

אמר ליה רבי אלעזר: היבא?
אמר ליה: לכי תשכת. נפק דק
ואשכח, דתנאי: אוניס שגירש,
אם ישראל הוא – מחזור ואינו
לוקה, ואם בהן הוא – לוקה
ואינו מחזור.

הניחא למאן דתני קיימו ולא
קיימו.

אלא למאן דתני ביטלו ולא
ביטלו, בשלמא גבי שילוח הקן
משכחת לה, אלא אוניס ביטלו
ולא ביטלו היכי משכחת לה?

אי דקטלה – קם ליה בדרבה
מיניה! אמר רב שימי מחזונאה:
בגון שקיבל לה קידושין מאחר.
אמר רב: אי שווייתה שליח –
אייהי קא מבטלא ליה, אי לא
שווייתה שליח – כל כמיניה?
ולא כלום היא!

אלא אמר רב שימי מנהרדעא:
בגון שהדירה ברבים. הניחא
למאן דאמר נדר שהודר ברבים
אין לו הפרה, אלא למאן דאמר
יש לו הפרה, מאי איכא למימר?
דמדידה לה על דעת רבים.
דאמר אממר: הלכתא, נדר
שהודר ברבים – יש לו הפרה,
על דעת רבים – אין לו הפרה.

ותו ליבא? והא איכא (סימן) גזל
משכן ופאה) גזל, דרחמנא אמר
"לא תגזל", והשיב את הגולה.
משכן, דרחמנא אמר "לא תבא
אל ביתו לעבט עבטו". והשב
תשיב לו העבטו כבא השמש,

Rabbi Elazar said to Rabbi Yoḥanan: Which is that other mitzva? Rabbi Yoḥanan said to him: You will know when you discover it yourself. Rabbi Elazar went out, examined the matter, and discovered the answer, as it is taught in a *baraita*: With regard to a rapist who divorced the woman he raped, if he is a non-priest, he remarries her, and he is not flogged for violating the prohibition: "He may not send her away all his days" (Deuteronomy 22:29). And if he is a priest, he is flogged for violating the prohibition, and he does not remarry her.

The Gemara states: This works out well according to the one who teaches that the criterion for determining whether one is flogged for violating a prohibition that entails fulfillment of a positive mitzva is whether he fulfilled the mitzva or did not fulfill the mitzva, and if he does not fulfill the mitzva immediately when he is instructed to do so, he is flogged when he fails to do so.

But according to the one who teaches that the criterion for determining whether one is flogged in that case is whether he nullified the mitzva or did not nullify the mitzva, and one is flogged only if he performed an action that renders it impossible to fulfill the mitzva, granted, with regard to the sending away of the mother bird from the nest, you can find a situation where he nullifies the mitzva, e.g., if he killed the mother bird. But in the case of a rapist, if the criterion is whether he nullified the mitzva or he did not nullify it, how can you find a situation where the man is flogged because he nullified any possibility of remarrying her?

If he cannot remarry her because he killed her, he will be executed, not flogged, based on the principle: He receives the greater punishment. Rav Shimi of Mehoza said: He nullifies the possibility of remarriage in a case where he received, on her behalf, the money for betrothal^h from another, thereby ensuring that his own remarriage to her is no longer an option. Rav said: That is not a viable solution; if his ex-wife designated him as an agent to receive the money of betrothal on her behalf, it is she who nullifies the possibility of fulfilling the mitzva for him, as a woman is betrothed only with her consent, and he is not liable at all. If she did not designate him as an agent, is it in his power to accept betrothal on behalf of a woman who did not designate him to do so? His action is nothing, and the betrothal does not take effect.

Rather, Rav Shimi of Neharde'a said: He nullifies the possibility of remarriage in a case where he vowed in public that it is prohibited for him to derive benefit from her, and it is consequently prohibited for him to marry her. The Gemara asks: This works out well according to the one who says that a vow that was taken in public has no nullification; he is flogged, since by taking that vow he has rendered remarriage impossible. But according to the one who says that even a vow taken in public has the possibility of nullification, what can be said? He can nullify the vow and remarry her. The Gemara answers: The reference is to a case where he vows on the basis of the consent of the public that it is prohibited for him to derive benefit from her, as Ameimar says that the *halakha* is: A vow that was taken in public^h has the possibility of nullification; a vow that was taken on the basis of the consent of the public has no nullification.

The Gemara questions Rabbi Yoḥanan's statement: And are there no more prohibitions that entail fulfillment of a positive mitzva for which one is flogged? But aren't there others? Before stating its challenges, the Gemara provides a mnemonic^b for the cases that it will cite: Robbery, collateral, and *pe'á*. The Gemara elaborates: Isn't there the case of robbery,^h where the Merciful One states: "You shall not rob" (Leviticus 19:13), and also states: "And he shall return the stolen item" (Leviticus 5:23)? Isn't there the case of collateral,^h where the Merciful One states: "You shall not come into his house to fetch his pledge" (Deuteronomy 24:10), and He then states: "You shall return to him the pledge when the sun sets" (Deuteronomy 24:13)?

Where he received on her behalf, the money for betrothal, etc. – בגון שקיבל לה קידושין וכו'. If a rapist violates a prohibition by divorcing his wife, the court compels him to remarry her. If she dies before he is able to remarry her, or if she becomes betrothed to another in the interim, the rapist is flogged. This is in accordance with the opinion of Rabbi Yoḥanan, according to the Rambam's version of the text, that once the mitzva can no longer be fulfilled, he is flogged (Rambam *Sefer Nashim, Hilkhot Na'ara Betula* 1:7).

A vow that was taken in public, etc. – נדר שהודר ברבים וכו'. Even one who takes an oath in public may request that a halakhic authority dissolve his oath. One who takes an oath or a vow on the basis of the consent of the public can have it dissolved only for a matter involving fulfillment of a mitzva, as in the case cited in the Gemara (16b). See the Rema, who elaborates on the definition of a matter involving fulfillment of a mitzva. The *Shulḥan Arukh* writes, in accordance with the opinion of Rabeinu Tam, that this means the vow can be dissolved only with consent of that public on the basis of whose consent he vowed. The Rema, citing the responsa of the Ran, rules that even with the consent of the public, the vow may be dissolved only for a matter involving fulfillment of a mitzva. In order to avoid the potential violation of a prohibition, one may have the vow dissolved even without the consent of the public, as it is clear that the public would not want a prohibition to be violated.

In this context, the public consists of no fewer than three people, and the case is where one says that he is taking the oath or vow based on the consent of so-and-so, so-and-so, and so-and-so. If he merely vows based on the consent of the public without further specification, his vow can be dissolved. Others claim that if he vows in the presence of many people and states explicitly that he is taking the vow based on the consent of the public, the vow cannot be dissolved (Rashba). The Rema writes that if one vows based on the consent of the public and the vow is dissolved, the dissolution is effective after the fact, although with the exception of exigent circumstances, one should not dissolve that vow *ab initio*. The *Shakh* rules that the vow is dissolved after the fact only if he vowed on the basis of the consent of a non-specific public, but if he specified the names of the people on the basis of whose consent he is taking the vow, then even in exigent circumstances and even after the fact, the vow is not dissolved (Rambam *Sefer Hafḥa'a, Hilkhot Shevuot* 6:8; *Shulḥan Arukh, Yoreh De'a* 228:21–23).

Robbery – גזל: One who robs another of an item violates a prohibition but is not flogged, as the Torah established that one may rectify this transgression through the fulfillment of the mitzva of returning the stolen item. He is not flogged even if he burns the stolen item and refuses to pay restitution, as one is not flogged for violating a prohibition that entails a monetary obligation. The commentaries on the Rambam discuss at length the reason for his ruling, as in general, in cases where one is liable to receive lashes and to pay restitution, he rules that one is flogged and is not liable to pay restitution (Rambam *Sefer Nezikin, Hilkhot Gezeila VaAveda* 1:1 and *Sefer Shofetim, Hilkhot Sanhedrin* 18:2).

Collateral – משכון: One who lends money to another may not enter his house or forcibly take collateral from him. If he violates this prohibition, he is not liable to receive lashes, because the prohibition entails fulfillment of a mitzva that rectifies it, as it is written: "You shall return to him the pledge when the sun sets." If one does not fulfill the mitzva, and the collateral is lost or burned, he is flogged. The Ra'avad writes that this is an error, and the reason he is liable is that he assumed responsibility for the collateral (Rambam *Sefer Mishpatim, Hilkhot Malve VeLoveh* 3:4 and *Mishne LaMelekh* there; *Shulḥan Arukh, Hoshen Mishpat* 72:11, 97:14).

BACKGROUND

Mnemonic – סימן: Since the Talmud was studied orally for many generations, mnemonics were employed to facilitate remembering a series of statements and the order in which they were taught.

The collateral of a convert – משבּונו של גר – Every born Jew has heirs of some sort, related to his father, even if he has no children. Therefore, the collateral can be restored to his heirs after his death. A convert has no Jewish heirs unless he fathered children after his conversion, which means that if one destroys the collateral of a convert and the convert dies, one has nullified any possibility of fulfilling the mitzva of restoring the collateral.

ומשבּוּחַתָּ לָהּ בְּקִיּוּמוֹ וְלֹא קִיּוּמוֹ, וּבִטְלוּ וְלֹא בִטְלוּ! הֵתֵם בֵּינָן דְּחַיִּיב בְּתִשְׁלוּמֵינָן – אִין לֹקֵה וּמְשַׁלֵּם.

The Gemara continues: **And you find** that one is liable to receive lashes in those cases both if the criterion is whether **he fulfilled** the mitzva or **did not fulfill** the mitzva, **and** if the criterion is whether **he nullified** the mitzva or **he did not nullify it**. According to the first criterion, he is flogged if he fails to return the stolen item or the collateral; according to the second criterion, he is flogged if he destroys the stolen item or the collateral. The Gemara answers: **There**, in both those cases, he is not flogged, **since he is liable** to remit monetary payment for the stolen item or the collateral, as the principle is: **One is not both flogged and liable to pay** restitution for one transgression.

מִתְקִיף לָהּ רַבִּי זֵירָא: הֵא אִיכָא מְשֻׁבְּנוּ שְׁלֵ גַר, וּמַת הֲגֵר!

