

Daf Hashvuah Gemara and Tosfos Beitza Daf 39
By Rabbi Chaim Smulowitz
Tosfos.ecwid.com
Subscribe free or Contact: tosfosproject@gmail.com

The Gemara asks: if so, what is the reason of our Mishna (that the smaller ingredients are not Batul?)

Abaya answers: it's a decree, perhaps that they partnered to make the dough (and each one owns some of the flour). Rava answers: since spices is made to give taste, therefore (it's special), and it's not Batul.

Tosfos quotes Rashi that Abaya explains the case by the dough and Rava explains the case of a stew, and they don't argue (but are complementary). This is a forced explanation,

Therefore, Tosfos explains: Abaya answers about the dough, but the same answer would be true for a stew that you need to worry they'll make the whole stew in partnership. Rava answered about the stew, but his answer would be true for the dough, since the salt is also given for taste, and the water is also special since the whole dough is only made through the water.

Daf 39a

R' Ashi answers: because it's a prohibition that will be eventually permitted, and all prohibitions that will be eventually permitted are not Batul, even in a thousand.

Tosfos asks: didn't we already explain that the rule of "prohibitions that will be eventually permitted are not Batul" only applies when they're the same type of food, (and here they're different types).

Tosfos answers: true, regularly we don't say this only when they're the same type of food. However, by T'chumim, it's different, since they have a stringency that makes us prohibit them as if they're the same food, since the prohibition is based on ownership (that is usually not Batul either).

Alternatively, since the dough can't be kneaded without water, and the stew is only prepared with the right spices, therefore, when they mix, it's as if they're the same type of food.

New Sugya

The Mishna says that R' Yehuda says that you don't need to worry about the T'chum of the water, implying that you need to worry about the T'chum of the salt. The Gemara asks: a Braisa says that R' Yehuda holds that you don't need to worry about the T'chum of the water or salt, both in a dough and in a stew. The Gemara answers: Sedom salt (which is very fine) is Batul but not Estruknas salt (that's thicker and more noticeable).

The Gemara asks: there is a Braisa that says that water and salt are Batul in the dough and not in a stew (and our Mishna implies that we refer to a stew (since it mentions spices that you put in a stew) and still the water is Batul).

The Gemara answers: it's not Batul when the stew is liquidy, but is Batul when it's dry and thick.

New Sugya

A coal gets the same T'chum as its owner. A flame may be moved anyplace (if you light a candle from someone else's flame). You transgress M'eila on Hekdesh's coal, but on Hekdesh's flame there is no M'eila (but the rabbis enacted that) you can't benefit from it. If you carry out a coal to the street on Shabbos, you're obligated to bring a Chatos, but if you carry out a flame, you're exempt.

The Rabanan learned: there were five Halachos said about a coal. A coal gets the same T'chum as its owner. A flame may be moved anyplace. You transgress M'eila on Hekdesh's coal, but there is no M'eila on Hekdesh's flame, but you can't benefit from it. It's forbidden to take benefit from a coal of an idol, but a flame is permitted. If you carry out a coal to the street on Shabbos, you're obligated to bring a Chatos, but if you carry out a flame, you're exempt. If you make a vow not to benefit from your friend, his coal is forbidden and his flame is permitted.

The Gemara asks: why is an idol's flame permitted and a Hekdesh's flame is (rabbinically) forbidden? The Gemara answers: since idols are so disgusting, people anyhow avoid them, so the rabbis didn't feel it was necessary to forbid it. However, Hekdesh, which is not disgusting and people don't avoid it, the rabbis decreed to forbid it.

Tosfos asks: in the first Perek of Pesachim it says (although if you find regular Chametz on Yom Tov, you need to cover it so it won't get eaten), if you find Hekdesh Chametz, you don't need to cover it since people avoid it. So, we see that people avoid Hekdesh.

Tosfos answers: it's true that, in contrast to Chulin, people avoid Hekdesh more. However, in contrast to idols, people don't avoid Hekdesh as much.

