Gemora* deflects this proof: Here too, since the time for the *Minchah* prayer has come (before he prayed *Mussaf*), it is analogous to the case where both offerings were slaughtered already.

Rav Acha the son of *Rav Ashi* said to *Ravina*: Let us resolve this from the following *Mishna* (regarding the *pesach* offering): If he slaughtered it before midday, it is invalid, because “in the afternoon” is said in connection with it. If he slaughtered it before the afternoon *tamid* offering, it is valid, and he must stir its blood until he sprinkles the blood of the *tamid*.

The *Gemora* deflects the proof: The case being discussed in the *Mishna* is where he has already slaughtered the *tamid* (and that is why the blood of the *tamid* is thrown first). (91a)

Mishna

Rabbi Shimon said: If you see oil being divided out to the *Kohanim* in the Temple Court, you need not ask, “What is this?”, because it is certainly the remainder of the wafers from the *Israelites' minchah* offerings or the remainder of the *metzora's* log of oil. If you see oil being poured on the altar fire, you need not ask, “What is this?”, because it is certainly the remainder of the wafers from the *Kohanim's minchah* or the Anointed *Kohen Gadol's minchah* offering, since oil is not brought as a voluntary offering. *Rabbi Tarfon* says: Oil is brought as a voluntary offering. (91a)

Donated Oil and Wine

Shmuel said: According to *Rabbi Tarfon*, when someone donates oil by itself, he separates a *komeitz* from it (burns it on the altar), and its remainder is eaten. What is the reason for this? It is because the Torah writes, a *minchah* offering; this (the extra word “offering”) teaches us that one can donate oil by itself, and that it is likened to a *minchah* offering: just as a *komeitz* is separated from a *minchah* offering and the remainder is eaten, so too by the oil - one separates a *komeitz* from it and the rest of it is eaten.

Rabbi Zeira noted: There is support to this (that the remainder of the oil is eaten) from the Mishna, which states: Rabbi Shimon said: If you see oil being divided out to the *Kohanim* in the Temple Court, you need not ask, "What is this?", because it is certainly the remainder of the wafers from the Israelites' *minchah* offerings or the remainder of the *metzora's log* of oil, since oil is not brought as a voluntary offering. We may infer from here that according to the view that it can be donated, it is distributed amongst the *Kohanim*.

Abaye asked him from the next part of the Mishna: If you see oil being poured on the altar fire, you need not ask, "What is this?", because it is certainly the remainder of the wafers from the *Kohanim's minchah* or the Anointed *Kohen Gadol's minchah* offering, since oil is not brought as a voluntary offering. We may infer from here that according to the view that it can be donated, it is entirely burned on the altar!?

Thus the first part of the *Mishna* presents a difficulty according to Abaye's opinion, while the last part presents a difficulty according to Rabbi Zeira's opinion.

The *Gemora* answers: As for Rabbi Zeira, it is well, for the first part of the *Mishna* refers to the remainder of the oil, while the last part refers to the *komeitz* (which is burned on the altar).

In the West, they explained Abaye as follows: The first part of the *Mishna* is taught on account of the second part.

The *Gemora* challenges Shmuel's opinion from the following *braisa*: Wine, according to Rabbi Akiva's position, is poured into the bowls; oil, according to Rabbi Tarfon's position, is for the fires. Now surely, since the entire wine is for the bowls, the entire oil is for burning

(which contradicts Shmuel, who maintains that the remainder is eaten by the *Kohanim*)!?

The *Gemora* answers: Why choose to say like that? Each case is conditioned by its own law.

Rav Pappa said: This is actually a dispute amongst the *Tannaim*, for it was taught in a *Mishna*: When one vows to donate oil, he must not bring less than a *log*. Rebbe said: Three *lugin*. What is the point of issue between them? The Rabbis stated before Rav Pappa: They differ as to whether we say: Derive from it and everything from it; or, derive from it and place the deduction in its own place. The Rabbis hold the position that we should derive from it and everything from it: (*derive from it:*) just as a *minchah* offering can be donated, so too can oil be donated; and everything from it: just as a *minchah* offering comes with a *log* of oil, so here too a *log* of oil is needed; and just as by a *minchah* offering, a *komeitz* is separated and the remainder is eaten, so too by the donated oil - a *komeitz* is separated and the remainder is eaten. And the other *Tanna* (Rebbe) holds (*derive from it and place the deduction in its own place*): derive from a *minchah* offering: just as a *minchah* offering can be donated, so too can oil be donated; and place the deduction in its own place (*and since there is no other oil donation, "its place" is what is similar to it, which is a wine libation*): it is like a wine libation. Just as a wine libation consists of three *lugin*, so too oil consists of three *lugin*; and just as the entire wine libation is for the bowls, so too the oil is entirely for the fires.

Rav Pappa asked Abaye: If Rebbe derived it from a *minchah* offering, then all would agree that you derive from it and everything from it. Rebbe, however, derives it from the extra word "*ezech*" written with regard to wine libations.

Rav Huna the son of Rav Nassan said to Rav Pappa: Can you possibly say like that? Surely it was taught in a *braisa*: The Torah writes, a *minchah* offering; this (*the extra word "offering"*) teaches us that one can donate oil by itself, and how much? Three *lugin*. Now, whom have you heard that maintains that three *lugin* are required? It is Rebbe; yet he derives it from a *minchah* offering!?

Rav Pappa said: If such a *braisa* was taught, then it was taught (*and my explanation cannot be correct*).

Shmuel said: When one donates wine, he brings it and the *Kohen* sprinkles it on the fires.