Rabbi Zeira objects to this: But isn't there a case where he is not liable to pay, e.g., if he appropriated the collateral of a convert^h and the convert died with no heirs. In that case, there is no payment, and nevertheless, he is not flogged.

Perek III

Daf 16 Amud b

הֵתֵם גְּבֵרָא בְּרִישׁוֹמֵינָן הוּא, וְשִׁיעֲבוּדָא דִּגְרֵהּ הוּא דְקָא פְקָע.

The Gemara answers: **There**, the man who appropriated the collateral is liable to remit monetary payment, and it is only that the lien of the convert on the property has lapsed, as there is no one to receive payment. Therefore, he is not flogged, based on the principle: One is not both flogged and liable to pay restitution.

וְהָא אִיכָא פְּאָה, דְּרַחֲמָנָא אָמַר "לֹא תִכְלֶה פְּאָת" וְגו' "לְעַמִּי וְלִגְרֵהּ תַעֲזֹב אֹתָם" וְגו'.

The Gemara asks: **But isn't there** the case of *pe'a*, where there is a prohibition, as the Merciful One states: "You shall not wholly reap the corner of your field" (Leviticus 23:22), followed by the mitzva: "To the poor and the convert you shall leave them" (Leviticus 23:22)?

דְּמִשְׁבּוּחַתָּ לָהּ בְּקִיּוּמוֹ וְלֹא קִיּוּמוֹ בִּטְלוּ וְלֹא בִטְלוּ! דְּתַנּוּ: מִצְוַת פְּאָה לְהַפְרִישׁ מִן הַקְּמָה, לֹא הַפְרִישׁ מִן הַקְּמָה – מִפְּרִישׁ מִן הָעוֹמְרִין, לֹא הַפְרִישׁ מִן הָעוֹמְרִין – מִפְּרִישׁ מִן הַכְּרִי, עַד שְׁלֵא מִירַח. מִירַחוּ – מְעַשֵּׂר וְנוֹתֵן לוֹ!

And you find one liable to receive lashes in those cases both if the criterion is whether **he fulfilled** the mitzva or **did not fulfill** the mitzva, **and** if the criterion is whether **he nullified** the mitzva or **he did not nullify it**, as we learned in a *baraita*: The mitzva of *pe'a* is to separate it from the standing grain still growing from the ground. If he did not separate it from the standing grain, but reaped the entire field, he separates a portion from the sheaves as *pe'a*. If he did not separate it from the sheaves, he separates it from the pile where one places the kernels after threshing, before he smooths the pile. Once he smooths the pile, the produce is considered grain from which one is obligated to separate *terumot* and tithes. If he already smoothed the pile before designating the *pe'a*, he tithes the grain in the pile and then gives the *pe'a* to the poor person. Once he grinds the kernels into flour, he no longer separates *pe'a*.

בְּדַרְבֵּי יִשְׁמַעְיֵאל, דְּאָמַר: אַף מִפְּרִישׁ מִן הָעִיסָה, וְלִרְבִּי יִשְׁמַעְיֵאל נִמְי מִשְׁבּוּחַתָּ לָהּ, דְּאֵכָל עִיסָה!

Apparently, it is possible to nullify the possibility of fulfilling the mitzva of leaving *pe'a* by grinding the grain; why, then, did Rabbi Yohanan omit this case from his list of prohibitions rectified by a positive mitzva for which one is flogged? The Gemara answers: Rabbi Yohanan holds in accordance with the opinion of Rabbi Yishmael, who says: One separates *pe'a* even from the dough.^h He maintains that the possibility of fulfilling the mitzva of *pe'a* is never nullified, as one may separate *pe'a* even after grinding and kneading. The Gemara challenges: **And according to Rabbi Yishmael, you also find** a way to nullify the possibility of fulfilling the mitzva, in a case where one ate the dough.

HALAKHA

One separates *pe'a*...from the dough – מִפְּרִישׁ מִן הָעִיסָה: One who reaps his field may not reap the entire field, but must leave the standing grain in one corner of the field for the poor. This mitzva is called *pe'a*. If he failed to leave the grain standing in that corner and reaped the entire field, he must separate some of the reaped sheaves or grain and give to the poor what he separated, thereby fulfilling the mitzva "To the

poor and the convert you shall leave them." Even if he ground the grain into flour and baked it into bread, he is still required to give some of it to the poor, in accordance with the opinion of Rabbi Yishmael.

If after he violated the prohibition the entire crop was lost or burned before he gave *pe'a* to the poor, he is flogged, as he is no longer able to perform the mitzva that the prohibition

entails in order to rectify the situation. This is in accordance with the opinion of Rabbi Yohanan, who holds, according to the Rif's version of the Gemara, that the relevant criterion in this regard is whether it remains possible to fulfill the mitzva. One is flogged only when it is no longer possible to fulfill the mitzva (Rambam *Sefer Zera'im, Hilkhot Mattenot Aniyyim* 1:1–2).

אָבֵל, זאת ועוד אֶחָת – אָהָא. אָבֵל אוֹיִם – לֹא. דְּהִיכָא אֲמַרִינן עַל דְּעַת רַבִּים אֵין לֹו הַפְּרָה – לְדַבֵּר הַרְשׁוּת, אָבֵל לְדַבֵּר מִצְוָה – יֵשׁ לֹו הַפְּרָה.

Rather, the Gemara retracts its previous understanding of the statement of Rabbi Yohanan: We have only this mitzva and another where one would be flogged if not for the relevant mitzva. The term: **This**, is in reference to the sending away of the mother bird, and the term: **Another**, is in reference to **this halakha of pe'á**. But in the case of a rapist, no, the possibility of remarrying the rape victim whom he divorced is not nullified, even if he vows on the basis of the consent of the public. **Where do we say that a vow on the basis of the consent of the public has no nullification?** It is only in a case where one seeks nullification of the vow for the purpose of a matter that is optional, i.e., not a mitzva; but if one seeks nullification of the vow for the purpose of a matter that is a mitzva, even a vow taken on the basis of the consent of the public has the possibility of nullification.^N In the case of the rapist, he could seek nullification of his vow to enable him to fulfill the mitzva of remarrying his divorcée, and therefore the vow can be nullified.

כִּי הָא דְּהוּא מְקַרֵי דְּרִדְקֵי דְּהָהוּ פִּשְׁעֵי בִּינְיָקֵי, אֲדַרְיָה רַב אֶחָא, וְאַהֲדַרְיָה רַבִּינָא, דְּלֹא אֶשְׁתַּבַּח דְּדִיִּיק פְּוִתִּיָה.

The Gemara relates an incident that proves this point. As this happened in that incident where there was a certain teacher of children who was negligent in his supervision of the children,^N and Rav Aha vowed on the basis of the consent of the public that he would no longer be allowed to teach children. And nevertheless Ravina restored him to his position, because no other teacher was found who was as accurate as he. Apparently, even a vow taken on the basis of the consent of the public has the possibility of nullification, if that nullification is sought in order to fulfill a mitzva.

”וְהָאוֹכֵל נְבִילוֹת וּטְרֵיפוֹת שְׂקָצִים וּרְמָשִׁים” וכו'. אָמַר רַב יְהוּדָה: הָאֵי מֵאֵן דְּאָכַל בִּינִיתָא דְּבִי כְּרָבָא – מְלִקִינן לִיָּה מִשׁוּם ”שְׂרָץ הַשָּׂרֵץ עַל הָאָרֶץ”. הָהוּא דְּאָכַל בִּינִיתָא דְּבִי כְּרָבָא וְנִגְדִיָּה רַב יְהוּדָה.

§ The mishna teaches: **And one who eats unslaughtered animal or bird carcasses, or tereifot, or repugnant creatures, or creeping animals, is liable to receive lashes.** Rav Yehuda says: **One who eats a fish-like creature found in the furrows of a field formed by a plow [binnita devei kerava],^{HBN} we flog him due to violation of the prohibition: “Creeping animals that creep on the ground... shall not be eaten” (Leviticus 11:41).** The Gemara relates: **There was a certain person who ate a fish-like creature found in the furrows of a field formed by a plow, and Rav Yehuda flogged him.**

אָמַר אַבְיִי: אָבֵל פּוּטִיתָא – לֹוּקִיָּה אֲרִבְעָה.

Abaye says: One who ate a *putita*,^{HUN} a creeping animal found in the sea, is flogged with four sets of lashes. There are two prohibitions stated with regard to creeping animals in the sea: “And any that do not have fins and scales in the seas and in the rivers...you shall not eat of their flesh” (Leviticus 11:10–11), and: “And any that do not have fins and scales you shall not eat” (Deuteronomy 14:10). In addition, there are two other prohibitions stated with regard to creeping animals in general: “You shall not render yourselves detestable with any creeping animal that creeps, neither shall you render yourselves impure with them” (Leviticus 11:43), for a total of four.

NOTES

For the purpose of a matter that is a mitzva a vow has the possibility of nullification – לְדַבֵּר מִצְוָה יֵשׁ לֹו הַפְּרָה – The early commentaries explain that since he takes a vow on the basis of the consent of the public he requires their agreement to dissolve the vow, and presumably he does not have their agreement. Others explain that since there are many reasons that a person would regret his vow, the multitudes that constitute the public, on the basis of whose consent he vowed, might not share that regret, or might regret the vow for different reasons. When the fulfillment of a mitzva is involved, presumably the public will agree to have the vow dissolved, and they all regret the vow for the same reason (see *Shakh* and *Beur HaGra*).

Negligent [*pasha*] in his supervision of the children – פִּשְׁעֵי בִּינְיָקֵי: Rashi explains *pasha* to mean that he would strike them excessively. The Ritva states that this is not an appropriate explanation of the term *pasha*, which usually refers to negligence. Therefore, he explains that the teacher did not properly supervise the children, through either laxity with regard to their studies or failure to correct their mistakes.

בִּינִיתָא דְּבִי – Fish-like creature in furrows formed by a plow – כְּרָבָא: Rashi understands this term as referring to a worm inside a cabbage. The Rambam similarly indicates that the reference is to a worm that originated in a cabbage and then emerged and crawled toward the ground, even if it never actually reached the ground; in that case, one who eats such a creature violates the prohibition with regard to creeping animals that creep on the ground (see *Tosafot*, Ramban, and Ritva).