New Sugya

The Mishna says: if you carry a flame into the street, he's exempt. The Gemara asks a contradiction: a Braisa says that, if you carry out any size flame, you're obligated. R' Sheishes answers: that's referring to carrying it while attached to a woodchip. The Gemara asks: why aren't you obligated anyhow because of carrying the woodchip? The Gemara answers: because it doesn't have the proper measure (to be obligated for carrying out wood). As we learned in a Mishna: if someone carries out wood, it needs to be the amount to cook a swift-cooking egg (i.e., a chicken's egg).

Abaya answers: we refer to a case where he smeared a utensil with oil and lit it. **(Rashi- but a woodchip's light won't last too long so he's exempt. Alternatively, this is a Chidush because the flame doesn't attach itself so well to the utensil.)** The Gemara asks: why don't you say he's obligated anyhow for carrying out the utensil?

Tosfos asks: let the utensil be secondary to the flame (and it won't be considered as anything but a vehicle to carry the flame with). After all, we see this concept in Shabbos, if you place food (that is smaller than the measure to be obligated in carrying) in a utensil and carry it out, then you're even exempt on the utensil, since it's secondary to the food it's holding.

Tosfos answers: here is different, since a flame is not Chashuv enough to have the utensil to be Batul to it because it doesn't have any substance.

The Gemara answers: it really was not a utensil, but just an earthenware shard. The Gemara asks: why don't you say he's obligated anyhow for the earthenware shard? The Gemara answers: since it doesn't have the right measure. As we learn: the measure for earthenware; R' Yehuda says; the amount to place under a piece of wood to level it. The Gemara asks: if so, what's the case of our Mishna that it's exempt? The Gemara

answers: if you jump a flame (from its source) into the street (without being attached to any material).

New Sugya

The water from an individual's pit has the T'chum of that individual. The water from a city's pit has the T'chum of that city. The water of the pits made by those who came up from Bavel (who dug pits in the middle of streets for the public) gets the T'chum of those who draw it.

Rava asks R' Nachman: the Mishna says that an individual's pit has the T'chum of that individual (implying any type of water supply in it), yet, we have a Braisa that states that flowing rivers and moving springs have the T'chum of anyone (who draws from it, since moving water doesn't acquire a resting place to have a T'chum). He answered: our Mishna refers only to stagnant water (i.e., entrapped and not moving). We find a statement like this that Shmuel says our Mishna only refers to stagnant water.

New Sugya

We learned: if you draw water from the well that those who came up from Bavel dug, its T'chum is like the drawer. If one drew the water for his friend and gives it to him, R' Nachman says it gets the T'chum of the one he drew it for and R' Sheishes says it gets the T'chum of the drawer. Regarding what point do they argue? R' Sheishes holds that the water of that well is Hefker (and since we Paskin that if you lift something Hefker for your friend to acquire, he doesn't acquire it. After all, you can't acquire for someone else when it's detrimental to others (since others can't acquire this Hefker when you take it for someone else). So, if the drawer's friend doesn't acquire it, then the drawer acquires it.) R' Nachman held the well to be a partnership (and therefore, you're taking his own share on his request, so it was always the property of the receiver).

Daf 39b

Rava asked R' Nachman: if someone says "I'm to you a Cherem," the one you made the vow to is forbidden to have pleasure from you. If he says "you are to me a Cherem" then the person who made the vow is forbidden to the one he vowed to. If he says "I'm to you a Cherem and you to me," both are forbidden to each other. They are permitted to partake from the (public utilities) made by those who came up from Bavel, and they're forbidden with those items of the city (since they both own a share in them). These are things that those who came up from Bavel made: the Har Habayis, the chambers, the courtyards (of the Mikdash) and the well in the middle of the way. These are those that belong to the city: the streets, the Shul and the bathhouse. If you say that those wells belong to everyone in partnership, why would it be permitted? After all, we learned that if partners vowed from each other they can't enter their joint courtyard or bathe in their wells.

Tosfos Yeshonim points out: Rava could have found such an implication from the original Braisa that forbade the Shul and bathhouse because they're partners in it, but they proved from this Mishna since it states it simpler.

The Gemara answers: of course, you can't bathe (since you use all the water including your partner's), but when they draw water, each one takes from his own share.

