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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

Premature Offering

[The Mishna had stated: *If both animals were kodashim, and they were slaughtered inside the Temple Courtyard, the first is valid and there is no liability (for it was done properly), and he who slaughtered the second incurs lashes (for violating the prohibition of oso v'es b'no), and it is invalid (for since its mother was slaughtered on that day, it is premature).*] The Gemora asks: Should he not incur lashes also on account of the prohibition of 'mechussar z'man' (it is premature to be offered as a korban)? For it was taught in a braisa: From where do we know that the offering of an ox or a sheep that has any disqualifying defect will be a transgression of the prohibition of 'it shall not be acceptable'? It is from the verse: *Either an ox or a lamb that has a limb too long or unsplit hooves, it shall not be acceptable as an offering.* This implies that the offering of an ox or a sheep that has a disqualifying defect is a transgression of the prohibition of 'it shall not be acceptable.'

The Gemora answers: The Tanna in our Mishna only reckons the prohibition of 'oso v'es b'no,' but not any other extraneous prohibitions.

The Gemora asks: Surely it is not so! For is not the slaughtering of a consecrated animal outside the Temple Courtyard an extraneous prohibition, and nevertheless, he reckons it? For it states: *If both animals were kodashim, and they were slaughtered outside the Temple Courtyard, he who slaughtered the first incurs the punishment of*

kares, and both animals are invalid (the first because it was slaughtered outside, and the second because of oso v'es b'no), and both slaughterers incur lashes. Now, it is understandable that the second one incurs lashes on account of the prohibition of 'oso v'es b'no,' but why does the first one incur lashes if not on account of the prohibition of slaughtering consecrated animals outside the Sanctuary?

The Gemora answers: Wherever there is no prohibition of 'oso v'es b'no,' he then reckons other prohibitions, but wherever there is a prohibition of 'oso v'es b'no,' he does not reckon other prohibitions.

Rabbi Zeira answers: Leave alone the prohibition of 'mechussar z'man,' for the Torah has removed it (from the form of a negative prohibition) into a positive command.

The Gemora cites the Scriptural verse to prove this, but then asks: Is this verse not required for Rabbi Aporiki? He asks: The verse states: *It shall remain for seven days under its mother.* This implies that it is fit on the eighth night. However, another verse states: *And from the eighth day and on it will be acceptable* - indicating that it is not valid on the eighth night. How can we reconcile these verses? It must be that he may dedicate the animal on the eighth night, and it will only be accepted (as a korban) on the eighth day.

The *Gemora* answers: There is another verse which teaches us this exposition. (80b – 81a)

Oso v'es B'no by Consecrated Animals

Rav Hamnuna said: Rabbi Shimon used to say that the law of '*oso v'es b'no*' does not apply to consecrated animals. Why? For since Rabbi Shimon has stated that a slaughtering which does not render the animal fit (*for consumption*) is not regarded as a slaughtering, the slaughtering of a consecrated animal is by itself a slaughtering which does not render the animal fit (*for as long as the blood has not been thrown on the Altar, the meat is not permitted to be eaten*).

Rava asked from the following *braisa*: If one slaughtered an animal and its offspring on the same day, both being consecrated animals, outside the Courtyard, Rabbi Shimon said that the one who slaughtered the second has transgressed a negative command, for Rabbi Shimon used to say that whatever will be fit at a later time, one transgresses on its account a negative prohibition, but does not incur *kares*. But the Sages say: Where there is no *kares* there is no prohibition either. Now upon this was raised the following difficulty: Did Rabbi Shimon say that where both were consecrated animals and they were slaughtered outside, the one who slaughtered the second one has transgressed a negative command (*and nothing more*)? But surely, the first animal is merely regarded as 'killed' (*and not slaughtered, for it is not fit for consumption*), and the second would therefore be acceptable as a sacrifice within; consequently, he who slaughtered it should also incur the penalty of *kares*!? Rava, and others say that Kadi answered: It is as if there are missing some words here, and this is how it should read: If both animals were consecrated add were slaughtered outside the Courtyard, then according to the Rabbis (*who maintain that even a slaughtering that is not fit for consumption is nevertheless regarded as a*

