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Beitzah Daf 40

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamah of

**Tzvi Gershon Ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

### TECHUM APPLICATIONS

The Mishnah rules that one who has his fruits in another city and the residents of the city make an eruv with the intention of bringing some of the produce to him, they are not allowed to (since the produce have the techum boundary of the owner). If he makes an eruv, his produce is regarded as himself (and therefore it would be permitted). One who invites guests to his house is not permitted to send them home with any leftovers (since the food has the techum boundary of the owner) unless he assigned ownership of the food to them prior to Yom Tov. (39b2 – 40a1)

### GUARDIAN AND DEPOSITOR

The Gemora presents an argument regarding one who deposits produce by his friend. Rav maintains that the fruit’s techum boundary is accorded to the guardian and Shmuel holds that the techum is like that of the owner.

The Gemora suggests that this dispute follows the same logic as an argument they have elsewhere. The Mishnah in Bava Kamma rules that if one brings his property into someone else’s yard with permission, the yard owner will be liable for any damages that occur. Rebbe disagrees and maintains that

<sup>1</sup> They maintain that the guardian is considered somewhat of an owner on the object, and that is why he is responsible on the damages and that explains why the techum boundary will be established based on the guardian.

<sup>2</sup> Shmuel would hold that the guardian does not assume any ownership rights at all and he is not responsible for the damages that incur and the techum boundary is based on the owner, not on the guardian.

he will only be liable if he explicitly states that he will be responsible to watch the property. Rav Huna rules in the name of Rav in accordance with the Chachamim and Shmuel rules according to Rebbe.

The Gemora proposes that Rav’s opinion regarding techumin is based on the viewpoint of the Chachamim,<sup>1</sup> and Shmuel would be following the opinion of Rebbe.<sup>2</sup>

[The Gemora rejects this analogy and states that Rav can hold like Rebbe as well.] Rav will say to you: My opinion is even in accordance with Rebbe; for Rebbe holds his opinion there because without an explicit declaration he does not undertake supervision, but here he definitely undertook to look after it.<sup>3</sup> [Shmuel can be consistent with the viewpoint of the Chachamim.] Shmuel will reply [to you]: My opinion is even in accordance with the Chachamim; for the Chachamim hold their opinion there because a man wishes it, that his ox should be in the possession of the owner of the courtyard, so that if it does damage he should not be liable; but here, does a man then wish that his produce should be in the possession of his fellow!<sup>4</sup>

We have learned in our Mishnah: But if he himself made an

<sup>3</sup> A guardian who accepts responsibility does assume total authority and the techum boundary will be accorded to him; however, in the Mishnah in Bava Kamma, he did not assume responsibility and that is why he is not responsible.

<sup>4</sup> The owner is willing to relinquish a portion of his ownership to the guardian in order that the guardian will be responsible for the damages and he will be exempt, however he has no reason to give the guardian authority in regards to the techum boundary.

eruv, his produce is like himself. Now if you say [that the produce has the same restrictive limits] as the one with whom it was deposited, even if he himself set an eruv, of what avail is it to him?<sup>5</sup> — Rav Huna replied: In the Academy they declared [that it refers to a case] where he assigned a corner [of his house] to him.

Come and hear: One who invites guests to his house is not permitted to send them home with any leftovers (since the food has the techum boundary of the owner) unless he assigned ownership of the food to them prior to Yom Tov. Now if you say [that the produce has the same restrictive limits] as the one with whom it was deposited, even if he assigned [the portions] for them through another person of what avail is it? — Here also, since he assigned [the portions] for them through another person, it is as if he assigned a corner [of his house] to them. Alternatively say: Assignment is different.<sup>6</sup> (40a1 – 40a2)

### HANGING THE MEAT

The Gemora relates a story where Rav Chana bar Chanilai had hung some meat on the door bolt of his quarters prior to Yom Tov, and he went to Rav Huna to inquire if he was allowed to take the meat home on Yom Tov. Rav Huna answered him that if he (Rav Chana) hung the meat himself, it would be permitted to take it home, but otherwise, he cannot.

And even if he himself hung it up, may he then take it away? Surely Rav Huna was a disciple of Rav and Rav said: [The produce has the same restrictive limits] as the one with whom it was deposited! — It is different [when he himself hung it up on] the door-bolt, for it is as if he assigned for him a corner [of the house].

Rav Hillel said to Rav Ashi: And if they hung it up for him, may he not take it away? Surely Shmuel said: The ox of a cattle fattener is as the feet of anyone!

Ravina said to Rav Ashi: And if they hung it up for him may he not take it away? Surely Rabbah bar Bar Chanah said in the name of Rabbi Yochanan: The halachah is as Rabbi Dosa!