The *Gemora* asks: But he is thereby extinguishing the fire (an act - that is Biblically forbidden)!?

The *Gemora* answers: Partial extinguishing is not regarded as extinguishing.

The *Gemora* asks: But that is not so, for surely Rav Nachman said in the name of Rabbah bar Avuha: If one removes a coal from the altar and extinguishes it, he is liable (*even though that is only a partial extinguishing*)!?

The *Gemora* answers: That is when there was only that coal (*and therefore the altar's fire was completely extinguished*). Alternatively (*it is not forbidden, for*) extinguishing as part of a *mitzvah* is different.

The *Gemora* challenges Shmuel's position from the following *braisa*: Wine (which was donated), according to Rabbi Akiva's opinion, is for the bowls; oil, according to Rabbi Tarfon's opinion, is for the fires. Furthermore, it was taught: The wine of libations is for the bowls. Yet perhaps it is not so, but rather for the fires? It is written: He must not extinguish!

The *Gemora* answers: There is no difficulty: The *braisa* agrees with Rabbi Yehudah (*who holds that even though the act is a permitted one, since it may unintentionally result in a prohibited one, it is forbidden*); and Shmuel is following Rabbi Shimon (*who maintains that such an act is permitted*).

The *Gemora* asks: But is it true that Shmuel is in accordance with Rabbi Shimon? Surely Shmuel said: One may extinguish a piece of fiery metal (which is merely a Rabbinic prohibition) in a street, so it should not harm the public, but not a piece of burning wood (which is prohibited under Biblical law). Now if you think that he follows Rabbi Shimon, even that of wood too should be allowed!?

The *Gemora* answers: In respect to what is unintentional he holds like Rabbi Shimon; but in the matter of work which is not needed for a defined purpose (*but rather, as a reaction to an undesirable condition*), he agrees with Rabbi Yehudah (*that it is forbidden*). (91b – 92a)

INSIGHTS TO THE DAF

"An Unintentional Thing is Allowed"

Is everything allowed? "A permanent fire shall burn on the altar; it shall not extinguish" (Vayikra 6:6). The Torah thus instructed us that it is forbidden to extinguish the fire burning on the altar and that someone who does so transgresses a negative *mitzvah*. Nonetheless, our *sugya* explains that someone who donated wine for *nesachim* pours it on the fire of the altar though the wine could extinguish the fire where it falls. This is according to Rabbi Shimon's opinion, that "an unintentional thing is allowed," but according to Rabbi Yehudah, who holds that an unintentional thing is forbidden, the wine should not be poured on the fire.

The rule of “an unintentional thing is allowed” is learnt for the whole Torah from the halachos of Shabos (Ritva, Yoma 34b). One of the well-known examples included in this rule is “a person may drag a bed, chair or bench as long as he doesn’t intend to make a rut” (Shabos 29b). In other words, though it is forbidden on Shabos to make a rut in the ground because of the *melachah* of plowing (*choresh*), a person who drags a bench on the ground and doesn’t intend to make a rut and doesn’t even need the rut may do so. Rabbi Shimon maintains that instances where there is no intention to cause a forbidden act are not included in the prohibition. Hence the person who pours the wine does not intend to extinguish the fire but only to offer the wine on the altar and “an unintentional thing is allowed” (see *Pnei Yehoshua* on Shabos 42a).

Obviously, a person is forbidden to pour a barrel of water on the altar, claiming that he only wants to clean it and not extinguish the fire, as the result is obvious in advance. The Talmud calls it *pesik reisha*: *pesik* – “to cut” and *reisha* – “the head” – i.e., just as someone who cuts off the head of a chicken cannot say that he doesn’t intend for it to die, the same applies for every act with an obvious result, which may not be performed with a claim that he did not mean the outcome. Only acts such as described here, like pouring the wine, are allowed as the wine may be poured drop by drop to avoid extinguishing the fire (Rashi, s.v. *Ha Rabbi Shimon*). Does this rule really remove the limitation from doing any act forbidden by the Torah as long as it is unintentional?

Injecting the dangerously ill with a sedative: This question was asked about injecting a dangerously ill person with a strong sedative. His illness caused him such great pain that he virtually wanted to die. The doctor suggested injecting him with a concentrated painkiller but informed his relatives that the drug might shorten his life. According to the rule that an unintentional thing is

allowed, why should the drug be forbidden? After all, the doctor does not intend to kill his patient but only to relieve his pain and if the worst happens and the sedative kills him, it is an unintentional thing as no one intends such a result to occur.

The basic difference between prohibitions of the Torah:

HaGaon Rav Shimon Shkop zt”l (*Sha’arei Yosher, sha’ar 3, Ch. 25*), HaGaon Rav Elchanan Wasserman zt”l (*Kovetz Shiurim, II, 23*) and the Chazon Ish zt”l (*O.C. 62, S.K. 26*) write that we should distinguish between different prohibitions of the Torah. Sometimes the Torah forbids the act and sometimes the result. When the Torah forbade us to extinguish the fire on the altar or to make a rut in the ground, it only forbids that act. In other words, after the fact a person is not punished for the existence of the rut he made but for the **act** of doing so. Therefore, when the perpetrator of the act does not intend to do it, it is as if the act happened itself. On the other hand, the prohibition of murder relates to the result – a soul murdered. The murderer is not punished only for the act of murder but also for its result. Therefore, there is no possibility that the rule of “an unintentional thing is allowed” would permit doing an act that might lead to murder as an awful result may happen, whose occurrence is forbidden by the Torah (see *Mishnas Pikuach Nefesh, 7*).