Putita – פּוּטִיתָא: This is a species of creeping animal found in water (Rashi). The Rid maintains that it is a non-kosher fish. According to Rashi and many early commentaries, two prohibitions were stated with regard to creeping animals in water, and two others with regard to creeping animals in general, and one is liable to receive one set of lashes for each prohibition. He explains the cases of the ant and the wasp in a similar manner. The Rambam has an alternative explanation (*Sefer HaMitzvot*, prohibition 179 and principle 9).

Fish-like creature in furrows formed by a plow [*binnita devei kerava*] – בִּינִיתָא דְּבִי כְּרָבָא – One who eats an olive-bulk of those species that originated in decaying fruit and food and then crawled out onto the ground is liable to receive lashes, even if after crawling on the ground they returned to the fruit from which they came, as it is written: “Creeping animals that creep on the ground... shall not be eaten” (Leviticus 11:41), thereby prohibiting all creatures that crawled on land. If they did not leave the food, it is permitted to eat the fruit with the creature inside it. This is the case only if the creatures in the food originated after it was uprooted from the ground. If they originated while the fruit was still attached to the ground, they are considered a creature that creeps on the ground, and one who eats them is flogged. This is the Rambam’s understanding of the term: *Binnita devei kerava* (Rambam *Sefer Kedusha*, *Hilkhot Ma’akhalot Assurot* 2:14–15; see *Shulhan Arukh*, *Yoreh De’á* 84:6).

One who ate a *putita* – אָבֵל פּוּטִיתָא: According to the Rambam the *putita* is a creeping animal that exists on land and in water and originates in decaying fruit. One who eats it is flogged with four sets of lashes. The Ra’avad offers a dissenting opinion and claims that creatures of this kind do not exist. The Rambam disagrees, and claims that the reference is to a small, non-kosher fish, for which one is flogged with four sets of lashes, two due to the fact that it is a creeping creature on land and two due to the fact that it is a creeping creature in water (Rambam *Sefer Kedusha*, *Hilkhot Ma’akhalot Assurot* 2:23 and *Mishne LaMelekh* there; *Sefer HaMitzvot*, prohibition 149; Ramban on *Sefer HaMitzvot*, principle 9).

BACKGROUND

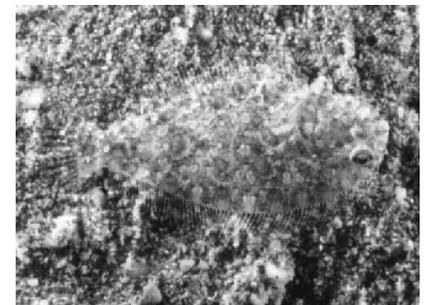
Fish-like creature in furrows formed by a plow [*binnita devei kerava*] – בִּינִיתָא דְּבִי כְּרָבָא: *Binnita* usually means fish. Most commentaries maintain that *binnita devei kerava* means a fish found in the furrows, as various types of fish make their way from one stream to another via adjoining fields. If the reference is to a non-kosher sea creature, perhaps it is an eel, which is occasionally found in damp grounds.



Conger eel

LANGUAGE

Putita – פּוּטִיתָא: Apparently an Aramaic form of the Greek ψῆττα, *psêtta*, a name given to different types of flatfish, e.g., flounder. These fish are typically found dug into the seabed, and undergo a significant change in appearance during the course of their development, similar to caterpillars. Because they are found in the ground, they are categorized as creeping animals (see *Arukh*).



Camouflaged flatfish

NOTES

If one ate a wasp he is flogged six – צרעה לוקה שש: The Meiri explains that a wasp does not have wings from the beginning of its growth, but begins as a creeping animal that creeps on the land. When the wings grow, the additional prohibition of a winged creeping creature takes effect.

Violates the prohibition of: You shall not make your souls detestable – עובר משום לא תשקצו: Almost all the early commentaries explain that there is no actual Torah prohibition. Rather, the Sages stated that there are certain actions that are not explicitly prohibited by Torah law but are in certain respects similar to matters prohibited by Torah law. In this case, as the performance of detestable actions or consumption of detestable food evokes the verse, the Sages initiated a prohibition in their regard. The Ritva claims that the Ramah disagrees, and holds it is a prohibition by Torah law.

And brought another one that was alive – והביא אחר חי: This is actually referring to a whole, dead, ant, as it is certainly not alive when he eats it. With regard to this matter, there is no difference whether it is alive or dead (*Tosafot*; Rambam).

BACKGROUND

Bloodletter's horn – קרנא דאומנא: According to Rashi, it appears that these horns were like cupping glasses that drew out blood by creating a vacuum by means of heating or sucking, thereby drawing the blood into the horn of a ram or a cow. It is also possible that these horns were vessels for storing the blood that flowed from incisions in the flesh made by bloodletters. Either way, the horns would contain congealed remnants of human blood.



Talmudic-era cupping glass with a spout used for sucking

נמלה – לוקה חמש, משום שרץ
השרץ על הארץ.

צרעה – לוקה שש, משום שרץ העוף.

אמר רב אחאי: המשקה את נקביו
עובר משום "לא תשקצו". אמר
רב יביב בר אבוי: האי מאן דשתי
בקרנא דאומנא קא עבר משום "לא
תשקצו".

אמר רבא בר רב הונא: ריסק תשעה
נמלים, והביא אחד חי והשלימן
לכוית – לוקה שש, חמש משום בריה
ואחד משום כוית נבילה. רבא אמר
רבי יוחנן: אפילו שנים והוא. רב יוסף
אמר: אפילו אחד והוא. ולא פליגי,
הא ברברי והא בוטרי.

If one ate an ant,^h he is flogged with five sets of lashes. In addition to the two prohibitions stated with regard to repugnant creatures in general, he is also flogged for violating the prohibitions: “Creeping animals that creep on the ground... shall not be eaten” (Leviticus 11:41), and: “And all creeping animals that creep on the ground, you shall not eat them” (Leviticus 11:42), and: “Neither shall you render yourselves impure with any manner of creeping things that crawls upon the ground” (Leviticus 11:44).

If one ate a wasp, he is flogged with six^{nh} sets of lashes. In addition to the five prohibitions violated by one who eats an ant, he is flogged with an additional set of lashes due to violation of the prohibition with regard to winged creeping creatures: “And all winged creeping creatures are impure for you, they may not be eaten” (Deuteronomy 14:19).

Rav Aḥai says: One who delays relieving himself through his orifices^h when the need arises violates the prohibition of: “You shall not make your souls detestable” (Leviticus 20:25).ⁿ Rav Beivai bar Abaye says: One who drinks from the horn of a bloodletter^{bh} through which blood has passed violates the prohibition of: “You shall not make your souls detestable.”

Rava bar Rav Huna says: If one crushed nine ants^h and brought another one that was aliveⁿ and thereby completed their measure to an olive-bulk and ate them, he is flogged with six sets of lashes: Five for eating an entity for which one is flogged five times as stated above with regard to one who eats an ant, and one for eating an olive-bulk of an unslaughtered carcass all together. Rava says that Rabbi Yoḥanan says: Even if he ate two crushed ants and the ant that was alive, he is flogged with six sets of lashes. Rav Yosef says: Even if he ate one crushed ant and the ant that was alive. The Gemara comments: And they do not disagree; this case, where Rava and Rav Yosef say that he is flogged for eating one or two crushed ants and one that is alive, is referring to large ants, which together amount to an olive-bulk. And that case, where Rava bar Rav Huna mentions nine ants, is referring to small ants, as a greater number of ants is required to constitute an olive-bulk and render him liable. Consequently, there is no halakhic dispute in this case.

HALAKHA

Ant – נמלה: One who ate a flying ant that grows in water, originates in decaying fruit, and does not reproduce, is flogged with five sets of lashes. See the dissenting opinion of the Ra'avad, who claims that creatures of this kind do not exist. The Ramban claims that the reference in the Gemara is to a regular ant (Rambam *Sefer Kedusha, Hilkhot Ma'akhalot Assurot* 2:23 and *Mishne LaMelekh* there).

If one ate a wasp he is flogged six – צרעה לוקה שש: One who eats a creeping animal that is similar to the ant but falls into the category of a winged creeping creature is flogged with six sets of lashes. The Ra'avad claims that creatures of this kind do not exist. The Ramban claims that all flying creeping animals fall into the category of winged creeping creatures (Rambam *Sefer Kedusha, Hilkhot Ma'akhalot Assurot* 2:23).

One who delays relieving himself through his orifices – המשקה את נקביו: One who feels the urge to relieve himself and delays doing so has rendered himself detestable, and also causes himself to become ill. If he felt the urge during the *Amida* prayer, some say that he is obligated to interrupt the prayer and relieve himself (*Terumat HaDeshen*). Others maintain that he may restrain himself until he completes the prayer, unless the need is great, in which case any delay constitutes a violation of the prohibition: You shall not make yourselves detestable (Rashba). In practice, the *halakha* is that he is not required to interrupt his prayer under any circumstances

(Rambam *Sefer HaMadda, Hilkhot Deot* 4:1 and *Sefer Kedusha, Hilkhot Ma'akhalot Assurot* 17:31; *Shulḥan Arukh, Oraḥ Hayyim* 92:1–2, and in the comment of Rema, and *Magen Avraham* there).

שתי בקרנא – דאומנא: The Sages prohibited consuming items that most people find disgusting. Likewise, it is prohibited to eat and drink using vessels that arouse disgust, e.g., vessels used in bloodletting. Similarly, one should not eat with filthy hands or on dirty dishes. All these fall under the rubric of the prohibition “You shall not make your souls detestable.” One who eats in a disgusting manner is liable to receive lashes for rebelliousness by rabbinic law. Some say that the Sages instituted lashes in this case for violating a Torah prohibition, albeit one for which one is not liable to receive lashes by Torah law (*Taz*). The *Perisha* explains that they instituted lashes because it is a violation of a rabbinic prohibition (Rambam *Sefer Kedusha, Hilkhot Ma'akhalot Assurot* 17:29; *Shulḥan Arukh, Yoreh De'a* 116:6).

If one crushed nine ants – ריסק תשעה נמלים: If one crushed nine ants and added a whole dead ant, which together constitute the measure of an olive-bulk, and proceeded to eat them, he is liable to receive six sets of lashes, five for the whole ant, and one for eating an olive-bulk from the carcass of an impure creature (Rambam *Sefer Kedusha, Hilkhot Ma'akhalot Assurot* 2:24).

