



## OVERVIEW of the Daf

- 1) **The tum'ah of bulls and goats that are burned (cont.)**  
 The Gemara records the exchange between R' Shimon and Tanna Kamma regarding their respective expositions.  
 Rava identifies the author of the cited Baraisa.  
 Abaye disagrees with Rava's analysis.  
 A Baraisa discusses the point at which those who are involved in burning the bulls and goats become tmei'im.  
 Rava identifies the point of dispute between the opinions in the Baraisa.

### הדרם עלך טבול יום

- 2) **MISHNAH:** The Mishnah presents a dispute regarding the number of liabilities for one who slaughters and offers a korban outside of the Beis HaMikdash. A second dispute between Tanna Kamma and R' Yosi HaGalili regarding someone tamei eating a korban is presented. The Mishnah concludes with the halacha of a tahor person who eats a tamei korban.

- 3) **Slaughtering outside of the Beis HaMikdash**

- The Gemara inquires after the source for the prohibition against slaughtering a korban outside of the Beis HaMikdash.  
 A pasuk is cited.  
 The use of this phrase for this purpose is unsuccessfully challenged.  
 A successful challenge to this exposition is presented and Abaye offers an alternative source for the prohibition against slaughtering outside of the Beis HaMikdash.  
 Ravina challenges this exposition.  
 Rava defends Abaye's exposition against this challenge.  
 Rava unsuccessfully challenges Abaye's exposition.  
 A successful challenge to Abaye's exposition is presented.  
 R' Yochanan suggests another source for the prohibition. ■

## REVIEW and Remember

1. What is the point of dispute between Tanna Kamma and R' Yosi HaGalili concerning the location to burn the bulls and goats?  
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2. Why is an exposition necessary to teach that one who slaughters an animal to Markulos is liable?  
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3. Why did the Gemara think that it would be unnecessary to state the prohibition of eating cheilev?  
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4. Explain: אין מזהירין מן הדין.  
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## Distinctive INSIGHT

*Where is the warning?*

אלא אזהרה מנלך

The Mishnah taught that if someone unintentionally slaughters and offers an animal outside the courtyard of the Mikdash, he is liable for a chattas for slaughtering and a separate chattas for offering that animal. The Gemara immediately identifies the source in the Torah where we find both a warning (Devarim 12:13) and a statement of punishment (Vayikra 17:8-9) for one who offers such an animal. The Gemara then notes that although the punishment of kareis for slaughtering an animal outside the courtyard is found in Vayikra (17:3-4), it is not clear where the warning for this offense is mentioned.

Rashi explains that there cannot be a chattas obligation without the Torah warning that such an act is prohibited. The Mishnah in Kereisos (2a) notes that neglect in fulfilling the positive commandments of Pesach and milah are not liable for a chattas, although intended neglect in these areas is liable for kareis. This is precisely because neglect in these areas is only a failure to fulfill them, but it is not a violation of a negative command. This is why our Gemara searches for the negative command not to slaughter an offering outside the courtyard, because our finding kareis as the punishment for doing so does not in and of itself indicate that a chattas is necessary for an unintentional sin.

Tosafos (ד"ה אזהרה) disagrees with Rashi, as they hold that one may be liable for a chattas even without the Torah's listing the prohibition as a negative commandment. Tosafos proves his contention from a Gemara in Makkos (13b). There, we find the opinion of R' Akiva who holds that a negative commandment which is associated with capital punishment by the court cannot receive lashes. Rashi explains that one cannot receive death or lashes without a warning, and one verse cannot serve to warn for two things simultaneously. If the warning is for capital punishment, it does not serve as a warning for lashes. The Gemara then asks why we have lashes in cases of kareis, where we find that the verse which warns about kareis is understood to allow lashes instead. The Gemara answers that we find kareis even without a verse which warns against its violation, such in the cases of Pesach and milah, where neglecting to fulfill these mitzvos receives kareis. The Gemara also notes that the chattas which is brought in unintentional kareis cases is not due to the warnings in the verses, but rather because a violator of a negative commandment must bring

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# HALACHAH Highlight

## Using shemittah wine for havdalah

מה לשביעית שכן תופסת דמיה

What is the comparison to shevi'is whose restrictions carry over to its purchase money

