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Chapter 2

Mishnah 1. If a single pigeon from an unassigned pair of birds escaped into the open air, or flew among birds that had been left to die, or if it itself died, then must a mate be supplied for the second one.¹ If it flew among birds that are to be offered up, it becomes invalid² and invalidates also another bird as its counterpart [in the pair]; for the pigeon that flew away becomes invalid and invalidates another bird as its counterpart [in the pair].³

Mishnah 2. For example? Two women — each with her two pairs, and one bird flies from the [pair of] one to another [woman's pair]. Then it disqualifies by its escape one [of the birds from which it flew].⁴ If it returned, it disqualifies yet another by its return.⁵ If it flew away again and then returned, and yet again flew away and returned, no further loss is incurred, since even if they had all become mixed together, not less than two [pairs would still be valid].⁶

Mishnah 3. If one [woman] had one pair, another two, another three, another four, another five, another six and

¹ We do not condemn it to exposure to die, but it is still fit to be offered up either as a חטאת or an עולה, once it has been supplied with a partner. If the bird escapes from a specified pair, this rule all the more applies.

² I.e., of the confused birds one remains invalid and not fit to be offered as representing the bird that had flown into them.

³ We expected a reason and get instead a repetition of the statement. Besides, these words refer only to the last case but not to the first instances quoted in the Mishnah. The stress, however, here is that the escaped bird can only disqualify both the one left behind and one of those into whose midst it flies. We do not apply here the principle of כּל פּרִישׁ מֵרֹבֵא דפְּרִישׁ כּל, ‘that whatever proceeds from a mixed multitude has the legal status of the majority’, since it may easily be that the bird offered up is the one that remained stationary (kavua), and the principle is that the majority rule is not applicable.

⁴ When a bird escapes from the four birds of one to the four of another, then three are left in one group and five in the other. Of the three one can be offered as a חטאת and the other as an עולה for were he to offer up two as olos, both the third bird and the one that escaped would thereby be classed as chatas offerings. The result would then be that of the five birds he would be able to offer only two chatas offerings, after having sacrificed two of the three birds, the third must be left to die; for were it brought as a chatas, the fear is lest its mate that swelled

the other group to five also be offered as a חטאת. The result would then be that one pair would yield two chatas offerings. Similarly, not more than four of the five birds are valid, two as chatas offerings and two as olos, for were three birds offered as either kind of sacrifice, it is possible that they were of the two pairs brought by the same woman, of which only two are chatas offerings and only two are olos. It thus stands to reason that the bird that escapes disqualifies itself and a bird from each of the groups from which it has flown and to which it escapes (as in all other cases, the women, in order to fulfill their obligation meticulously had to subscribe jointly for another pair and give each other full rights in the pair brought).

⁵ If one of the five birds flew towards the three. Once again there are two equal groups of four birds each, but of each group only one can be offered as a חטאת and one as an עולה since it might easily be that the bird that now escapes towards the three is not the bird that originally belonged to that group, so that we would now have three birds belonging to one woman and one to another, and as explained previously, only two birds of each group can be offered as a חטאת and an עולה respectively.

⁶ Of these two pairs only two can be offered as chatas offerings and two as olos. The sole fear stressed in this Mishnah is lest if three be offered as either sacrifice, the three birds may belong to the two pairs of one woman.

another seven pairs,⁷ and one bird flew from the first to the second pair,⁸ [and then a bird flew from there] to the third, [and then a bird flew from there] to the fourth, [and from there a bird flew] to the fifth, [and from there flew one] to the sixth, [and one from there flew] to the seventh, and then a bird returns [in the same order],⁹ it disqualifies a bird at each flight and return.¹⁰ Unto the first and second [women] there are none left,¹¹ unto the third there is one pair,¹² unto the fourth two, unto the fifth three, unto the sixth four, and unto the seventh six pairs.¹³ If again [one from each group] flew away and returned [in like order],¹⁴ it disqualifies a bird by its flight and return; [in which case] the third and fourth

woman will have none left,¹⁵ the fifth will have one pair,¹⁶ the sixth two pairs,¹⁷ and the seventh woman five pairs.¹⁸ If again one [from each group] flew away and returned,¹⁹ it disqualifies a bird by its flight and return; in which case, the fifth and sixth women have none left, and the seventh has four pairs.²⁰ But some say that the seventh woman has thereby lost nothing.²¹ If [a bird] from those that are left to

⁷ The pairs being yet unassigned.

⁸ The bird left to her, who only brought one pair, becomes disqualified.

⁹ A bird from the seven kinnim flies towards the six kinnim, and from there another bird flies towards the five kinnim, and so on in reverse order. The result of this backward flight is that the women finish up each with the number with which they at first began.

¹⁰ On account of the uncertainty of identity.

¹¹ The pair of the first is invalid, for one bird is disqualified at the first flight and the other remaining bird by the return of another bird. Similarly, of the four birds belonging to the second woman, two get disqualified by the first flight and two by the return flight.

¹² More she cannot offer, for four have become disqualified by the flight and return. Hence, the fourth, fifth and sixth women can offer their kinnim minus four as these may be of those belonging to the first and second, whose offerings are now invalid.

¹³ Since only one bird escaped from her group when the birds began to fly back in reverse order; for at the first flight, her birds were not affected at all. In all cases the fear is lest more chatas-offerings and olah-offerings than originally existed in each of the groups be sacrificed.

¹⁴ This return can only refer to the groups commencing with the third woman onwards; for should a bird escape from the kinnim of the first two women that have been invalidated, and, therefore, condemned to die, then the concluding rule of our Mishnah if a (bird) flew from those that are left to die would be applicable.

