



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Slaughtering not fit for Consumption

The *Gemora* asks: Is the slaughtering of the red heifer regarded as a *shechitah* which is not fit (for consumption)? But it was taught in a *braisa*: Rabbi Shimon says that the red heifer can transmit *tumah* as a food (if it first came in contact with a *sheretz*), being that it was fit to be eaten (as will be explained). And Rish Lakish states that Rabbi Shimon understands that the red heifer can even be redeemed on its pyre (if a nicer one was found; Rabbi Shimon holds a general rule of *kol ha’omed* - anything destined for a specific action is considered as if the action were already done, and therefore we can consider the cow as if it was redeemed already).

Rav Shemen bar Abba said in the name of Rabbi Yochanan: The case of the red heifer was not taught in our *Mishna* (and R’ Shimon would indeed admit that one would be liable for slaughtering it and its offspring on account of *oso v’es b’no*).

The *Gemora* asks: Is the slaughtering of the calf destined to be decapitated regarded as a *shechitah* which is not fit (for consumption)? But it was taught in a *Mishna*: If the murderer was found before the calf’s neck was decapitated, it should go out and graze with the herd (we are allowed to derive benefit from it).

Rabbi Shimon ban Lakish said in the name of Rabbi Yannai: The laws of the calf designated to be decapitated was not taught in our *Mishna* (and R’ Shimon would indeed admit that one would be liable for slaughtering its mother and it on account of *oso v’es b’no*).

The *Gemora* asks: Did Rabbi Yannai actually say that? But Rabbi Yannai observed: I have heard the critical time limit for it (when the calf is regarded as an *eglah arufah* and thereof it is forbidden for benefit), but have forgotten it; while his disciples maintained that its descent to the rock-hard valley is what renders it forbidden. Now, could he not have answered that there it was (the murderer was found) before its descent to the rugged valley (and that is why

it’s permitted for use), and here it was slaughtered after it was taken down!

Rav Pinchas the son of Rav Ami replied: We learned it in the name of Rabbi Shimon ben Lakish (and not R’ Yannai) that the laws of the calf designated to be decapitated was not taught in our *Mishna* (and R’ Shimon would indeed admit that one would be liable for slaughtering its mother and it on account of *oso v’es b’no*).

Rav Ashi said. When we were at Rav Pappi’s School, this difficulty was raised: Did Rabbi Shimon ben Lakish really say like this? But it has been stated: When do the *metzora* birds become forbidden for benefit? Rabbi Yochanan says: From the moment of the slaughtering (but the one which is sent away will remain permitted). Rish Lakish says: They become forbidden from the moment which they are taken (to be used for this ritual; the second bird becomes permitted when it is sent away).

The *Gemora* explains that Rish Lakish holds that we learn out this prohibition from *eglah arufah*. Just as an *eglah arufah* is forbidden even while it is alive, so too, the *metzora* bird becomes forbidden even while it is alive.

Rather, it was Rabbi Chiya bar Abba who said in the name of Rabbi Yochanan that the laws of the calf designated to be decapitated was not taught in our *Mishna* (and R’ Shimon would indeed admit that one would be liable for slaughtering its mother and it on account of *oso v’es b’no*). (81b – 82a)

Mishna

If two people bought a cow and its offspring, he who bought first may slaughter first (and the other person must wait until the next day to slaughter the other one); but if the second one preceded him, he holds the right (to eat the meat). (82a)

Two Owners

Rav Yosef said: What we have learned in our *Mishna* is regarding the judgment (*that the court will issue as to who may slaughter first; it is not an 'oso v'es b'no' issue; rather, the court decides who may slaughter first*).

The *Gemora* cites a *braisa*: If the second preceded him, he is a speedster and gains.

The *Gemora* explains that he is a speedster in that he did not transgress the law, and he gains in that he may eat the meat on that day. (82a)

Mishna

If one slaughtered a cow and then two of its calves, he incurs eighty lashes. If he slaughtered its two calves and then the cow, he incurs forty lashes. If he slaughtered it and then its calf and then the calf's offspring, he incurs eighty lashes. If he slaughtered it and then its calf's offspring and then the calf, he incurs forty lashes. Sumchos said in the name of Rabbi Meir: He incurs eighty lashes. (82a)

Amount of Lashes

The *Gemora* cites the verse, "you shall not slaughter" (in the plural form) to teach us that if one slaughtered the cow, and another slaughtered its mother, and a third slaughtered its offspring, the last two are liable (*proving that the prohibition is that one cannot slaughter a parent and its offspring – regardless which is slaughtered first*).

The *Gemora* proves from a different part of the same verse that not only will one person be liable for slaughtering the mother and its offspring, but even when it is done by two people, the second one is liable.

The *Mishna* had stated: If he slaughtered it and then its calf's offspring and then the calf, he incurs forty lashes. Sumchos said in the name of Rabbi Meir: He incurs eighty lashes.

Abaye said to Rav Yosef: What is the reason of Sumchos? Is it that he holds that if a man during one lapse of awareness ate two olive-volumes of forbidden fat, he is liable to two *chatas* offerings (*and therefore, in this case, where he simultaneously committed two prohibitions, he will incur two sets of lashes*), and by right, this view

of Sumchos should have been stated elsewhere (*for here, it might have been said that he incurs two sets of lashes, for the violation came about through the slaughtering of two distinct cows – its mother and its offspring*), but it is stated here to show you the strength of the Rabbis, for the Rabbis exempt him (*from an additional set of lashes*) even in a case of separate bodies? Or is it that he holds that if a man during one lapse of awareness ate two olive volumes of forbidden fat, he is only liable to one *chatas* offering, but here the reason (*that he incurs two sets of lashes*) is that there are two separate bodies?

