

OVERVIEW of the Daf

1) Offspring of a consecrated animal

The Gemara infers that R' Shimon ben Gamliel maintains that the offspring of a consecrated animal becomes sanctified upon birth rather than at conception.

Another Baraisa presents a Tanna who is of the opinion that the offspring of a consecrated animal becomes sanctified at conception.

R' Amram asks about the status of a potential bechor that when the majority of it emerges from the womb will be sanctified as an olah.

The Gemara presents two versions of the two sides of the inquiry.

R' Sheishes proves that it becomes a bechor.

2) **MISHNAH:** The Mishnah presents a discussion about what happens when a person declares the mother sanctified as one type of korban and her fetus sanctified as another type of korban.

3) The offspring of a chattas

R' Yochanan ruled that one who designated an animal as a chattas and then she gave birth may use either the mother or the fetus for his korban. The rationale for this ruling is presented.

On the second attempt the Gemara successfully refutes R' Yochanan's ruling.

It is suggested that this issue may be subject to a disagreement between Tannaim.

It is explained how both of these Tannaim may agree with R' Yochanan.

Another disagreement is presented to prove that this issue is subject to a dispute between Tannaim.

R' Yochanan offers two alternative ways to explain this dispute.

Rava unsuccessfully challenges our original explanation of R' Yochanan's ruling.

4) Clarifying the Mishnah

R' Pappa clarifies one of the rulings of the Mishnah.

5) **MISHNAH:** R' Meir and R' Yosi disagree about the halacha when one declares a single animal to be the temurah for an olah and a shelamim. ■

Distinctive INSIGHT

The words of the Master, and the words of the student
דברי הרב ודברי תלמיד דברי מי שומעים, הכא נמי דברי מי שומעים

Rav Amram asked Rav Sheishes the halacha in a case where a person declared about a bechor that it should be an olah as the bechor was being born. Which status of sanctification applies to this animal?

The Gemara clarifies the issue. On the one hand, the power of olah is greater, because an olah is completely burned on the Altar, so it applies to the animal. On the other hand, the status of a bechor applies to an animal automatically as it exits the womb, which is an indication that its sanctification is stronger, and it should immediately apply as the animal is being born. At that point we would not consider the owner's declaration of olah.

Rav Sheishes answered that this question was already posed by Ilfa in reference to the mitzvah of leket. A farmer who was collected stalks of grain began to drop one or two of them. As they were mostly out of his hand he declared, "let these be ownerless—הפקר!" Ilfa asked whether the stalks are leket, as the Torah commands, or do we say that the declaration of the owner supersedes the automatic condition of leket, because the owner's words are powerful, as he is allowing the stalks to be collected by the rich as well as the poor? Abaye resolved this inquiry, and he explained that the stalks are leket, and in our case the animal would be a bechor and not an olah. The reason is that we say, "When the master says something, and a student says something else, to whom do we listen? Obviously the master." Rashi explains that in

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REVIEW and Remember

1. At what point do the offspring of korbanos become sanctified?
2. How do we know that according to R' Yochanan a fetus is not a limb of its mother?
3. Explain אם שיירו משוייר.
4. What is the point of dispute between R' Meir and R' Yosi?

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HALACHAH Highlight

Declaring a stolen esrog ownerless

עם נשירת רובו יהא הפקר

When the majority falls out of my hand it should be ownerless

The Gemara records Ilfa's inquiry related to leket. The Torah mandates that when the majority of a stalk falls from the reaper's hand it is considered leket and must be left for the poor. Ilfa's inquiry relates to a reaper who declared that when the majority of the stalk leaves his hand it shall become ownerless - hefker. In such a case does leket take effect or does his declaration that it is ownerless take effect? Abaye answers that God's words are to be obeyed and as such the stalks are considered leket. Tzafnas Paneach¹ cites this discussion as proof to Rambam's position that a declaration of hefker works along the same lines as a vow and one cannot retract such a declaration. This is evident from the fact that just as one may not take a vow that contradicts the word of God so too one may not make a declaration of hefker if that declaration contradicts the word of God.

There was once a person who sold esrogim who was aware that people were stealing his esrogim for use on Sukkos for the mitzvah. In order to save the thieves from making a beracha l'vatalah when they recite the beracha on these esrogim the merchant thought that he should declare the esrogim ownerless. That way they can fulfill the mitzvah and will not recite a beracha l'vatalah. He presented his thinking to R' Yitzchok Zilberstein for his comments. Rav Zilberstein² cited Bach who rules that one may declare hefker property that is not in his domain since a declaration of hefker is comparable to a vow. Therefore, just as one can declare a vow on any object, whether in his possession or not, so too one can

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both these cases, two things are happening simultaneously. The Torah says that bechor or leket applies, while an owner of either the animal or the stalks tries to say something else (olah or hefker). We therefore follow the Torah's directives, and not those of the owner who is trying to change things.

Gri"z notes that the original question of Rav Amram was not solved, because we are not saying that bechor or leket are necessarily stronger than their counterparts due to the kedushah of olah or the overall power of hefker, but rather that they each prevail due to their being the word of the Master.

However, Gri"z points out that Rambam (Hilchos Matnos Ani'yim 4:14) understands that with the falling of most of the stalk, "the owner no longer has control to declare them hefker." This suggests that as the stalk falls and as the animal is born, its status is in progress to be leket or bechor, and the owner cannot stop it. This is how Rambam explains Abaye's words in this context. The Master declared that these stalks will be leket, and the owner is powerless to change it. This, explains Gri"z, is why an owner may declare an animal to be olah as it is passing through the door of the corral to be number ten, before ma'aser is declared, as Tosafos (26b) asks. There is no status of ma'aser which is occurring, so it can be avoided before its being declared. ■

declare hefker any property he wants, whether physically in his possession or not. Ketzos HaChoshen³, however, disagrees and contends that hefker can only take effect on objects that are within one's domain. As such it would seem that the question of whether the merchant can allow the thieves to fulfill the mitzvah and save them from reciting a beracha l'vatalah revolves around this dispute. ■

1. צפנת פענח פ"ב מהל' נדרים הי"ד.
2. חשוקי חמד ב"ק ס"ו.
3. קצות החושן סי' רי"א סק"ד. ■

STORIES Off the Daf

Financial Integrity

האשה וילדיה תהיה לאדניה

On today's daf we find that when a Jewish slave is freed, his children from a non-Jewish slave remain with their master. The Chofetz Chaim, ז"ל, learned an important lesson from this parshah. "If a Jew intermarries, everyone distances himself from him. As the Rambam writes, he has uprooted himself from the Jewish people in a sense since his children will

not be Jewish. Strangely, one who owes his friend money and cannot pay his debt to his fellow Jew, is called up to the Torah and treated as though nothing is wrong. It seems obvious to everyone that one cannot begin to compare his sin to intermarriage.

"But the holy Torah tells us that one who stole or has debts can become a slave and marry a maid servant while he works off what he owes. We see that from the Torah perspective, it is better for one who is already married to marry a woman who will bear children who are slaves for up to six years, then to keep

another's money in his possession.

"One who considers this for a moment will be astounded. One who marries a shifcha k'na'anis transgresses the negative commandment of 'לא תהיה קדשה'. Similarly, one who steals violates 'לא תגנבו', which is rectified by returning what he stole. Clearly stealing is worse than marrying a slave. From here we learn how much care a person must take regarding his friend's money."¹ ■

1. יגדיל תורה, משפטים ■