Regarding shemittah produce the Torah states (Vayikra 25:6) –and the resting of the land should be for you for eating. The Gemara in Pesachim (52b) infers from this that shemittah produce may only be used for eating and not for burning, meaning one may not destroy shemittah produce. Later authorities dispute whether this prohibition applies when one does something destructive to an olive's volume of shemittah produce or even if one destroys a smaller quantity. Maharit Algazi<sup>1</sup> maintains that the prohibition applies only when one destroys an olive's volume or more. Since the prohibition is derived from the word לאכלה –to eat – we apply to the prohibition the parameters that apply to eating prohibitions, namely, that the prohibition is violated only at a quantity of an olive's volume. Ridvaz<sup>2</sup>, on the other hand, asserts that since the prohibition is violated by destroying shemittah produce, any time one destroys shemittah produce, even in small quantities, the prohibition is violated. As far as the exposition is concerned, since the prohibition is inferred from the word לאכלה but is not a direct derivation from that word it is not limited to the parameters of eating prohibitions.

Later authorities<sup>3</sup> point to our Gemara as proof that the prohibition is violated only when one destroys an olive's volume of shemittah produce. The Gemara entertains the possi-

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an offering, as we find regarding avoda zarah.

Therefore, Tosafos understands that our Gemara is not asking about the intentional slaughtering of a chattas outside the courtyard, but rather about the halacha in the Mishnah in Makkos 13a, where lashes are given for one who intentionally slaughters outside the courtyard of the Mikdash. Because we do not find lashes without a warning, the Gemara wishes to identify the verse from where this is learned. ■

bility that the prohibition against cheilev could be derived from other prohibitions. The suggestion to derive this halacha from sheratzim is rejected since that prohibition is violated when one consumes even a minute quantity of sheretz. The suggestion to derive this prohibition from shemittah is rejected since shemittah has the characteristic that its restrictions carry over to the money that is used to purchase shemittah produce. That the Gemara does not reject the possibility of deriving the cheilev prohibition from shemittah because it is prohibited even in the minutest amount indicates that the prohibition is not violated unless one destroys an olive's volume of the produce. Teshuvos Mishnas Yosef<sup>4</sup> writes that Maharit Algazi's position permits a common practice. There is a custom to fill the cup of wine used for havdalah so that it overflows and to use the wine to extinguish the flame. According to Maharit Algazi one may use shemittah wine for this purpose since the quantity wasted will not be equal to an olive's volume. ■

1. מהרי"ט אלגזי הלי חלה אות ב' ס"ק י"ד.
2. מובא דבריו בפאת השלחן הלי שביעית פ"ה אות א'.
3. ע' פאת השלחן משמרת להבית עמ' י"ב.
4. שו"ת משנת יוסף ח"יב ס"י מ'.

# STORIES Off the Daf

## A Vital Tree

"כל מקום שנאמר השמר ופן ואל אינו אלא בלא תעשה..."

Rav Naftali of Ropshitz, zt"l, once found that the Chozeh of Lublin, zt"l, was troubled by something and asked him what it was. The Chozeh answered, "The verse states, 'שמר לך פן תשכח את' — Guard yourself lest you forget Hashem your God.' Our sages teach in Zevachim 106 that anywhere

the verse uses words 'אל', 'פן', 'השמר' this teaches that what is being discussed is a negative commandment. It comes out that one who forgets Hashem even for an instant violates a negative commandment. How is it that so many Jews forget Hashem throughout the day? Must we say that they violate a negative commandment every time they forget?"

The Ropshitzer replied that thankfully there was a way around this harsh judgment. "Regarding Peah the Mishnah teaches that a special olive which tends to drip oil but only does so in some years is special and therefore not

in the category of שכחה. Chazal explain that Peah only applies to an ordinary tree which one tends to forget. But regarding a tree which one is sure to remember eventually, שכחה does not apply. This tree is important and the owners will surely come back for it. And the same is true regarding one who forgets Hashem, chalilah. If it is important in the eyes of the one who forgot and he plans to get back to it as soon as he is able this is not considered halachic לא and is not a violation of the לא תעשה."<sup>1</sup>

1. אמרי יהודה, פנחס ■