He replied: Yes. He holds that if a man ate two olive volumes of forbidden fat during one lapse of awareness he is liable to two *chatas* offerings.

The *Gemora* proves that he holds like this from the following *braisa*: If a person plants *kilayim*, *kilayim*, (*the prohibition against planting together different species of vegetables, fruit or seeds*), he incurs lashes. Now, what is meant by the ruling that 'he incurs lashes'? It cannot mean that he incurs the penalty of lashes once, for this is obvious; and furthermore, why does it repeat *kilayim*, *kilayim*? It must therefore mean that he incurs lashes twice. And what would be the circumstances of the case? It cannot mean that he planted *kilayim* twice one after the other, and there were two warnings, for we have already learned this in a *Mishna*: If a *nazir* was drinking wine the entire day, he will only be liable once (*he will only receive lashes one time*). If they told him, "Do not drink," "Do not drink," but he kept on drinking, he will be liable for each and every time (*that he drank after he was warned*). Evidently then, it must be referring to a case where he planted *kilayim* twice, but simultaneously, and there was only one warning. Now who is the author of this ruling? It cannot be the Rabbis, who differ with Sumchos, for it would be obvious that he only incurs forty lashes, for in our *Mishna*, where there are separate bodies, the Rabbis exempt him (*from an additional set of lashes*), how much more so in this case (*where there are no separate bodies*)! It must be then following the viewpoint of Sumchos (*proving that Sumchos maintains that one would incur two sets of lashes for two simultaneous violations only when there are separate bodies*).

The *Gemora* rejects the proof: No! I can maintain that it is the Rabbis, but they incidentally inform us something else - that there are two types of *kilayim* (either wheat or barley with grapeseed), and it is coming to exclude the opinion of Rabbi Yoshiya, who rules

that the prohibition is not violated unless one plants wheat, barley and grapes (simultaneously) in one throw of the hand (and not by planting wheat and barley next to existing vines). The *braisa* teaches us that if one planted wheat and grapes or barley and grapes, he is also liable.

The *Gemora* attempts to prove what Sumchos holds from the following *Mishna*: If one ate an olive's volume of this one (*the gid hanasheh* - sciatic nerve of the right thigh) and another olive's volume of this one (from the other thigh), he incurs eighty lashes. Rabbi Yehudah says: He incurs only forty lashes. Now, what are the circumstances of the case? It cannot be that he ate them one after the other and there were two warnings, for then what would be Rabbi Yehudah's reason to say that he incurs lashes at all? Isn't the warning for each of them uncertain (for it is not known which of the sinews is forbidden), and we have learned that according to Rabbi Yehudah, an uncertain warning is not regarded as a warning. This is proven for it was taught in a *braisa* (regarding intermingled children): If one of the sons struck one of the possible fathers and then he struck the other, or if he cursed one of the possible fathers and then he cursed the other, or cursed them both simultaneously or struck them both simultaneously, he will be liable (since one of the two is certainly his father). Rabbi Yehudah said: If he struck or cursed them simultaneously, he will be liable (the specific warning (*hasra'ah*) that must precede any forbidden act that is punishable by a court is here effected when the witnesses warned the offender by one statement against the striking or the cursing of the two, e.g., 'do not strike them'), but if he struck or cursed one and then he struck or cursed the other, he is exonerated (though he may have been duly warned in each particular case, no penalty can be imposed upon him by any court, since each warning was of a doubtful character since it was unknown in each case whether the particular man he was about to strike or curse was his father or not; a warning of a doubtful character is, in the opinion of Rabbi Yehudah, of no validity, while in the opinion of the first *Tanna*, it is valid).

Now, obviously then the case is that he ate them together and there was only one warning. Now whose view is expressed by the *Tanna Kamma*? It cannot be the Rabbis, who differ with Sumchos, for it would be obvious that he only incurs forty lashes, for if in our *Mishna*, where there are separate bodies, the Rabbis exempt him (from an additional set of lashes), how much more so in this case (where there are no separate bodies)! It must be then following the

viewpoint of Sumchos (proving that Sumchos maintains that one would incur two sets of lashes for two simultaneous violations only when there are separate bodies).

The *Gemora* deflects the proof: No. The *Mishna* is referring to a case where he ate them one after the other and that there were two warnings, and the view expressed by the *Tanna Kamma* is that of the Rabbis, and the *Mishna's* ruling (that he incurs lashes even though the warning is an uncertain one) agrees with the view of a different *Tanna*, who states also in the name of Rabbi Yehudah, that an uncertain warning is a warning.

This is proven from the following *braisa*: And you shall let nothing of it (*korban pesach*) remain until the morning; and that which remains from it until the morning you shall burn with fire. Now, the Torah follows up a negative prohibition (of leaving over) with a positive one (of burning that which is leftover), thereby teaching us that one does not incur lashes for it. This is Rabbi Yehudah's view. Rabbi Yaakov said: This is not the real reason (that he does not incur lashes), but it is because it is a negative prohibition that involves no action, and one does not incur lashes for violating any negative prohibition that involves no action. [Now, in this case, the warning is obviously an uncertain one, for it is not known if will leave it over until the morning, and nevertheless, it is a valid one.] (82a – 83a)

DAILY MASHAL

All Israel Are One Body

It is an interesting halachah that if Reuven slaughtered a cow, Shimon is forbidden to slaughter its offspring on the same day. What do they have to do with each other? One person slaughters the mother and forbids everyone to slaughter its offspring?! We thus learn that every Jew is part of his people and that we are all responsible for each other. Not for nothing did the gentiles tend to apply the sin of an individual to the whole community (*Oznayim LaTorah, Emor*).