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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

Tenth or Eleventh

The *Gemora* returns to discuss Rava’s statement that if two animals came out tenth, and he called them both the tenth, the two are a mixture of tenth and eleventh.

The *Gemora* cites three *braisos* about what one must do with these animals:

1. They should graze until they become blemished, and then be eaten.
2. They should be offered as a sacrifice.
3. They should be put to death.

The *Gemora* explains the rationale behind each *braisa*:

1. The Sages say that they should graze, as they say that we do not offer a sacrifice which will end up becoming invalid. Since the tenth (*ma’aser*) is totally eaten by anyone, while the eleventh (*as a shelamim*) has its chest and thigh eaten only by *Kohanim*, both animals would have to have their chest and thigh eaten only by *Kohanim*. We are concerned that there may not be sufficient *Kohanim* to eat these, leading one of them to become unnecessarily unfit. To avoid this situation, we instead let them graze.
2. Rabbi Shimon says that we do offer sacrifices, even if some of it will become unfit. Therefore, both are offered as a sacrifice, with their chest and thighs eaten by *Kohanim* only.

3. Rabbi Yehudah says that a mistake in designating *ma’aser* is akin to *temurah* – exchange of *ma’aser*. He also says that *temurah* of *ma’aser* is put to death. Therefore, the eleventh must be put to death. In this case, we don’t know which one is the eleventh, so they are both put to death.

The *Gemora* challenges the assumption that Rabbi Yehudah says that the *temurah* of *ma’aser* must be put to death, from the *Mishna*, in which Rabbi Meir challenges Rabbi Yehudah, saying that if the eleventh would be akin to *temurah*, it should be put to death. This implies that Rabbi Yehudah agrees that the eleventh is sacrificed, even though it is akin to *temurah*.

The *Gemora* proves that Rabbi Yehudah himself says this from a *braisa*, in which he says that the only difference between the eleventh and a standard *shelamim* is that the eleventh cannot cause any other animal (i.e., *temurah*) to be sacrificed, implying that it itself is sacrificed. Furthermore, an anonymous *braisa* in the *Sifra*, which we assume to be Rabbi Yehudah, says that the eleventh is offered as a *shelamim*.

Rabbi Shimon the son of Rabbi Abba explained in front of Rabbi Yochanan that the third *braisa* refers to *ma’aser* nowadays, which cannot be offered. To avoid the danger of someone shearing or working it, we rule that it must be put to death.



The *Gemora* notes that this would be true even of one *ma'aser* animal, but the *braisa* is teaching that even in the case of two animals, which are a greater loss for the owner, we still rule that they must be put to death. (60b – 61a)

An Agent to Take Ma'aser

The *Gemora* cites a dispute about someone delegated to take *ma'aser* from someone else's flock. Rav Pappi quotes Rava saying that if he mistakenly called the ninth the tenth, it is sanctified, but if he mistakenly called the eleventh the tenth, it is not sanctified. Rav Pappa quotes Rava saying that any mistake, with the ninth or the tenth, is not sanctified, as the owner of the flock can say that he only delegated him to help him, but not to cause issues.

The *Gemora* explains that this is different than the case of one who delegated someone to take *terumah* from his produce. In that case, the *Mishna* says that the delegate should separate *terumah* based on the general practice of the owner. If he doesn't know what he generally takes, he should take 1/50th, like an average person, but if he took 1/40th or 1/60th instead, it still takes effect.

The *Gemora* explains that in the case of *terumah*, the owner cannot claim that he did not delegate him to veer from his practice, since some take more (up to 1/40th) and some take less (up to 1/60th), the agent can claim that this was a valid estimation of what the owner would have wanted. (61a)

WE SHALL RETURN TO YOU, MA'ASER BEHEIMAH AND TRACTATE BECHOROS IS CONCLUDED

INSIGHTS TO THE DAF

Offering Tenth and Eleventh

The *Gemora* says that the *braisa* which says that both animals, which may be tenth (*ma'aser*) or eleventh (*ma'aser*), are sacrificed, follows Rabbi Shimon, who allows one to sacrifice an animal, even if some of it will become unnecessarily unfit.

Tosfos (61a ve'ha) raises other potential issues with offering these two sacrifices, even according to Rabbi Shimon:

1. One must lean on *shelamim*, but not on *ma'aser*. To bring both, one wouldn't be able to lean on either one. Leaning is a *mitzvah*, but is not a prerequisite for the sacrifice to be valid. Tosfos discusses many instances where the *Gemora* allows one to offer a sacrifice without leaning, and many instances where the *Gemora* does not. Tosfos says that when not sacrificing an animal will only leave us with the option of putting it to death, or preclude someone from resolving their status, we allow one to sacrifice without leaning. In addition, when the animals were ineligible for leaning from the outset, leaning isn't necessary. Tosfos also suggests that in this case we allow one to omit leaning, since each animal may not need leaning.
2. The blood of the *ma'aser* is applied once, while the blood of *shelamim* is applied on two opposite corners. Tosfos notes that there is a dispute among Tannaim how to deal with a similar case, where the blood of *ma'aser* got mixed in with the blood of *shelamim*, and their positions in that case would apply here as well.



Ma'aser Nowadays

The *Gemora* says that the *braisa* which says that both animals are put to death refers to *ma'aser* today, which may not be sacrificed. We therefore put it to death, to avoid any issues with the sacrifices being around for an extended period of time.

The Rambam (Bechoros 6:2) rules that although we do not take *ma'aser* nowadays, if one did, he should wait until it is blemished, and then eat it.

Many later commentators discuss why the Rambam ruled this, seeming contradicting the *Gemora's* statement here.

The Noda BiYehudah (2nd edition, Y"D 189) suggests that the *Gemora* here was assuming that one could theoretically sacrifice this *ma'aser* once the Bais Hamikdash is rebuilt. Therefore, the owner keeps the animal in his vicinity, to ensure he can sacrifice it at the right time, and therefore we are concerned that he may come to shear or milk it. However, the Rambam holds that one may not sacrifice *ma'aser* taken nowadays, and therefore, we assume he will let the animal run freely. This removes the concern that he will shear or milk it.

Mistaken Ninth and Eleventh

The *Gemora* cites the dispute between Rav Pappi and Rav Pappa about an agent who made a mistake when counting the animals for someone else's *ma'aser*. Rav Pappi says that if he made a mistake about the ninth, it takes effect, but if he made a mistake about the eleventh, it does not. Rav Pappa says that both mistakes do not take effect, as the owner can say that he didn't appoint him to cause damage.

Tosfos (61a litshi'i) offers two explanations of Rav Pappi's position:

1. He fundamentally agrees with Rav Pappa's principle, but says that a mistake about the ninth, which simply requires one to wait for it to be blemished before eating it, is not considered substantial damage, and therefore is included in the task.
2. His task was to separate *ma'aser*, and therefore, once the tenth left the pen, he has finished his job. Therefore, what he did to the eleventh is beyond his task, and does not take effect.

DAILY MASHAL

Rabbi Akiva Was Holy to Hashem

Early *sefarim* cite the holy kabbalist Rabbi Shimshon of Ostropoli, that the ten holy Tanaim murdered by the Romans corresponded to the ten tribes who joined in selling Yosef and though they were only nine at the selling, they included Hashem with them and corresponding to Him, *kevayachol*, came Rabbi Akiva. This is hinted in the verse "all that will pass under the rod (interpreted: will be removed instead of the tribe)". The nine Tanaim killed corresponded to the tribes. The tenth, Rabbi Akiva, will be holy to Hashem (*Pardes Yosef*, Vayikra 26:32; see further *ibid*).