shechitah), he who slaughtered the first one incurs the penalty of *kares*, and the second animal is invalid (*for it is premature, on account that its mother was slaughtered on that same day*), but he who slaughtered it is exempt from the prohibitions (*against slaughtering kodashim outside*); and according to Rabbi Shimon, both incur the penalty of *kares*. If both animals were consecrated and were slaughtered, the first outside and the second inside the Courtyard, then, according to the Rabbis, he who slaughtered the first has incurred the penalty of *kares*, and the second animal is invalid, and he who slaughtered it is exempt from the prohibitions (*against slaughtering kodashim outside*); and according to Rabbi Shimon, the second animal is valid (*for the first one was 'killed,' not 'slaughtered'*). If the first was slaughtered inside and the second outside the Courtyard, then, according to the Rabbis, the first animal is valid and he who slaughtered it is not liable at all, and the second is invalid (*for it is premature*), and he who slaughtered it is likewise exempt, and according to Rabbi Shimon, he who slaughtered the second has transgressed a negative prohibition. Now, if you maintain that according to Rabbi Shimon, the law of '*oso v'es b'no*' does not apply to consecrated animals, then why is it stated that he who slaughtered the second has transgressed a negative prohibition and no more? He should also have incurred the penalty of *kares*!

Rather, said Rava, this is what Rav Hamnuna meant to say: The punishment of lashes for the violation of the law of '*oso v'es b'no*' does not apply to consecrated animals. Why? Since the meat is not permitted to be eaten as long as the blood has not been thrown, the warning that is given to the slaughterer (*that he is about to slaughter the offspring of an animal that was slaughtered on that day*) while he is slaughtering is an uncertain warning (*for perhaps the blood will not be thrown*), and an uncertain warning is not regarded as a proper warning.

The *Gemora* notes that Rava is consistent in this view of his, for Rava said: If the mother was an unconsecrated animal and

its offspring was a *shelamim*, and a man slaughtered first the unconsecrated animal and later (*on the same day*) the *shelamim*, he is exempt (*from lashes according to R' Shimon, for the warning is an uncertain one*). If he first slaughtered the *shelamim* and then the unconsecrated animal, he is liable.

Rava also said: If the mother was an unconsecrated animal and its offspring was an *olah*, it is not necessary to say that if a man first slaughtered the unconsecrated animal and later (*on the same day*) the *olah*, he is exempt (*from lashes according to R' Shimon, for the warning is an uncertain one*), but even if he first slaughtered the *olah* and later (*on the same day*) the unconsecrated animal, he is also exempt, because the first slaughtering was not a slaughtering that renders the animal fit for eating (*since an olah is completely burned on the Altar*). Rabbi Yaakov, however, said in the name of Rabbi Yochanan: The consumption of sacrifices upon the Altar is regarded as 'eating' as well. What is the reason for this? It is because it is written: And if some of the meat of the sacrifice of his *shelamim* offering will be consumed at all. The verse speaks of two 'eatings' (*through its repetition of the word 'consumption'*), the eating by man and the 'eating' of the Altar.

[*The Mishna lists cases where one slaughters an animal, but its meat is not rendered permitted for consumption. Such a slaughtering is disputed if it is regarded as a shechitah or not.*] If one slaughtered an animal and it was found to be *tereifah*, or if he slaughtered it for the sake of idolatry, or if he slaughtered the red heifer, or an ox which was condemned to be stoned, or a calf that is designated to be decapitated, Rabbi Shimon says: He does not

transgress the law of '*oso v'es b'no*.' The Sages, however, say: He does.

If one slaughtered an animal and it became a *neveilah* through his hand (*by doing something which invalidated the shechitah*), or if he stabbed it, or tore away the pipes, he does not thereby transgress the law of '*oso v'es b'no*.'

Rabbi Shimon ben Lakish said: They said so (*that he is liable for oso v'es b'no even in the case of idolatry*) only where the person slaughtered the first animal for the sake of idolatry and the second for his table (*to be consumed*); but if he slaughtered the first animal for his table and the second for the sake of idolatry, he is exempt (*from the lashes for oso v'es b'no*), for we apply the principle of *kim leih bid'rabbah minei* (*whenever someone is deserving of two punishments, he receives the one which is more severe; in this case, he receives the death penalty for serving idols, and he does not incur lashes for oso v'es b'no*).

