

OVERVIEW of the Daf

1) Paying money to one mishmar and bringing the korban to another

A Baraisa presents a dispute related to the Mishnah's ruling regarding one who gives money to one mishmar and brings the animal for a korban to a second mishmar.

Rava elaborates on the intent of the Baraisa.

Three Baraisos are cited in which Rebbi qualifies R' Yehudah's ruling.

2) Making restitution before offering the korban

Rava cites the source that indicates that payment should be made before the korban is offered rather than vice versa.

This exposition is unsuccessfully challenged.

3) Not paying the one-fifth surcharge

A Baraisa is cited that provides the source for the Mishnah's ruling that not paying the one-fifth surcharge does not hold back the robber's atonement.

הדרן עלך הגוזל עצים

4) MISHNAH: The Mishnah discusses the responsibility of children to pay for property stolen by their father.

5) Someone else who consumes stolen property that is in the domain of the robber

R' Chisda asserts that if someone stole property and the owner has not yet despaired from recovering the property and another person came and consumed that property the victim could collect from either party.

This ruling is unsuccessfully challenged from our Mishnah.

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Distinctive INSIGHT

Children who return an object which their father stole

אלא אפילו פרה וחורש בה חמור ומחמר אחריו הרי אלו חייבין להחזיר מפני כבוד אביהם

Rebbe, who redacted the Mishnah, taught his son R' Shimon that if a person steals an object and leaves it as an inheritance for his sons, his children must return the object to its rightful owner if the object is one that has אחריות נכסים. Rebbe explained that this means that this does not refer exclusively to land, as it usually does throughout ש"ס, but it refers even to an ox which is plowing or a donkey which is carrying a load. In other words, the children must return any item which is distinct and recognizable as the item which their father stole. The reason for this halacha is that the children must preserve the honor of their father. Any item which is obviously one stolen by the father would be a source of scorn to him, and the children have the responsibility to return the object to remove this cause of ridicule.

Rashi explains that the case is where everyone "testifies" about this ox or donkey and it is known that it clearly was stolen from someone else. The Gemara earlier (94b) noted that if the father acted in violation of the Torah's mandate not to steal, why should the children be bound to honor him? The verse (Shemos 22:27) teaches that honor and respect are only due to those who are בעמך, those who observe the mitzvos. It seems that there would be no obligation to preserve the honor due a father who was a thief. Why, then, do the children have an obligation to return an object which their father stole? The Gemara there answers that this halacha only applies where the father did teshuva before he died. He repented and sincerely intended to return the object he stole, but he did not manage to return it before he died. Tur (Y.D. 240) notes that this Gemara indicates that Rambam is not correct when he states (Hilchos Mamrim 6:11) that "the obligation to honor a parent is in effect even if the father was evil and a sinner, the children must honor and fear him."

Beis Yosef (ibid.) resolves the opinion of Rambam with the Gemara (94b). The Gemara was discussing a father who collected interest on a loan, not a stolen object. The Gemara later (112a) teaches that children have no obligation to return money their father collected as interest. In effect, this means that the money is theirs to keep. The Gemara in Kidushin (32a) concludes that honor for a parent must be offered only with the funds of the parent, and it is not necessary for a child to spend his own money for honoring a parent. If, however, the father did teshuva, but just did not manage to return the interest before he died, then it is as if he never bequeathed that money to the son. ■

REVIEW and Remember

1. What is the point of dispute between R' Yehudah and Rabanan?

2. What phrase teaches that one may not offer a korban before the morning tamid?

3. Are children obligated to return property stolen by their father?

4. Why did Rava state that upon his death R' Oshaya would come to greet him?

HALACHAH Highlight

Davening Mussaf before Shacharis

מנין שלא יהא דבר קודם לתמיד של שחר

How do we know that nothing should be offered ahead of the morning Korban Tamid?