¹⁵ Three comings and goings have now taken place from each group, and of the six birds belonging to the third woman, three have gone. The fear is lest these three departed birds be offered up either as chatas-offerings or as עולות, and if in addition, we allow her to offer up even one pair, we would find four sacrifices of each kind offered from

a possible three. A similar reasoning is applicable to the fourth woman of whose eight birds, six have become invalid by the three movements from and into the kinnim.

¹⁶ Of her original ten birds, four are deemed to have escaped. These might be offered up later as four chatas-offerings or as four olah-offerings; so by allowing the fifth woman more than one valid pair, the same situation as the one described above would arise - more sacrifices would be brought from her kinnim than possibly existed when she first brought them.

¹⁷ For the reasons above given; four birds have escaped and more than two pairs would increase the possible number of her offering.

¹⁸ Hers is the least loss, since her kinnim have been affected only at each return and not, as in the other cases, at each flight also. Were she allowed more than five pairs, the same impossible situation referred to in the above notes would arise.

¹⁹ Since the kinnim of the first four women have become invalid, we must interpret this flight to be from the kinnim of the fifth downwards and the return, in reverse order, from the seventh to the sixth, and the sixth to the fifth.

²⁰ Since only three birds have been affected, she loses only three pairs, each fleeing and returning bird disqualifying a corresponding bird.

²¹ This does not mean that she can offer up all the seven pairs, but simply that the third flight does not affect her and she may still offer up five pairs, as after the second flight. Vilna Gaon contends that has thereby lost nothing means that all the seven pairs can be offered up since there is no fear of more than the possible chatas and olah-offerings being brought, as all the other kinnim have been declared invalid. The Bertinoro disagrees on the contention that the third flight would thus qualify even those birds that had become invalid after the second flight, when the seventh was allowed to bring only five pairs.

die²² escaped to any of all the groups, then all must be left to die.²³

Mishnah 4. If [there are two pairs], one unassigned²⁴ and the other assigned,²⁵ and one bird from the unassigned [pair] flew over to the assigned [pair], then a mate must be taken for the second [bird].²⁶ If one bird flew back,²⁷ or if, in the first place, a bird from the assigned pair flew [among the other pair],²⁸ then all must be left to die.²⁹

Mishnah 5. If there are chatas³⁰ on one side, olah on the other and unassigned [pair] in the center, and from the center there flew a bird to each side, one here and the other there, then no loss accrues, but he [the Kohen] says that the bird that flew [from the center] towards the chatas is a chatas and the bird that flew towards the olah is an olah.³¹ If one [from each side] returns to the center, then [all] those in the center must be left to die, but those [left on either side] can be offered up as chatas offerings or as olos respectively.³² If again a bird [from the center] returned or flew away to the

²² These may either be those birds our Mishnah disqualifies, or birds of owners who had died or had been forgiven before the sacrifice could take place.

²³ On the ground that living things are too important for the majority rule to be applied to them. Neither can the principle of 'let us force them to scatter' or of 'whatever comes out of a mixed multitude presumably comes from the majority' be applied, since the birds to be offered up may quite easily be of those that remained stationary, and the principle is that 'if there be anything stationary the whole is treated as equally divided'.

²⁴ The owners or the Kohen had not yet specified the kind of offering each bird should be.

²⁵ The owners at the time of purchase designated each bird, but can no longer identify which is for the chatas and which for the olah.

²⁶ This cannot be taken from the three birds now all mixed up with the assigned pair, since none of these can now be offered up.

²⁷ From the three, back to the bird that had been left alone.

²⁸ Without knowing whether it was a חטאת or an עולה.

²⁹ Since the specific nature of each had been fixed, the present uncertainty disqualifies them from the altar.

³⁰ The singular is used in a collective sense. The offerings in the two sides have already been specified.

sides,³³ then all must be left to die.³⁴ One cannot pair turtle-doves with pigeons or pigeons with turtledoves.³⁵ For example? If a woman has brought a turtle-dove as her chatas and a pigeon as her olah, she must then bring another turtle-dove as her olah; if her olah had been a turtle-dove and her chatas a pigeon, then she must bring another pigeon as her olah.³⁶ Ben Azzai says: one is guided by what was the first [offering].³⁷ If a woman brought her chatas and then died, her heirs must bring her olah,³⁸ [but if she first brought] her olah and then died, her heirs need not bring her chatas.³⁹

³¹ I.e., the Kohen, at the time of the sacrifice, declares the kind of offering the unassigned bird should be.

³² Those in the center are invalid, because they have become confused with the assigned offerings from each side, whereas those on either side are still valid, since we know the nature of the offerings.

³³ If birds from an assigned pair in the center flew, a bird to each side, without knowing precisely which.

³⁴ On account of the confusion of sacrifices not only in the center but also at the sides.

³⁵ An introduction to the next chapter which deals with this subject.

³⁶ The chatas is mentioned first, on account of its pre-eminence in the Torah. The point stressed is that the pair of birds she brings must both be the same, either two pigeons or two turtle-doves, and when she brings one of each kind, she must bring another bird of the kind she had designated as a chatas, since that is the most important.

³⁷ Regardless whether this be a chatas or an olah.

³⁸ For the temple authorities could claim from the heirs promises unredeemed by the death of the owner.

³⁹ Though as stated previously, the חטאת had to precede the עולה yet a reversal of this order by no means invalidated the offering. The point here stressed is that whereas an olah had to be brought by the heirs, a chatas is not brought, since death atones for any sin.