Poor man's tithe – **מַעֲשֵׂר עֲנִי**: The poor man's tithe is separated from agricultural produce and distributed to the poor, during the third and sixth years of the Sabbatical cycle, replacing second tithe, which is separated during the first, second, fourth, and fifth years. After *teruma* and first tithe are separated, one-tenth of the remaining produce is separated as poor man's tithe and distributed to the poor. Although poor man's tithe is non-sacred, the produce is considered untithed and may not be eaten until the poor man's tithe is separated.

HALAKHA

If one ate untithed produce and poor man's tithe was not separated – **אִכַּל טֶבֶל שֶׁל מַעֲשֵׂר עֲנִי**: If one eats an olive-bulk of untithed produce, then even if he had separated *teruma* and first tithe and it was only poor man's tithe that remained untithed, he is liable to receive lashes, in accordance with the statement of Rav (Rambam *Sefer Kedusha, Hilkhhot Ma'akhalot Assurot* 10:20).

NOTES

One need not separate by means of calling the name – **אֵין צְרִיךְ לְקָרוֹת אֶת הַשֵּׁם**: Not only is there no obligation to physically remove the poor man's tithe from the produce, he is not even required to separate a portion of the produce as poor man's tithe. The reason is that it is *demai* and there is uncertainty whether the *am ha'aretz* tithed the produce. Based on the principle: The burden of proof is on the claimant, the produce remains with the one who purchased it from the *am ha'aretz*, since the poor person cannot prove that the *am ha'aretz* did not tithe it. Therefore, Rabbi Eliezer is of the opinion that since the tithe is not given to the poor person, there is no need to separate it, as separation of the tithe merely facilitates the mitzva of giving it.

HALAKHA

Calling the name – **קוֹרֵא אֶת הַשֵּׁם**: Even though one is not obligated to separate poor man's tithe from *demai*, one must designate a portion of the produce and say: One-tenth of the produce that is here is poor man's tithe. This is in accordance with the opinion of the Rabbis (Rambam *Sefer Zera'im, Hilkhhot Ma'aser* 9:3).

”אִכַּל טֶבֶל וּמַעֲשֵׂר רֵאשׁוֹן” כּו'. אָמַר רַב: אִכַּל טֶבֶל שֶׁל מַעֲשֵׂר עֲנִי – לֹאֲקָהּ.

§ The mishna teaches that among those flogged is one who ate untithed produce or first-tithe produce whose *teruma* of the tithe was not taken. Rav says: If one ate untithed produce from which *teruma* and first tithe were separated and poor man's tithe⁸ was not separated,⁹ he is flogged.

כְּמֵאן – כִּי הָיָא תְנָא. דְּתַנְיָא. אָמַר רַבִּי יוֹסֵפִי: יָכוֹל לֹא יְהֵא חַיִּיב אֱלָא עַל הַטֶּבֶל שֶׁלֹּא הוּרָם מִמֶּנּוּ כָּל עֵינָקוּ, הוּרָם מִמֶּנּוּ תְרוּמָה גְדוּלָה וְלֹא הוּרָם מִמֶּנּוּ מַעֲשֵׂר רֵאשׁוֹן. מַעֲשֵׂר רֵאשׁוֹן וְלֹא מַעֲשֵׂר שְׁנִי, וְאִפְלוּ מַעֲשֵׂר עֲנִי, מִנּוּן?

The Gemara explains: In accordance with whose opinion did Rav issue this ruling? It is in accordance with the opinion of this *tanna*, as it is taught in a *baraita* that Rabbi Yosei says: One might have thought that one is liable for eating only untithed produce from which no gifts were taken at all; but if *teruma gedola* was taken from the produce, but first tithe was not taken from it, or if the first tithe was separated but not second tithe, or even if only poor man's tithe was not separated, from where is it derived that the halakhic status of the produce is that of untithed produce and one is liable for eating it?

תְּלִמּוּד לומר “לֹא תוּכַל לֶאֱכֹל בְּשַׁעְרֶיךָ” וגו', וְלִהְלֵן הוּא אוֹמֵר “וְאִכְלוּ בְּשַׁעְרֶיךָ וְשָׁבְעוּ”, מִה לִּהְלֵן מַעֲשֵׂר עֲנִי – אִף כָּאֵן מַעֲשֵׂר עֲנִי, וְאָמַר רַחֲמֵנָא: “לֹא תוּכַל”.

The *baraita* continues: It is derived as the verse states: “You may not eat within your gates the tithe of your grain or of your wine or of your oil” (Deuteronomy 12:17), and there it states: “And you shall give to the Levite, to the convert, to the orphan, and to the widow, and they shall eat within your gates and be satisfied” (Deuteronomy 26:12). Just as there, with regard to the phrase “and they shall eat within your gates,” it is referring to poor man's tithe, here too, “you may not eat within your gates” is referring to produce in which there is poor man's tithe, as it has not yet been separated, and the Merciful One states a prohibition: You may not eat it.

אָמַר רַב יוֹסֵפִי: כְּתַנְיָא, רַבִּי אֱלִיעֶזֶר אוֹמֵר: אֵין צְרִיךְ לְקָרוֹת אֶת הַשֵּׁם עַל מַעֲשֵׂר עֲנִי שֶׁל דְּמַאי, וְחֻכְמֵי אוֹמְרִים:

Rav Yosef said: This matter is subject to a dispute between *tanna'im*. Rabbi Eliezer says: One need not separate by means of calling the name¹⁰ upon poor man's tithe of doubtfully tithed produce [*demai*]. With regard to produce purchased from an *am ha'aretz*, i.e., one who is unreliable with regard to tithes, there is a rabbinic ordinance requiring one to separate first and second tithe and *teruma* of the tithe from it. Nevertheless, one is not required to separate poor man's tithe from that produce, because poor man's tithe is a monetary debt owed to the poor, and in a case of uncertainty, the principle is: The burden of proof rests upon the claimant. Rabbi Eliezer holds that failure to separate poor man's tithe does not accord the produce the status of untithed produce. And the Rabbis say:

Perek III

Daf 17 Amud a

קוֹרֵא אֶת הַשֵּׁם וְאֵינוּ צְרִיךְ לְהַפְרִישׁ:

He designates a portion of the produce by means of calling the name¹¹ upon poor man's tithe, but he is not required to physically separate that portion and give it to the poor.

מֵאִי לֹא בְּהָא קָא מִיפְלְגִי, דְּמַר סַבְר: וְדַאי טוֹבְלוּ, וּמַר סַבְר: וְדַאי אֵינוּ טוֹבְלוּ? אָמַר לִיה אֲבִי: אִי הֲכִי, אֲדַמִּיפְלְגִי בְּסַפִּיקוּ – לִיפְלְגוּ בְּדַאי.

Rav Yosef suggests: What, is it not that they disagree with regard to this: That one Sage, the Rabbis, holds that produce from which poor man's tithe was certainly not separated is rendered untithed produce, and therefore, in a case where there is uncertainty whether poor man's tithe was separated, one is required to separate it; and one Sage, Rabbi Eliezer, holds that produce from which poor man's tithe was certainly not separated is not rendered untithed produce, and therefore, one need not even designate poor man's tithe by calling its name upon a portion of the produce? Abaye said to Rav Yosef: If it is so, that this is the point in dispute, rather than disagreeing with regard to a case of uncertainty whether poor man's tithe was separated, let them disagree with regard to a case of certainty that poor man's tithe was not separated.

Since it is merely a matter of money, he separates poor man's tithe – *בין דממונא הוא אפרושי מפריש* – Although the assumption is that an *am ha'aretz* does not tithe his produce at all because he is loath to give away his property to others, presumably, he will at least separate poor man's tithe, though he will not actually give it to the poor.

אָלָא, דְּכוּלֵי עֲלָמָא וְדַאי טוּבְלֵא. וְהָכָא בְּהָא קָא מִיפְלִגִי: מִרְ סָבֵר: לֹא נַחֲשָדוּ עֲמֵי הָאָרֶץ עַל מַעֲשֵׂר עֲנֵי שֶׁל דְּמַאי, בֵּין דְּמִמוּנָא הוּא – אֲפְרוּשֵׁי מִפְרִישׁ. וְרַבְנֵן סָבְרִי: בֵּין דְּטְרִיהָא לִיה מִיִּלְתָּא – לֹא מִפְרִישׁ.

Rather, contrary to the previous suggestion, say that everyone agrees that produce from which poor man's tithe was certainly not separated is rendered untithed produce. And here, it is with regard to this that they disagree: One Sage, Rabbi Eliezer, holds: *Amei ha'aretz* are not suspected of refraining from separating poor man's tithe of *demai*. Since it is merely a matter of money, and no sanctity is involved, he separates poor man's tithe,ⁿ although he does not actually give it to the poor. And the Rabbis hold: Since the matter involves exertion for him, he does not even separate poor man's tithe.

”כמה יאכל מן הטבל” וכו’. אָמַר רַב בֵּיבֵי אָמַר רַבִּי שְׁמַעוֹן בֶּן לֵקִישׁ: מִחֲלוּקַת בַּחֲטָה, אָבֵל בְּקִמַח – דְּבָרֵי הַכֵּל כְּזוּת. וְרַבִּי יִרְמְיָה אָמַר רַבִּי שְׁמַעוֹן בֶּן לֵקִישׁ: כְּמִחֲלוּקַת בָּזוּ כֶּךָ מִחֲלוּקַת בָּזוּ.

§ The mishna teaches: How much does one need to eat from untithed produce and be liable to receive lashes? Rabbi Shimon says: Even if one ate any amount of untithed produce he is liable to receive lashes. And the Rabbis say: He is liable only if he eats an olive-bulk. Rav Beivai says that Rabbi Shimon ben Lakish says: Their dispute is with regard to one who eats one kernel of wheat of untithed produce. But with regard to flour, everyone agrees that one is liable only if he eats an olive-bulk. And Rabbi Yirmeya says that Rabbi Shimon ben Lakish says: Just as there is a dispute with regard to this case of a kernel of wheat, so too, there is a dispute with regard to that case of flour.

תַּנּוּ, אָמַר לְהֵם רַבִּי שְׁמַעוֹן: אֵי אַתֶּם מוֹדִים לִי בְּאוֹכֵל נְמִלָּה כֹּל שֶׁהוּא שְׁהוּא חַיִּיב? אָמְרוּ לוֹ: מִפְּנֵי שֶׁהוּא כְּבָרִייתָהּ. אָמַר לָהֶן: אִף חֲטָה אַחַת כְּבָרִייתָהּ; חֲטָה – אֵין, קִמַח – לֹא!

