



OVERVIEW of the Daf

1) Brothers who reconstitute their partnership (cont.)

It is noted that R' Yochanan's position rejecting retroactive clarification is consistent with another ruling of his.

The necessity for R' Yochanan to state his position in two contexts is explained.

The Gemara unsuccessfully challenges those who accept the principle of retroactive clarification.

2) MISHNAH: The Mishnah discusses physical characteristics that exempt an animal from tithing.

3) The Mishnah's sources

A Baraisa is cited that provides the sources for the Mishnah's rulings.

The issues that are included in the Mishnah's phrase הכל are identified.

The Gemara questions why the Mishnah obligates tithing some animals unfit for a korban and exempts others.

The rationale behind the Mishnah's position is explained.

A related Baraisa is cited.

Tanna Kamma's position in the Baraisa is explained.

Another Baraisa is cited that amongst other things explains why an animal is not an orphan if its mother died but its hide is intact.

One of the accounts in the Baraisa is clarified.

4) MISHNAH: The Mishnah presents two disagreements, the first disagreement is what are the three dates for tithing one's animals and the second disagreement relates to when the new year begins for tithing animals.

5) Three dates

Rabbah bar Shila explains the origin of the three dates for tithing animals. ■

REVIEW and Remember

1. What is the definition of a יתום regarding animals?

2. When does idolatry disqualify an animal from tithing?

3. How were animals who were orphaned kept alive?

4. What are the three times a year that animals are tithed?

Distinctive INSIGHT

Three fixed periods when to perform the mitzvah of ma'aser

שלוש גרנות למעשר בהמה

The Mishnah teaches that the sages determined that there are three periods during the year when a person must separate ma'aser from his flocks and herds of animals. Any animal which he owns at these times which has not yet been part of the ma'aser process must undergo the ma'aser procedure, and it is prohibited to sell or shecht any of one's animals until this task is completed. The reason these three times were chosen is that it is at these times that animals generally give birth. Some animals give birth at the beginning of the winter, others give birth between Pesach and Shavuot, and others give birth during the summer.

Rashi continues and explains that if an animal is born and the owner wishes to eat that animal, he may do so without performing the ma'aser procedure. While it is a mitzvah to take ma'aser and to designate the tenth one as ma'aser, it is still permitted to shecht and eat an animal without doing so, provided one of the fixed ma'aser periods identified by the sages has not passed.

The Ein Yitzchok writes that Rashi seems to hold that the Torah's view of the mitzvah of designating ma'aser from one's animals is not an obligation, but rather an elective mitzvah. As Rashi explained, before one of the ma'aser periods a person has the option of taking ma'aser, or he may shecht his animal without doing so. The sages, however, ruled that once a ma'aser period arrives, the animal must be ma'asered before being shechted.

The Yad Binyamin disagrees, and he understands that Rashi holds that taking ma'aser from animals, even before the ma'aser period arrives, is similar to the mitzvah of tzitzis, where one is not required to have a four-cornered garment and to wear tzitzis, but if he does he has fulfilled a mitzvah. Similarly, taking ma'aser from animals is an important mitzvah which should be done, but we cannot prove that he holds that it is an obligation from the Torah.

Within their count of the mitzvos, Rambam and Sefer HaChinuch write that there is a mitzvah of the Torah "to

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 מרת חנה בת ר' זאב וואלף, ע"ה

HALACHAH Highlight

Kitniyos

שלוש גרנות למעשר בהמה

There are three "threshing floors" for tithing animals

Mordechai¹ cites authorities who explain that the rationale for the custom to not eat kitniyos on Pesach is not a concern that the kitniyos will become chometz since it is impossible for kitniyos to become chometz. Rather the custom is based on an injunction. Since kitniyos are chopped up and cooked in a pot - מעשה קדירה - and grain is chopped up and cooked in a pot one could confuse the two and mistakenly cook and eat grain on Pesach. Another reason for this custom is that kitniyos is piled up (מדגן) similar to grain and in some places they even bake bread from flour made from ground-up kitniyos. This could cause people to become confused between kitniyos and actual grain. For these reasons it is a proper practice for people to avoid eating kitniyos on Pesach.

Rashbatz² also cites Rishonim who prohibited cooking kitniyos on Pesach and their rationale is that the Gemara refers to kitniyos as מדגן - indicating something that is similar to grain - דגן. He rejected this parallel and explained Chazal merely chose the word מדגן to indicate that kitniyos are piled up similar to grain but not that kitniyos and grain are halachically similar to one another. Our

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separate one out of every ten kosher animals." This mitzvah is listed just like all other mitzvos, which implies that it is obligatory, and not just elective.

Chazon Ish understands from the wording of Rambam (Hilchos Bechoros 6:1) that this is an obligatory mitzvah, but it is possible for the owner of the animals to sell or shecht an animal before performing the mitzvah. The sages fixed specific periods when the ma'aser procedure must be done in order to prevent a person from avoiding performing the mitzvah. ■

Gemara has another example of this type of borrowed terminology. The Mishnah refers to the three "threshing floors" of the year when animals are tithed. The term is used to indicate the end of the processing of the item under discussion. The borrowed term does not indicate an actual halachic parallel between the two items because if it did it should be prohibited to eat meat on Pesach since meat is also compared to grain with the term גורן.

Mishnah Berurah³ cites additional reasons for one to be stringent and avoid eating kitniyos on Pesach. One of those reasons is that it used to be somewhat common for grain to become intermingled with kitniyos and by eating kitniyos one could unintentionally consume some grain as well. ■

1. מרדכי פסחים פ"ב רמז תקפ"ח.
2. רשב"ץ מאמר חמץ אות ע"ד.
3. משנה ברורה סי' תנ"ג סק"ו. ■

STORIES Off the Daf

A Hidden Message

וטבעה ששים כרכים ושברה שלש מאות ארזים

The Tzemach Tzedek, זת"ל, was respected throughout the Jewish world as a great scholar who was very astute. Even when asked the most difficult questions he always explained the subject in a manner to which the questioner could relate.

When a group of anti-semites approached the Czar of Russia—a consummate Jew-hater in his own right—and quoted strange-sounding parts of the Talmud taken out of context to

convince him that it should be banned, he felt that they were likely right.

When the Tzemach Tzedek visited the Czar, the ruler brought up these many questions. "There is so much that sounds impossible in the Talmud. For example, in Bechoros 57 we find that a certain bird lays an egg which completely destroyed 60 cities and three hundred cedar trees. How can this be anything but nonsense?"

As usual the Tzemach Tzedek had a good answer. "As Your Majesty knows, a recent edict enacted was that no Jew may live within a certain distance from the border. Now, I am very respected amongst the Jewish people and am relied upon to publish only sensible

things. If I were to write that with one dollop of ink His Majesty eradicated these cities—which were mostly Jewish—people will understand exactly what I mean. But later generations may not fathom how a few drops of ink can accomplish such a feat. Nevertheless, since I am well known, they will give me the benefit of the doubt and assume I mean something sensible although they don't understand it and it sounds strange. Similarly, the sages of the Talmud meant something which may well be inscrutable now, but was understood by their generation and certainly has an important message."¹ ■

1. אוצר שיחות צדיקים, ע' רל"ב ■