

OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah continues its discussion of items that are buried or burned.

2) The hair of the nazir

A contradiction is noted whether the hair of the nazir is buried or burned.

R' Nachman resolved the contradiction.

Tavi notes that there is also a contradiction regarding the halacha of the firstborn donkey and when R' Nachman could not resolve that contradiction it was Tavi in the name of R' Sheishes who resolved the matter.

Other ways to reconcile the contradiction are presented.

Tavi enters into a discussion why hair of a firstborn donkey made into a piece of sackcloth must be burned.

3) Clarifying the Mishnah

It is noted that the Mishnah's ruling regarding burning chometz on Pesach follows R' Yehudah's position about that matter.

The Mishnah's ruling regarding terumah and orlah is explained.

A Baraisa quotes R' Yehudah's more elaborate explanation regarding the case of the bird chattas.

The reason buried items may not be burned is explained.

The assertion that the ash of items that are to be buried is prohibited is unsuccessfully challenged.

The principle that the ash of burned items is permitted for benefit is unsuccessfully challenged. ■

הדרן עלך יש בקדשי מזבח
וסליקא לה מסכת תמורה



REVIEW and Remember

1. Is it permitted to bury an object that should be burned?
.....
2. Is the hair of a nazir burned or buried?
.....
3. Is chometz found on Pesach burned or may it be destroyed in other manners?
.....
4. Is the ash of something that required burning permitted for benefit?
.....

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Distinctive INSIGHT

R' Yehuda allows items set for burial to be destroyed by fire

רבי יהודה אומר אם רצה להחמיר על עצמו לשרוף את הנקברין רשאי

Maharam Shi"k (Responsa Y.D. #97) points out that the statement of R' Yehuda to permit burning of the items which the Mishnah lists as requiring burial is apparently referring to all of the items mentioned in the Mishnah. This list includes milk and meat mixtures, which must be destroyed with burial, but R' Yehuda allows it to be burned. Yet, this presents a difficulty, because burning a milk and meat mixture results in the mixture being cooked together as it is being destroyed, and we know that cooking this type of mixture is a prohibition in and of itself. Why is this allowed?

Sefer Baruch Ta'am explains that while cooking meat and milk in a mixture is prohibited, burning it together is not cooking, and it is not prohibited.

Sefer Liflagos Reuven analyzes the disagreement between Chachamim, who require that items to be buried must be buried, and R' Yehuda, who holds that such items may either be buried or burned. The general rule is that once an item is burned, its mitzvah of destruction is complete, and the ashes are permitted to be used. However, items which must be buried are not permitted at all, not while intact and not after they have been destroyed. The question we can advance is how to understand R' Yehuda who allows items scheduled to be buried to be burned instead. Perhaps R' Yehuda disagrees with the general rule listed above, and he holds that the remnants of buried items are permitted. This would explain why he allows them to be burned, because he is not concerned that someone might use the ashes after these items are destroyed by burning. On the other hand, perhaps R' Yehuda agrees that the remnants of buried items remain prohibited, but he allows

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HALACHAH Highlight

Burying the ashes of a corpse

כל הנקברין לא ישרפו

All things that are to be buried may not be burned

Teshuvus Beis Yitzchok¹ was asked for his opinion about a practice that was followed in a city in Italy. A group formed that would first burn a corpse and then place the ashes into a utensil where the children of the deceased would keep that utensil as a memorial of their deceased parent. Is this practice permitted or not? Beis Yitzchok answered that if they indeed store the ashes in a utensil rather than provide a proper burial they violate the positive command to bury the deceased as well as the prohibition of leaving a corpse unburied. However, even if they were to bury the ashes they would have violated a prohibition since it is prohibited to burn a corpse. Our Gemara teaches that items that must be buried may not be burned and Rashi² explains that a corpse is amongst those items that must be buried.

Teshuvus Achiezer³ also maintains that the practice is prohibited. When a corpse is burned rather than buried one violates the positive command to bury the deceased. The requirement to bury the deceased is not because the corpse is prohibited for benefit since there are many different steps one could take to assure that one does not derive benefit from a corpse. Rather there is a specific requirement to bury the deceased and burning the corpse instead is a violation of that mitzvah. He then relates that he disagrees with Teshuvus Beis Yitzchok who wrote that if one were to keep the ashes in a utensil one violates

(Insight...continued from page 1)

them to be burned because he does not worry that someone might use the ashes after they are destroyed by fire.

Liflagos Reuven concludes that it appears that R' Yehuda agrees with the concept that remnants of buried items are prohibited. Later, the Gemara questions the rule that the remnants of buried objects are prohibited, because we find several references to items which must be buried (flesh from the dead, the crop and feathers of an olah bird) that are permitted. The Gemara presents an answer each time to explain why these items might be permitted. However, if R' Yehuda holds that these buried items are permitted, the Gemara would not have extended itself to provide answers, because it could have easily said that these sources are the view of R' Yehuda who permits the remnants of items which are supposed to be buried. It must be, therefore, that even R' Yehuda holds that these items are prohibited even after being buried. ■

the command to bury the deceased. The implication is that if they were to bury the ashes the mitzvah would be fulfilled. Achiezer questions whether burying the ashes of a corpse fulfills the mitzvah to bury the deceased when the ashes are not, in fact, the deceased. This is especially true according to Mishnah LaMelech⁴ who rules that there is no requirement to bury an olive's volume of a corpse so certainly there is no obligation to bury just the ashes that were taken from a corpse. ■

1. שו"ת בית יצחק יו"ד ח"ב סי' קנ"ה.

2. רש"י ד"ה דם.

3. שו"ת אחיעזר ח"ג סי' ע"ב.

4. משנה למלך פי"ד מהלי אבל הכ"א. ■

STORIES Off the Daf

Completing the Job

אין ביעור חמץ אלא שריפה

The custom in Israel is to burn chometz in public places, making fires to burn what will be forbidden for the duration of the chag. Obviously it is important for the fire to be strong enough to burn the chometz, yet sometimes there are powerful winds and it is difficult to ensure that the chometz is completely incinerated. Many people have a very simple solution for this. They add a flammable solution to the chometz to ensure that they have a good blaze that

will not go out until the material has been entirely consumed.

Although Rav Shlomo Zalman Auerbach also used such a solution, he would not add it to the chometz until much more than a k'zayis was completely consumed by the fire alone. He would also warn his students to at least wait until a k'zayis burned before adding such a fluid. He explained, "It is only when one waits to add such a solution that he fulfills the mitzvah to burn the chometz. If one adds the solution immediately, the chometz is immediately rendered inedible to a dog and one does not fulfill his obligation with it."

He added, "This represents a lost opportunity both according to Rav Yehu-

dah who held that chometz must be burned, and according to the sages who held that one may eliminate chometz in any way. Although the sages permitted one to break the chometz down and throw it in to the wind or water, merely rendering it inedible to a dog is not enough, since it hasn't been eliminated from the world."

Yet Rav Shlomo Zalman would add that we need not point this out to those who add such material from the outset. "It is somewhat plausible that the halachah views anything added to enhance the flame while the chometz is already on fire as part of the act of burning."¹

1. הליכות שלמה, פסח, ע"י קל"ח-קל"ט. ■