The Gemara cites proof from that which we learned in the mishna: Rabbi Shimon said to them: Do you not concede to me with regard to one who eats an ant of any size that he is liable to receive lashes? The Rabbis said to Rabbi Shimon: He is flogged for eating an ant of any size due to the fact that it is an intact entity in the form of its creation. Rabbi Shimon said to them: One kernel of wheat is also in the form of its creation. The Gemara infers from Rabbi Shimon's response: For a kernel of wheat, yes, one is liable; for any amount of flour, no, one is not liable. Apparently, even Rabbi Shimon concedes that one is liable for eating only an olive-bulk of wheat flour, in accordance with the statement that Rav Beivai says that Rabbi Shimon ben Lakish says.

לְדַבְרֵיהֶם קָאמַר לָהֶן: לְדִידִי – אֲפִילוּ קִמַח נְמִי, אָלָא לְדִידְכוּ – אוֹדוּ לִי מִיַּת דְּחֲטָה אַחַת כְּבָרִייתָהּ. וְרַבְנֵן: בְּרִיית נִשְׁמָה – חֲשׂוּבָה, חֲטָה – לֹא חֲשׂוּבָה. תַּנּוּ אֶתְּהֵא כְּוִתִּיהָ דְּרַבִּי יִרְמְיָה, רַבִּי שְׁמַעוֹן אוֹמַר: כֹּל שֶׁהוּא לְמַכּוֹת, לֹא אָמְרוּ כְּזוּת. אָלָא לְעֵנֵן קִרְבָּן.

The Gemara answers: It is in accordance with the statement of the Rabbis that Rabbi Shimon spoke to them, and he meant as follows: According to my opinion, even if one ate any amount of flour he is also liable. But according to your opinion, concede to me at least that one is liable if he eats one kernel of wheat, as it is in the form of its creation. And the Rabbis say in response: There is a difference; an entity with a soul, i.e., a living creature, is significant,^h and one is liable for eating an entity of any volume. A kernel of wheat is not significant. The Gemara notes: It is taught in a *baraita* in accordance with the opinion of Rabbi Yirmeya, that Rabbi Shimon says: One who eats any amount of food that is forbidden is liable to receive lashes; the Sages said the measure of an olive-bulk only with regard to liability to bring a sin-offering for one who unwittingly ate forbidden food.

HALAKHA

בְּרִיית נִשְׁמָה חֲשׂוּבָה – An entity with a soul is significant – An entity is a complete item that is significant in and of itself, e.g., an impure animal or an egg that contains a chick, or the sciatic nerve. Forbidden entities are not nullified even

in a mixture with one thousand permitted parts. This *halakha* applies only to items in the animal kingdom, not to, e.g., a kernel of grain (Rambam *Sefer Kedusha*, *Hilkhot Ma'akhalot Assurot* 2:21; *Shulhan Arukh*, *Yoreh De'a* 100:1).

מתני' האוכל בבורים עד שלא קרא עליהם, קדשי קדשים חוץ לקלעים, קדשים קלים ומעשר שני חוץ לחומה, השובר את העצם בפסח טהור – הרי זה לוקה ארבעים. אבל המותר בטהור והשובר בטמא – אינו לוקה ארבעים.

MISHNA In the case of a priest who eats first fruits before the one who brought the fruits to the Temple recited over those fruits the Torah verses that he is obligated to recite (see Deuteronomy 26:3–10); and one who ate offerings of the most sacred order outside the curtains^H surrounding the Tabernacle courtyard, or outside the Temple courtyard; and one who ate offerings of lesser sanctity or second-tithe produce outside the wall of Jerusalem;^H and also one who breaks the bone of a ritually pure Paschal offering;^H in all these cases he is flogged with forty lashes. But one who leaves the flesh of the ritually pure Paschal offering^H until the morning of the fifteenth of Nisan, and one who breaks a bone of a ritually impure Paschal offering, is not flogged with forty lashes.

הנוטל אם על הבנים, רבי יהודה אומר: לוקה ואינו משלח, וחכמים אומרים: משלח ואינו לוקה. זה הכלל: כל מצות לא תעשה שיש בה קום עשה – אין חייבין עליה.

With regard to one who takes the mother bird with her fledglings,^H thereby violating the Torah prohibition: “You shall not take the mother with her fledglings; you shall send the mother, and the fledglings you may take for yourself” (Deuteronomy 22:6–7), Rabbi Yehuda says: He is flogged for taking the mother bird, and does not send the mother, and the Rabbis say: He sends the mother and is not flogged, as this is the principle: With regard to any prohibition^H that entails a command to arise and perform a mitzva, he is not liable to receive lashes for its violation.

גמ' אמר רבה בר בר חנה אמו רבי יוחנן: זו דברי רבי עקיבא סתימתא, אבל חכמים אומרים: בבורים – הנחה מעכבת בהן, קריאה אין מעכבת בהן.

GEMARA The mishna teaches that a priest who eats first fruits before the one who brought the fruits to the Temple recited the accompanying Torah verses is liable to receive lashes. With regard to this statement, Rabba bar Hana says that Rabbi Yoḥanan says: This is the statement of Rabbi Akiva, whose statements are often cited in the mishna unattributed. But the Rabbis say: With regard to first fruits, the lack of placement alongside the altar invalidates them,^H and they may not be eaten; but the lack of recitation of the accompanying Torah verses does not invalidate them, and if one placed them and did not recite the accompanying Torah verses, the priest who eats them is not flogged.

HALAKHA

Offerings of the most sacred order outside the curtains, etc. – קדשי קדשים חוץ לקלעים וכו': Whoever eats an olive-bulk of the flesh of offerings of the most sacred order outside the Temple courtyard is liable to receive lashes, as it is written: “You may not eat within your gates the tithe of your grain, or of your wine, or of your oil, or the firstborn of your herd or of your flock, nor any of your vows that you vow, nor your gift offerings, nor the donation of your hand” (Deuteronomy 12:17). It is learned through tradition that this verse is a prohibition against eating the flesh of sin-offerings and guilt-offerings outside the Temple courtyard. The same applies to eating offerings of lesser sanctity outside Jerusalem, as the status of the city walls with regard to offerings of lesser sanctity is like that of the walls of the Temple courtyard with regard to offerings of the most sacred order, in accordance with the mishna and the *baraita* cited in the Gemara (Rambam *Sefer Avoda, Hilkhot Ma'aseh Korbanot* 11:5).

prohibition that entails fulfillment of a positive mitzva (Rambam *Sefer Korbanot, Hilkhot Korban Pesah* 10:11).

Second-tithe produce outside the wall of Jerusalem – מעשר חוץ לחומה: One who partakes of an olive-bulk of second-tithe produce or a quarter-log of second-tithe wine outside the walls of Jerusalem is liable to receive lashes (Rambam *Sefer Zera'im, Hilkhot Ma'aser Sheni* 2:5).

הנוטל – האם על הבנים: One who takes a mother bird with her fledglings violates a prohibition, and if he proceeds to slaughter the mother bird he is flogged. If he ultimately sends away the mother bird, he is not flogged (Rambam *Sefer Kedusha, Hilkhot Shehita* 13:1; *Shulhan Arukh, Yoreh De'a* 292:6).

השובר – אף העצם בפסח: One who breaks the bone of a ritually pure Paschal offering is liable to receive lashes. One is not flogged for breaking the bone of an impure Paschal offering (Rambam *Sefer Korbanot, Hilkhot Korban Pesah* 10:1).

כל מצות לא תעשה וכו' – One is not flogged for violating any prohibition that entails a command to arise and perform a mitzva, provided that he performed the relevant mitzva (Rambam *Sefer Kedusha, Hilkhot Shehita* 13:2 and *Sefer Shofetim, Hilkhot Sanhedrin* 16:4, 18:2).

But one who leaves the flesh of the ritually pure Paschal offering – המותר בטהור: One who leaves over the flesh of a Paschal offering violates a prohibition but is not flogged, as it is a

Lack of placement alongside the altar invalidates them – הנחה מעכבת בהן: If a priest eats first fruits outside Jerusalem after they were brought within the city walls, he is liable to receive lashes by Torah law, as it is stated: “You may not eat within your gates...nor the donation of your hand” (Deuteronomy 12:17). Similarly, if a priest eats first fruits in Jerusalem before their placement alongside the altar in the Temple courtyard he is liable to receive lashes, like the priest who eats first fruits outside the walls of Jerusalem. The Torah requires their placement in the Temple courtyard, as it is stated: “And you shall place it before the Lord your God” (Deuteronomy 26:10). Once the person bringing the first fruits places them in the courtyard, it is permitted for the priest to partake of them even if the owner did not yet recite the accompanying Torah verses. The lack of recitation of the accompanying Torah verses does not invalidate them, in accordance with the majority opinion of the Rabbis (Rambam *Sefer Zera'im, Hilkhot Bikkurim* 3:3–4).

Nor the donation of [*terumat*] your hand, these are first fruits – ותרומת ידך אלו בכורים – It is stated with regard to first fruits: “And the priest shall take the basket from your hand” (Deuteronomy 26:4), indicating that the reference is to a special type of *teruma* that is brought by hand.

The verse comes to teach only – הא לא בא הכתוב – If the verse is not required in order to derive the *halakha* that it is prohibited to eat first fruits outside the designated area, then a different *halakha* can be derived: It is prohibited to eat first fruits before the recitation of the accompanying Torah verses.

ולמא זו דברי רבי שמעון סתימתא! הא קא משמע לן, דרבי עקיבא כרבי שמעון סבירא ליה.

מאי רבי שמעון? דתנא: “ותרומת ידך” – אלו בכורים.

אמר רבי שמעון: מה בא זה ללמדנו? אם לאוכלן חוץ לחומה – קל וחומר ממעשר הקל: ומה מעשר הקל אוכלן חוץ לחומה לוקה – בכורים לא כל שכן? הא לא בא הכתוב אלא לאוכל בכורים עד שלא קרא עליהם, שהוא לוקה.

“ונבדתך” – זו תודה ושלמים. אמר רבי שמעון: מה בא זה ללמדנו? אם לאוכלן חוץ לחומה – קל וחומר ממעשר, הא לא בא הכתוב אלא לאוכל בתודה ובשלמים לפני זריקה, שהוא לוקה.