Rabbi Yochanan said to him: Why, even schoolchildren know that! But I say that there are times that even where he slaughtered the first animal for his table and the second for the sake of idolatry that he would incur lashes for violating the law of *oso v'es b'no*, and that is where he was warned of the prohibition of '*oso v'es b'no*' but not of idolatry.

Rabbi Shimon ben Lakish, however, maintains that since if he had been warned of idolatry, he would not incur lashes on account of '*oso v'es b'no*,' then even if he had not been warned of idolatry, he is likewise not liable for lashes on account of '*oso v'es b'no*.'

The *Gemora* notes that they are indeed consistent in their views stated elsewhere, for when Rav Dimi came from *Eretz Yisroel*, he said as follows: He who committed

inadvertently an act which, if he had committed it deliberately, would have been punishable with death or with lashes, and at the same time committed an act punishable with something else, Rabbi Yochanan says that he is liable, but Rabbi Shimon ben Lakish said: He is not liable.

The *Gemora* explains: Rabbi Yochanan said that he is liable, for he had not been warned (*of the greater penalty*), but Rabbi Shimon ben Lakish says: he is not liable, for since, if he had been warned (*of the greater penalty*) he would not be liable, so too, if he had not been warned of it, he is also not liable.

The *Gemora* explains why both disputes were necessary to be stated. (81a – 81b)

INSIGHTS ON THE DAF

Premature Sacrifices

The *Mishna* elsewhere discusses various cases of premature sacrifices and cites a dispute between the Sages and Rabbi Shimon whether there is a violation of slaughtering outside the Temple when at the moment it is unfit to be brought as a sacrifice inside. The implication is that if one were to consecrate an animal that is premature (either before the eighth day or the day that the mother was slaughtered) or a bird that is premature (turtledoves before they mature), the *hekdesh* status would be binding.

Tosfos (d.h. heter) questions this because the *Gemora* says that only the night before the eighth day can one consecrate it, which implies that before that time, the sanctity wouldn't take effect. Tosfos concludes that although there is a prohibition to consecrate an animal that is premature, the sanctity would indeed take effect. Tosfos writes that even according to Rava in Temurah 4b who says that when the Torah says not to do something it

is generally not binding, this would be an exception to the rule - the one who consecrated it would be in violation even though the sanctity will take effect.

The *Minchas Chinuch* (293) says that the Rambam seems to concur with Tosfos on this point. The Rambam (*Ma'aseh Korbanos* 18:10) compares consecrating an animal before the eighth day to consecrating a blemished animal. Therefore, just as by consecrating a blemished animal the status is binding, so too consecrating a premature sacrifice, the status is binding. [Others assume that according to the Rambam, the *hekdesh* isn't binding.] However, Rashi in *Bechoros* 21b (d.h. lei'lif) understands that the sanctity isn't binding at all. The *Shitah Mikubetzes* (*zevachim* 12a) also writes that before the night of the eighth day, the sanctity will not be binding.

He questions how the sanctity can be binding on a fetus; it should be no better than premature sacrifices! The *Shitah Mikubetzes* answers that sanctity of the fetus is binding together with the mother, or that the disqualification of premature sacrifices only begins at a time when it is fit to be sacrificed - at birth.

DAILY MASHAL

Koy or Kevi?

As the *Gemara* says, there is a doubt if the כּוֹי is an undomesticated animal, a domesticated animal or a creature for itself. As for the halachah, some believe it is the buffalo (see *Remo*, *Y.D.* 28:4, and *Beiur HaGera*, *ibid*, and *Tiferes Yisrael*, here, *os* 5). The Talmud mentions many halachos about the כּוֹי because of its doubts and they are assembled in several *mishnayos* at the end of the second chapter of *Bikkurim*. It is commonly called a *koy* but some call it *kevi*. In the yeshivah world they say that this also one of its doubts...