The Gemara asks: does R' Nachman hold of Breira? (We see not like that.) A Mishna says that brothers who are partners in what they inherited from their father's estate, when they're obligated to pay Kalbon (the extra coin they enacted to give along with his Shekel to pay for the money changing) they're exempt from separating Maasar Behaima. If they're obligated in Maasar Behaima, they're exempt from the Kalbon. (When two people give their Shekel together, they need to give a Kalbon for each person. However, when a father gives for his two sons, he only needs to give one Kalbon. Partners are exempt from separating Maasar Behaima.

Therefore, before the split up, the whole estate is considered as if it's still one entity, so when they give the Shekalim from the estate, it's as the father is giving for them, so one Kalbon would do for all. However, they're not considered partners, but one entity, so they're obligated in Maasar Behaima. However, if they split up and became partners again, then we consider them as partners and not one entity. Therefore, they need to give a Kalbon for each brother, but they're exempt from Maasar Behaima.)

R' Anan says: this is only applicable when they split (uneven items) like kids against lambs, or vice versa, but if they split lambs for lambs or kids for kids, we say that's his portion that was coming to him in the beginning (Breira) [and when they became partners again, since this was always their inheritance, it reverts back to the status before the split up, that it's a group inheritance.] R' Nachman says that even when they split up lambs or split up kids, we don't say it's what was coming to them all along (so he doesn't hold of Breira, and when they rejoin, it's not rejoining an inheritance, so they're regular partners.)

Rather, the Gemara answers: everyone holds that the well is Hefker, and they argue about lifting a found object for his friend to acquire, one holds that it acquires (so it gets the T'chum of the one he drew for) and one holds that he doesn't acquire for him (so it gets the T'chum of the drawer).

Tosfos explains: R' Nachman holds that his friend acquires it, therefore, he says it gets the T'chum of the one he drew it for.

Rashi asks: that R' Nachman explicitly says in Bava Metzia; when someone lifts a found object for his friend, his friend doesn't acquire it. Therefore, Rashi feels the right text is "they argue about lifting an object for a friend," and no more. (I.e., it doesn't say his friend acquires or not.) This is the explanation; that the lifter doesn't acquire it, since he doesn't want to acquire it for himself. Therefore, it remains Hefker until it comes to the hands of who he filled it for. The receiver acquires it by pulling it, since he intends to acquire. Although he regularly holds that someone who lifts for a friend acquires it for himself, that's only when it's still in the lifter's hand, and he can still say that he's acquiring it for himself. However, when the receiver takes it, he acquires it, since the first one didn't acquire it for himself. As the Mishna says there; if after the lifter gives the object to the receiver he says that I acquired it originally, it doesn't help him at all. This is why it gets the T'chum of who he filled it up for. However, R' Sheishes said: if you lift a found object for your friend, he acquires it first and then hands it to his friend, therefore, its T'chum is like the drawer.

However, this is a forced explanation: first, you need to erase from the text written in the manuscripts. Also, there is no logic to say R' Sheishes holds that the lifter should acquire it without intent.

Therefore, the Rashbam explains the original text. Rashi's question is not really difficult, since there it says the reason is because you're grabbing an object for someone when it's detrimental to others, since others won't have the opportunity later to pick up the lost object, so that's when R' Nachman says you can't acquire it for his friend. However, here we can say R' Nachman holds that he acquires it for who he filled it for since it's not detrimental to anyone else, since there is plenty of other water in the well for them to draw.

R' Tam also says that we can answer the original text. The Gemara explains R' Sheishes that he holds that when someone lifts an object for his friend, the friend acquires it. Therefore, the object gets the T'chum of the drawer. After all, the reason that he can acquire for his friend is; once he could acquire for himself, he can also acquire for his friend. Therefore, once it comes from his ability to acquire for himself, therefore it gets his T'chum. However, R' Nachman held that he doesn't acquire for his friend. This fits well into the Gemara in Bava Metzia (that it doesn't get the T'chum of the

drawer) since he didn't intend to acquire it. Therefore, it remains Hefker until it gets to the hand of the one he drew it for. So, when it comes to his hand, he acquires it from Hefker, so it gets his T'chum.