“ונבכרת” – זה הבכור. אמר רבי שמעון: מה בא זה ללמדנו? אם לאוכלן חוץ לחומה – קל וחומר ממעשר, אם לפני זריקה – קל וחומר מתודה ושלמים! הא לא בא הכתוב אלא לאוכל מן הבכור אפילו לאחר זריקה, שהוא לוקה.

The Gemara suggests: **And let Rabbi Yohanan say: This statement in the mishna is the unattributed statement of Rabbi Shimon, who stated this *halakha* explicitly, rather than attributing the statement to Rabbi Akiva, whose statement was not explicit. The Gemara answers: This teaches us that although he did not say so explicitly, Rabbi Akiva holds in accordance with the opinion of Rabbi Shimon.**

What is the statement of Rabbi Shimon? It is as it is taught in a *baraita* with regard to food items that may not be eaten outside the walls of Jerusalem. It is written: “You may not eat within your gates the tithe of your grain, or of your wine, or of your oil, or the firstborn of your herd or of your flock, nor any of your vows that you vow, nor your gift offerings, nor the donation of your hand” (Deuteronomy 12:17). The Sages explain that with regard to the phrase “nor the donation of [*terumat*] your hand,” these are first fruits.ⁿ

Rabbi Shimon said: What does this phrase come to teach us? If it is to teach the prohibition to eat the first fruits outside the wall of Jerusalem, there is no need for a verse, as it may be derived by means of an *a fortiori* inference from the lenient case of second-tithe produce. If with regard to the lenient case of second-tithe produce, one who eats them outside the wall is flogged, then with regard to first fruits, all the more so is it not clear that he is flogged? Rather, the verse comes to teach onlyⁿ with regard to a priest who partakes of first fruits before the person who brought the fruits to the Temple recited the accompanying Torah verses over them, teaching that he is flogged.

The *baraita* continues: “Nor your gift offerings”; this is a thanks-offering and a peace-offering that one donates voluntarily. **Rabbi Shimon says: What does this phrase come to teach us? If it is to teach that it is prohibited to eat a thanks-offering and a peace-offering outside the wall of Jerusalem, there is no need for a verse, as it may be derived by means of an *a fortiori* inference from the case of second-tithe produce, for whose consumption outside the wall one is flogged, despite the fact that it is not an offering. Rather, the verse comes to teach only with regard to one who partakes of a thanks-offering or of a peace-offering before the sprinkling of its blood^h on the altar, before the consumption of its flesh is permitted, that he is flogged.**

The *baraita* continues: “Or the firstborn”; this is the firstborn. **Rabbi Shimon says: What does this verse come to teach us? If it is to teach that it is prohibited to eat a firstborn animal outside the wall of Jerusalem, there is no need for a verse, as it may be derived by means of an *a fortiori* inference from the case of second-tithe produce. If it is to teach that it is prohibited to eat a firstborn animal before the sprinkling of the blood, it may be derived by means of an *a fortiori* inference from the case of a thanks-offering and a peace-offering, which are offerings of lesser sanctity, as even non-priests may partake of their flesh. Rather, the verse comes to teach only with regard to a non-priest who partakes of the flesh of a firstborn^h even after the sprinkling of its blood, that he is flogged.**

HALAKHA

A thanks-offering or a peace-offering before the sprinkling of its blood – תודה ושלמים לפני זריקה: Anyone who eats an olive-bulk of the flesh of offerings, including offerings of lesser sanctity, before the blood was sprinkled is liable to receive lashes, as it is written: “You may not eat within your gates... nor your gift offerings” (Deuteronomy 12:17), indicating that it is prohibited to partake of the flesh of gift offerings before their blood was sprinkled within the gates of the Temple. There is a tradition that this is a prohibition against partaking of the flesh of a thanks-offering or a peace-offering before the sprinkling of the blood. The same is true with regard to all offerings, both those of the most sacred order and those of lesser sanctity, as it is taught in the *baraita* (Rambam *Sefer Avoda, Hilkhoh Ma'aseh Korbanot* 11:4).

With regard to a non-priest who partakes of the flesh of a firstborn – לאוכל מן הבכור: A priest who ate an olive-bulk of an unblemished firstborn outside Jerusalem is liable to receive lashes by Torah law, as it is stated: “You may not eat within your gates... or the firstborn of your herd or of your flock” (Deuteronomy 12:17). Likewise, a non-priest who ate an olive-bulk of a firstborn is flogged, whether he did so before or after the sprinkling of the blood (Rambam *Sefer Korbanot, Hilkhoh Bekhorot* 11:16).

בְּקֶרֶךְ וְצֹאנֶךָ” – זו חֲטָאת וְאִשָּׁם. אָמַר רַבִּי שִׁמּוֹן: מַה בָּא זֶה לְלַמְּדֵנוּ?

The *baraita* continues: “Of your herd or of your flock”; this is a sin-offering and a guilt-offering, which are offerings of the most sacred order, which may be eaten only within the Temple courtyard. Rabbi Shimon says: What does this verse come to teach us?

אִם לְאוֹכְלֵן חוּץ לְחוּמָה – קֵל וְחוּמֵר מִמַּעֲשֵׂר, אִם לִפְנֵי זְרִיקָה – קֵל וְחוּמֵר מִתּוֹדָה וּשְׁלָמִים, אִם לְאַחַר זְרִיקָה – קֵל וְחוּמֵר מִבְּכוֹר! הֵא לֹא בָּא הַכְּתוּב אֶלָּא לְאוֹכְלֵן מִחֲטָאת וְאִשָּׁם אֶפְיָלוּ לְאַחַר זְרִיקָה חוּץ לְקַלְעִים, שֶׁהוּא לֹקֵה.

If it is to teach that it is prohibited to eat a sin-offering and a guilt-offering **outside the wall**, there is no need for a verse, as it may be derived by means of an *a fortiori* inference from the case of second-tithe produce. If it is to teach that it is prohibited to eat a sin-offering and a guilt-offering **before the sprinkling** of the blood, it may be derived by means of an *a fortiori* inference from the case of a **thanks-offering and a peace-offering**, which are offerings of lesser sanctity. If it is to teach that it is prohibited for a non-priest to eat a sin-offering and a guilt-offering **after the sprinkling** of its blood, it may be derived by means of an *a fortiori* inference from the case of a **firstborn animal**. Rather, **the verse comes to teach only with regard to one who partakes of the flesh of a sin-offering or a guilt-offering even after the sprinkling of its blood**, which is the correct time to partake of it, but he partakes of it **outside the curtains** surrounding the Tabernacle courtyard or outside the Temple courtyard, **that he is flogged**.

”נִדְרֶיךָ” – זו עוֹלָה. אָמַר רַבִּי שִׁמּוֹן: מַה בָּא זֶה לְלַמְּדֵנוּ?

The *baraita* continues: “Your vows”; this is the burnt-offering, which is an offering of the most sacred order and is entirely consumed upon the altar, and is brought as a gift offering, not as an obligation. Rabbi Shimon says: What does this verse come to teach us?

אִם לְאוֹכְלֵן חוּץ לְחוּמָה – קֵל וְחוּמֵר מִמַּעֲשֵׂר, אִם לִפְנֵי זְרִיקָה – קֵל וְחוּמֵר מִתּוֹדָה וּשְׁלָמִים, אִם לְאַחַר זְרִיקָה – קֵל וְחוּמֵר מִבְּכוֹר, אִם חוּץ לְקַלְעִים – קֵל וְחוּמֵר מִחֲטָאת וְאִשָּׁם! הֵא לֹא בָּא הַכְּתוּב

If it is to teach that it is prohibited to eat a burnt-offering **outside the wall** of Jerusalem, there is no need for a verse, as it may be derived by means of an *a fortiori* inference from the case of second-tithe produce. If it is to teach that it is prohibited to eat a burnt-offering **before the sprinkling** of the blood, it may be derived by means of an *a fortiori* inference from the case of a **thanks-offering and a peace-offering**, which are offerings of lesser sanctity. If it is to teach that it is prohibited for a non-priest to eat a sin-offering and a guilt-offering **after the sprinkling** of its blood, it may be derived by means of an *a fortiori* inference from the case of a **firstborn animal**. If it is to teach that it is prohibited to eat a burnt-offering **outside the curtains** surrounding the Tabernacle courtyard or outside the Temple courtyard there is an *a fortiori* inference from a **sin-offering and a guilt-offering**. Rather, **the verse comes**

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אֶלָּא לְאוֹכְלֵן מִן הָעוֹלָה לְאַחַר זְרִיקָה, אֶפְיָלוּ בְּפָנִים, שֶׁהוּא לֹקֵה.

to teach **only with regard to one who partakes of the flesh of a burnt-offeringⁿ after the sprinkling, even inside the courtyard, that he is flogged**.

אָמַר רַבָּא: דִּילִידָא אִימִיה כְּרַבִּי שִׁמּוֹן – תִּילִיד, וְאִי לֹא – לֹא תִילִיד. וְאִף עַל גַּב דְּאִית לָהּ פִּירְכָּא.

Rava says with regard to Rabbi Shimon's statement in the *baraita*: With regard to anyone **whose mother is bearing a child who is like Rabbi Shimon, she should bear that child, and if not, it is preferable that she does not bearⁿ him at all**. Rava was so impressed by Rabbi Shimon's statement that he praised him and characterized him as the model of a wise man. Rava added: **And I say this even though there is a refutation for each of his conclusions**. What are the refutations?

HALAKHA

לְאוֹכְלֵן מִן – לְאוֹכְלֵן מִן הָעוֹלָה – One who eats an olive-bulk of the flesh of a burnt-offering is liable to receive lashes, whether he does so before or after its blood is sprinkled, as it is written: “You may not eat within your gates the tithe of your grain...nor any of your vows that you vow”

(Deuteronomy 12:17). There is a tradition that this verse serves as a prohibition with regard to eating the flesh of a burnt-offering, as it is taught in the *baraita* (Rambam *Sefer Avoda, Hilkhot Ma'aseh Korbanot* 11:7).

NOTES

וְאִי לֹא לֹא – This phrase does not appear in many manuscripts. The Ritva contends that this phrase should be deleted, as it is obviously worthwhile to have children even if they are not as great as Rabbi Shimon (see *Arukh LaNer*).