Rav Ashi said to Rav Kahana: And if they hung it up for him, may he not take it away? Surely we have learned: Cattle and utensils have the same restrictive limits as the feet of the owners! — Rather it is different in the case of Rav Chana bar Chanilai, for he was an important man and was deeply occupied in his study, and he [Rav Huna] said this to him: If you yourself hung it up, then you have an identification mark on it, and you did not let it out of your mind; therefore, go and take it away; but if they hung it up for you, then you let it pass out of your mind and you may not take it away. (40a2 – 40a3)

### PUBLIC AND DOMESTICATED ANIMALS

The Mishnah rules that one is not allowed to water and slaughter public animals (they graze without restraint and are only seen periodically) since they are considered muktzah. One is permitted to water and slaughter domesticated animals. The Mishnah clarifies public animals to mean those that graze and sleep at night in the pasture and domesticated animals are those that graze and sleep at night in the city. (40a3)

Why does he teach 'Give water and slaughter'? — He incidentally informs us that a man should water his animal before slaughter on account of the adhesiveness of the skin. (40a3 – 40a4)

The Gemora cites a Baraisa further clarifying the difference between public animals and those that are domesticated. Public animals are those that go out during the Pesach season, graze in the meadow and return by the first rain of the season. Domesticated animals are those that go out and graze outside the techum of the city and return to the city at night. Rebbe disagrees and maintains that both of those are

<sup>5</sup> Since the produce is still in the possession of his trustees in the other town.

<sup>6</sup> Since its very purpose thereby is that the object so assigned should pass into the assignee's ownership.

considered domesticated animals. Public animals are those that go out and do not return at all.

It is evident from the aforementioned Baraisa that Rebbe maintains that the public animals are considered muktzah. The Gemora asks on this from Rebbe's response to Rish Lakish regarding Rabbi Shimon's opinion if concerning the eating of unripe dates. He told Rish Lakish that Rabbi Shimon does not subscribe to muktzah except by dried figs and raisins. It would seem that Rebbe generally does not hold of muktzah.

The Gemora offers three answers. It can be said that the public animals are similar to the dried figs that they both were fitting to be eaten and the person cast them aside. We can also answer that Rebbe was only informing Rish Lakish what Rabbi Shimon's view is, but he himself does not hold of that opinion. Or we can say that Rebbe was stating that he himself does not subscribe to muktzah and therefore one is permitted to slaughter the public animals. He told the Chachamim that they who do hold of muktzah should agree that animals that return by the rainy season should be considered domesticated. The Chachamim did not accept this and maintained that those animals are considered public animals and therefore are regarded as muktzah. (40a4 – 40b1)

WE SHALL RETURN TO YOU, MASHILIN  
AND TRACTATE BEITZAH IS CONCLUDED

## INSIGHTS TO THE DAF

### CHANGE OF HEART

The Gemora stated that public animals are those that go out during the Pesach season, graze in the meadow and return by the first rain of the season. These are considered muktzah and cannot be slaughtered on Yom Tov.

Rav Shlomo Zalman Auerbach comments that it seems from the Gemora that if these animals would return to the city by

themselves before Yom Tov and the owner would decide on Yom Tov to slaughter them, they would nonetheless be regarded as muktzah, since the owner was particular in deciding that he will bring them back after Yom Tov.

An analogy can be made to utensils that are designated for Pesach use; they are considered muktzah on Shabbos even if the owner would decide to use them for chametz during the year.

Rav Shlomo Zalman articulates a distinction between the two cases. The utensils are just as fitting to be used now as they would be on Pesach and perhaps they are not considered muktza. However, an animal when it's alive is not in actuality a food item. It is regarded as a food item because there is a possibility of slaughtering it which enables it to be eaten. An undomesticated animal while it is grazing outside the city cannot be designated as a food item since in its present state, it is forbidden to slaughter it. This explains why he cannot decide on Yom Tov that he wants to slaughter this animal.

## DAILY MASHAL

### Saying a *Hadran* Is a *Segulah* to Banish Forgetfulness

When we finish a tractate we are accustomed to mention the names of Rav Pappa's ten sons. It is generally assumed that they were all the sons of Rav Papa, Rava's famous pupil. However, the author of *HaEshkol* (*Hilchos Sefer Torah*) claims that they weren't his sons as his son Aba Mar is missing from the list. He also mentions that these ten cite halachos in the name of Rav Chisda, who lived in the generation before Rav Pappa, and, if so, they were surely not Rav Papa's sons.

It is interesting that when he relates to mentioning their names on finishing a tractate, he says "...and they said that they contain a *kabbalah* to banish forgetfulness".