Rambam¹ writes that the appropriate time for Tefilas Mussaf is after Tefilas Shacharis. Beis Yosef² writes in the name of Rashba that one who davened Mussaf before Shacharis has fulfilled his obligation. This is also the ruling of Rema³. This leads to an interesting question discussed by the Poskim. What should a person do if he arrives at shul as the tzibbur is about to commence Tefilas Mussaf? Should he daven Mussaf so that he will be able to recite that tefilla together with the tzibbur, even though it means he will daven Mussaf before Shacharis or perhaps he should daven the tefilos in the correct order, even though it means he will lose tefila b'tzibbur?

The author of the work **מחזה אברהם**⁴ drew his conclusion from our Gemara. The different tefilos were patterned after the korbanos and our Gemara infers from a verse that one is not permitted to offer any korban ahead of the **תמיד של שחר** – the morning korban. Tosafos⁵ expresses uncertainty whether this exposition is essential even **בדיעבד** but even if it will not disqualify the korban **בדיעבד** there still remains a positive mitzvah to offer the morning korban first. Accordingly, when given the choice it is preferable to daven Shacharis before Mussaf even though the individual will miss out on the advantage of davening with the tzibbur.

(Overview. Continued from page 1)

6) The domain of an heir

Rami bar Chama and Rava disagree whether the domain of an heir is like the domain of a purchaser.

Rava's position is successfully challenged from the Mishnah but he cites a Baraisa that supports his explanation.

R' Chisda's earlier ruling is unsuccessfully challenged from the Baraisa Rava just cited.

Rami bar Chama's ruling is unsuccessfully challenged from the Baraisa Rava just cited. ■

Rav Moshe Feinstein⁵ also writes that in this circumstance one should daven Shacharis before Mussaf. The reason he gives is that we do not find a source that would indicate that davening with the tzibbur carries greater weight than davening the different tefilos in order. Therefore, although **בדיעבד** one will fulfill the mitzvos if he davened the tefilos out of order, it is logical that **לכתחילה** he should not reverse the order even for the benefit of being able to daven with the tzibbur.

Be'er Yitzchok⁶ writes that if one will not be able to find another minyan he should daven Mussaf together with the tzibbur. This ruling, however, is limited to Shabbos and Yom Tov when Shacharis and Mussaf contain the same number of berachos but on Rosh Chodesh or Chol Hamoed the matter is more complex since one could argue that Shacharis is more sanctified and as such should be given priority since it contains a greater number of berachos. ■

1. שו"ת מהר"י ברונא סי' קע"ח

2. שיירי כנסת הגדולה או"ח סי' קמ"ז הגה"ט אות ב

3. רב ברכות מערכת כ' אות א' ■

STORIES Off the Daf

Ask not what your country can do for you

טב למיתב טן דו מלמיתב ארמלו

On today's daf we find that a woman is more interested in marriage than a man.

Rav Nissim Yagen commented on this statement: "It truly pains me that many times shortly after marriage husbands approach me with complaints. 'Rabbi, my wife is simply not what I thought her to be before our marriage.'

"I invariably reply in precisely the

same manner: 'You too, are not precisely as she thought you to be before your marriage!'

"The truth is that this feeling betrays a marked lack of bitachon. In Moed Katan 18, Chazal bring three proofs from Tanach that Hashem sends one's wife to him particularly. The Ben Ish Chai, zt"l, asks why the Gemara specifically discusses shidduchim. Is not everything from Hashem?

"He explains that specifically in these areas one eventually sees clearly with his own eyes that the woman Hashem has sent him is truly his shidduch, since like the splitting of the Yam Suf,

natural law does not reign when it comes to shidduchim.

"But one needs a lot of patience until he sees this, especially at the beginning. I still recall my first trip to America thirty years ago. I saw a slogan that pithily explains how to build and maintain a good marriage. It was on a billboard that proclaimed a message from Kennedy's inauguration address: 'Ask not what your country can do for you. Ask what you can do for your country.' This is the secret to marriage. Ask not what your spouse can do for you. Ask instead what you can do for your spouse!"¹ ■

1. נתיבי אור ע' קע"ג-קע"ד וע' קע"ט