בינונים... – אסורים לזרים – First fruits are forbidden to non-priests as *teruma*, a non-priest who eats them is liable to receive death at the hand of Heaven, which is the punishment of one who partakes of *teruma*. This is the punishment only after the first fruits were taken into Jerusalem. Until then, their status is that of non-sacred produce (Rambam *Sefer Zera'im, Hilkhot Bikkurim* 3:1).

אסור לאונן – Forbidden to an acute mourner – An acute mourner by Torah law who eats second-tithe produce is liable to receive lashes. This applies only if he eats the produce in Jerusalem. If he does so outside the city, or if he is an acute mourner by rabbinic law, he is exempt. See the Rambam, who clarifies the difference between an acute mourner by Torah law and an acute mourner by rabbinic law. It is likewise prohibited to eat first fruits in a state of acute mourning, in accordance with the opinion of the Rabbis, who disagree with Rabbi Shimon. Nevertheless, if an acute mourner eats first fruits he is not flogged (Rambam *Sefer Zera'im, Hilkhot Ma'aser Shenii* 3:5 and *Hilkhot Bikkurim* 3:6).

טענין כסף צורה – Requires money minted into a coin – Second-tithe produce may be redeemed only with money that is in the form of a coin, with a figure or writing imprinted upon it (Rambam *Sefer Zera'im, Hilkhot Ma'aser Shenii* 4:9).

הקדושתו מרחם – The sanctity of the firstborn takes effect from the womb – It is a mitzva to consecrate the firstborn of a kosher domesticated animal by declaring it sacred, as it is written: "You shall sanctify to the Lord your God" (Deuteronomy 15:19). Even if one failed to consecrate the animal, it is sanctified on its own, as its sanctity takes effect from the womb (Rambam *Sefer Korbanot, Hilkhot Bekhorot* 1:4).

מקריב ונכסם וכו' – Placing hands and libations, etc. – Only animal burnt-offerings and peace-offerings require libations, but not sin-offerings, guilt-offerings, firstborn offerings, or the Paschal offering. All individual offerings require placing of the hands, except for the firstborn offering, the animal tithe, and the Paschal offering. All individual peace-offerings, including the thanks-offering and the nazirite's ram, require the waving of the breast and the right thigh by the priest together with the owner, after which those portions are given to the priest. These actions are not required in the sacrifice of the firstborn, the animal tithe, and the Paschal offering (Rambam *Sefer Avoda, Hilkhot Ma'aseh HaKorbanot* 2:2–3, 3:6, 6:11, 9:5).

NOTES

אסורא בעלמא – A mere prohibition – Rabbi Shimon is revealing that in addition to the explicit prohibition against eating any of these outside the walls of Jerusalem, an additional prohibition applies to each, albeit not a full-fledged prohibition for which one is liable to receive lashes (*Tosafot*; see Ritva).

ומאי חומרא דבכורים ממעשר – שכן אסורים לזרים, אדרבה מעשר חמור, שכן אסור לאונן;

ומאי חומרא דתודה ושלמים ממעשר – שכן טענין מתן דמים ואימורין לגבי מזבח, אדרבה מעשר חמור, שכן טענין כסף צורה;

ומאי חומרא דבכור מתודה ושלמים – שכן קדושתו מרחם, אדרבה תודה ושלמים חמורים, שכן טענין סמיכה ונסכים ותנופת חזה ושוק;

ומאי חומרא דחטאת ואשם מבכור – שכן קדשי קדשים, אדרבה בכור חמור, שכן קדושתו מרחם;

ומאי חומרא דעולה מחטאת ואשם – שכן כליל, אדרבה חטאת ואשם חמירי, שכן מכפר;

ובולה חמירי מעולה, דאית בהו שהי אכילות!

אלא מאי דיליך אאימיה כרבי שמעון? דלמאי דסבירא ליה לדידיה, מסרם ליה לקרא ודריש ליה.

ובי מזהירין מן הדין? הא אפילו למאן דאמר עונשין מן הדין, אין מזהירין מן הדין! איסורא בעלמא.

What is the stringency of first fruits vis-à-vis second-tithe produce? It is that first fruits are forbidden to non-priests,^H who are permitted to eat second-tithe produce. That can be refuted; on the contrary, second-tithe produce is more stringent than first fruits, in that it is forbidden to an acute mourner,^H i.e., one whose close relative died that day, which is not the case with regard to first fruits according to the opinion of Rabbi Shimon (see *Yevamot* 73b).

And what is the stringency of a thanks-offering and a peace-offering vis-à-vis second-tithe produce? It is that the thanks-offering and the peace-offering require the placement of blood and sacrificial portions upon the altar. That can be refuted; on the contrary, second-tithe produce is more stringent than the thanks-offering and the peace-offering, in that the redemption of second-tithe produce requires money minted into a coin.^H A disqualified thanks-offering and peace-offering, like other disqualified offerings, may be redeemed with any object of equal value.

And what is the stringency of a firstborn offering vis-à-vis a thanks-offering and a peace-offering? It is that the sanctity of the firstborn takes effect from the womb,^H while the other offerings are consecrated by their owners. That can be refuted; on the contrary, a thanks-offering and a peace-offering are more stringent, in that they require placing hands on the head of the offering before its sacrifice, and libations,^H and the waving of the breast and the thigh, which is not the case with regard to a firstborn offering.

And what is the stringency of a sin-offering and a guilt-offering vis-à-vis a firstborn offering? It is that a sin-offering and a guilt-offering are offerings of the most sacred order. That can be refuted; on the contrary, a firstborn offering is more stringent, in that its sanctity takes effect from the womb, not from consecration by its owner.

And what is the stringency of the burnt-offering vis-à-vis a sin-offering and a guilt-offering? It is that it is burnt in its entirety upon the altar, and no part of it is given to the priests. That can be refuted; on the contrary, the sin-offering and the guilt-offering are more stringent, in that they atone for one's sins, and a burnt-offering is brought as a gift offering.

And all of those matters listed in the *baraita* are more stringent than the burnt-offering because there are two consumptions with regard to each of these matters, as they are consumed upon the altar and consumed by their owner and the priests, whereas the burnt-offering is consumed in its entirety upon the altar.

The Gemara asks: Rather, what is the meaning of this statement of praise: With regard to anyone whose mother is bearing a child who is like Rabbi Shimon, she should bear that child, and if not, it is preferable if she does not bear him at all? Ultimately, all of his derivations can be refuted. The Gemara answers: The praise is based on the fact that in order to arrive at what he himself holds, he transposes the verse and interprets it. Rabbi Shimon does not interpret the verse from beginning to end; rather, he begins with the final case of first fruits, in order to arrive at the desired conclusion. Rava was impressed with Rabbi Shimon's interpretation.

The Gemara asks with regard to Rabbi Shimon, who derived prohibitions not written in the Torah by means of a *fortiori* inferences: And does one derive a prohibition from an *a fortiori* inference? But even according to the one who says that if there is a prohibition written explicitly in the Torah, one administers punishment based on an *a fortiori* inference, one does not derive a prohibition from an *a fortiori* inference. The Gemara answers: Rabbi Shimon does not derive prohibitions for which one is flogged from those inferences; rather, he derives a mere prohibition.^N

וְהָאָמַר רַבָּא: זֶר שֶׁאָכַל מִן הָעוֹלָה
לִפְנֵי זְרִיקָה חוּץ לַחֹמָה, לְרַבִּי שִׁמּוֹן
לִזְקָה חֲמִשָּׁה אִיסוּרֵינָהּ.

The Gemara asks: **But doesn't Rava say:** With regard to a **non-priest who ate the flesh of a burnt-offering before sprinkling its blood, outside the walls, according to Rabbi Shimon he is flogged with five sets of lashes:** One because he is a non-priest; one for eating a burnt-offering; one for eating the flesh of an offering before its blood was sprinkled; one for eating offerings of the most sacred order outside the Temple courtyard; and one for eating sacrificial food outside of Jerusalem. Apparently, Rabbi Shimon holds that all these are actual prohibitions for which one is flogged. The Gemara answers: It does not mean that one is actually flogged; rather, it means that **they are five prohibitions.**

וְהָאֵלֶּיךָ אָנֹכִי תִּנְנִי: אֵלֶּיךָ הֵן הַלּוֹקִין:

The Gemara asks: **But didn't we learn** in the mishna: **And these are the people who are flogged by Torah law?** Among them is a priest who eats first fruits before the recitation of the accompanying Torah verses, and the Gemara established that the mishna is in accordance with the opinion of Rabbi Shimon.

Perek III

Daf 18 Amud a

אֵלֶּיךָ קָרָא יִתְרָא הוּא, מִבְּדֵי בְּתִיב
וְהִבְאֵת שֵׁם וְאָכַלְתָּ לִפְנֵי ה' אֱלֹהֶיךָ
בְּמִקּוֹם וְגו', לְכַתּוּב רַחֲמֵנָא "לֹא
תֹאכַל לְאֹכְלֵם", מִיְהִדֵּר מִפְּרֵשׁ בְּהוּ
רַחֲמֵנָא לְמַד לֵי?

Rather, the derivation is that the entire verse beginning: "You may not eat within your gates the tithe of your grain" (Deuteronomy 12:17) is a **superfluous verse**.ⁿ After all, it is already written: "And there you shall bring your burnt-offerings, and your sacrifices, and your tithes, and the donation of your hand, and your vows, and your gift offerings, and the firstborn of your herd and of your flock, and there you shall eat before the Lord your God" (Deuteronomy 12:6–7); all the items that must be eaten within the walls of Jerusalem are enumerated. **Let the Merciful One write simply: You may not eat them**, in general terms, which would constitute a prohibition for which one would be liable to receive lashes for each of the cases enumerated. **Why do I need the Merciful One to again specifically enumerate and detail each of them?**

אֵלֶּיךָ לִיְחִידֵי לְהוּ לְאֵי לְכָל תֵּד וְחָד.

Rather, this repetition serves to **designate additional prohibitions for each and every one** of the cases enumerated in the later verse (Deuteronomy 12:17). The prohibition is derived not by means of an *a fortiori* inference; rather, it is derived from the superfluous verse. Rabbi Shimon derives by means of the *a fortiori* inferences the additional prohibition that is in effect in each of these cases.

NOTES

Rather, the derivation is that the entire verse is a **superfluous verse**, etc. – אֵלֶּיךָ קָרָא יִתְרָא הוּא וכו' – Rashi explains that this is based on the understanding that when it is stated in the *baraita* that one is flogged based on a derivation from an *a fortiori* inference, it means that performing such an action is prohibited; it does not mean that one is liable to receive lashes. Rava's earlier statement: One is flogged with five sets of lashes, must also be understood in that manner. The Gemara here seeks to understand the mishna. Why, according to Rabbi Shimon, is one liable to receive lashes for eating first fruits before the recitation of the accompanying Torah verses, in light of the principle: One does not derive a prohibition by means of an *a fortiori* inference? The Gemara answers that this *halakha* is not derived by means of an *a fortiori* inference, as stated in the *baraita*; rather, it is derived based on the principle: If the verse is not relevant to one matter, apply it to a different matter. Likewise, one is not flogged for the other *halakhot* derived in the *baraita* by means of an *a fortiori* inference, except for the prohibition against eating the flesh of offerings of the most sacred order outside the curtains of the Tabernacle courtyard,

which is derived from a different verse: "And any flesh torn of animals in the field you shall not eat" (Exodus 22:30).

Other early commentaries maintain that the Gemara at this point retracts its assertion that the word flogged in this context means that there is a prohibition, yet there is no actual liability to receive lashes. Instead, the Gemara maintains that according to Rabbi Shimon one is in fact liable to receive lashes for those prohibitions derived in the *baraita*, although they appear to be derived by means of *a fortiori* inferences. The reason is that the *halakha* itself is not actually derived by means of an *a fortiori* inference; rather, it is derived from a superfluous verse or through juxtaposition of the matters. The *baraita* stated the *a fortiori* inferences only to facilitate additional analysis. Alternatively, the reason one is flogged is that the prohibitions are not actually derived from these *a fortiori* inferences; instead, it is by means of these inferences that the meaning of these prohibitions is revealed (see *Tosafot*, the second explanation by Ramban, and Ritva). This is apparently the understanding according to the Rambam as well.

וְיָרָא לֹא – And a non-priest may not eat, as they are sacred – וְיָרָא לֹא: This verse is stated with regard to the offerings sacrificed as part of the inauguration of Aaron and his sons as priests in the Tabernacle. The addition of the phrase “as they are sacred” teaches that there is a special prohibition with regard to the flesh of offerings of the most sacred order.

Where the food is fit for consumption by priests – הֵיכָלָא: The reason is that it is written at the beginning of that verse: “And they shall eat them, that with which they were atoned” (Exodus 29:33), indicating that the prohibition against a non-priest partaking of sacrificial food applies only when he eats it in circumstances where it is permitted, and in fact a mitzva, for a priest to eat it.

Once the flesh emerged, etc. – כִּיּוֹן שֵׁיצָא בְּשַׂר וְכוּ׳: The term “in the field” in this context is superfluous, as the straightforward understanding of the verse, that the flesh of a *tereifa*, i.e., an animal with a wound that will cause it to die within twelve months, is forbidden, applies everywhere. Therefore, it is interpreted that the prohibition “You may not eat within your gates” in this context applies to any item that has emerged beyond its partition, as though it is situated in a field without partitions (Rashi).

גּוּפָא. אָמַר רַבָּא: וְיָרָא לֹא מִן הָעוֹלָה לִפְנֵי זְרִיקָה חוּץ לַחוּמָה – לְרַבִּי שִׁמְעוֹן לֹקֵה חֲמִשָּׁה. וְלִילְקֵי נְמִי מְשׁוּם ״וְיָרָא לֹא יֵאָכַל בִּי קֹדֶשׁ הֵם״. הֵנִי מִיְלֵי הֵיכָלָא דְלִבְהֵינָם חֲזִי, הֵכָא דְלִבְהֵינָם נְמִי לֹא חֲזִי.

וְלִילְקֵי נְמִי מְשׁוּם ״וְיָבֶשֶׁר בְּשָׂדֵה טְרֵפָה לֹא תֵאָכְלוּ״, כִּיּוֹן שֵׁיצָא בְּשַׂר חוּץ לַמְחִיצָתָא – נֶאֱסָר! הֵנִי מִיְלֵי הֵיכָלָא דְבִפְנֵי חֲזִי, הֵכָא דְבִפְנֵי נְמִי לֹא חֲזִי.

וְלִילְקֵי נְמִי בְּדַרְבֵּי אֱלִיעֶזֶר, דְּאָמַר רַבִּי אֱלִיעֶזֶר: ״לֹא יֵאָכַל בִּי קֹדֶשׁ הוּא״,

§ With regard to the matter itself, Rava says: With regard to a non-priest who ate the flesh of a burnt-offering before sprinkling its blood, outside the walls, according to Rabbi Shimon he is flogged with five sets of lashes. The Gemara suggests: **And let him also be flogged for violating the prohibition: “And a non-priest may not eat, as they are sacred”** (Exodus 29:33).^N The Gemara explains: **This matter** prohibiting a non-priest from eating consecrated food applies only in a case where the food is fit for consumption by priests.^N **Here, where the food is not fit for consumption by priests either**, as it is not permitted for anyone to partake of a burnt-offering, there is no specific prohibition that applies to a non-priest.

The Gemara suggests: **And let him also be flogged for violating the prohibition: “And any flesh torn of animals in the field you shall not eat”** (Exodus 22:30). From the term “in the field,” a general *halakha* is derived: **Once the flesh emerged^H outside its partition** and is in the field, e.g., sacrificial meat that was taken outside the Tabernacle curtains that demarcate the courtyard, there is a prohibition, and the flesh is **forbidden**. The Gemara explains: **This matter**, the prohibition against eating sacrificial flesh outside the partition of the Temple courtyard, applies only in a case where the flesh is fit for consumption inside the courtyard. **Here**, in the case of a burnt-offering, where the flesh is not fit for consumption inside the courtyard either, as it is not permitted for anyone to partake of a burnt-offering, there is no specific prohibition that applies to a non-priest partaking of the flesh outside the courtyard.

The Gemara suggests: **And let him also be flogged in accordance with the statement of Rabbi Eliezer. As Rabbi Eliezer says that when it is stated with regard to leftover flesh and loaves from the inauguration offerings: “It shall not be eaten because it is sacred”** (Exodus 29:34),

Perek III

Daf 18 Amud b

בַּל שֶׁבִקְדָשׁ פְּסוּל, בָּא הַכְּתוּב לִיתֵן לֹא תַעֲשֶׂה עַל אֲבִילָתוֹ! הֵנִי מִיְלֵי הֵיכָלָא דְקוֹדֶם פְּסוּלוֹ חֲזִי, הֵכָא דְקוֹדֶם פְּסוּלוֹ נְמִי לֹא חֲזִי.

וְלִילְקֵי נְמִי בְּאֵיֶדֶךָ דְרַבִּי אֱלִיעֶזֶר. דְּתַנָּא, רַבִּי אֱלִיעֶזֶר אוֹמַר: כֹּל שֶׁהוּא בְּכָלִיל תְּהִיָּה לִיתֵן לֹא תַעֲשֶׂה עַל אֲבִילָתוֹ! אִין הָכִי נְמִי, וְרַבָּא מֵהָאִי קָרָא קְאָמַר.

it is derived that with regard to any item that is sacrificial and disqualified^H for whatever reason, the verse comes to impose a prohibition upon its consumption. The Gemara explains: **This matter** applies only in a case where before its disqualification it was fit; here, it is a case where before its disqualification it was not fit either, and therefore the prohibition does not apply.

The Gemara suggests: **And let him also be flogged in accordance with the other statement of Rabbi Eliezer, as it is taught in a baraita that Rabbi Eliezer says: With regard to any item that is included in the mitzva: “It shall be burned in its entirety”** (Leviticus 6:16), the verse serves to impose a prohibition upon its consumption, as it is written: “It shall be burned in its entirety; it shall not be eaten” (Leviticus 6:16). The Gemara explains: **Yes, it is indeed so** that according to Rabbi Shimon one is flogged for violating this prohibition as well, **and Rava is saying that from this verse** he is interpreting that it is derived that one is flogged with five sets of lashes according to Rabbi Shimon.

HALAKHA

With regard to any item that is sacrificial and disqualified, etc. – בַּל שֶׁבִקְדָשׁ פְּסוּל וְכוּ׳: With regard to any offering that is disqualified, whether it was disqualified by means of inappropriate thought or action or whether it was due to an incident

that disqualified the offering, anyone who eats an olive-bulk of its flesh is liable to receive lashes (Rambam *Sefer Avoda, Hilkhot Pesulei HaMukdashin* 18:3).

אמר רב גידל אמר רב: (סימן כו"א)
 בהן שאכל מחטאת ואשם לפני
 זריקה - לוקה. מאי טעמא?
 קרא 'ואכלו אותם אשר כפר בהם',
 לאחר פירה - אין, לפני כפרה - לא;
 לא הבא מבלי עשה - לאו הוא.

§ Rav Giddel says that Rav says a statement about a priest [*kohen*] and another statement about a non-priest [*zar*]. Before proceeding, the Gemara provides a mnemonic for these statements: *Kaf, vav, zayin, alef*. Rav says: **A priest who ate of a sin-offering or a guilt-offering before sprinkling their blood on the altar is flogged. What is the reason that he is flogged? It is as the verse states** with regard to sin-offerings and guilt-offerings in that it was permitted only for priests to partake of their flesh: **"And they shall eat them, that with which they were atoned"** (Exodus 29:33), from which it is inferred: **After atonement, yes, they may eat the flesh of the offerings; before atonement, no, they may not eat it.** And in Rav's opinion, the status of a prohibition that stems from a positive mitzva^a is that of a prohibition, for which one is flogged.

מתיב רבא: 'וכל בהמה מפרסת
 פרסה ושסעת שסע שתי פרסות
 מעלת גרה בבהמה אתה תאכלו',
 "אתה תאכלו" ואין בהמה אחרת
 תאכלו; ואי גדקאמרתי, "את זה לא
 תאכלו" למה לי?

Rava raises an objection based on the verse: **"And every beast that splits the hoof and has the hoof cloven in two, and chews the cud among the animals, that, you may eat"** (Deuteronomy 14:6), from which a prohibition may be inferred: **"That, you may eat,"** but there is **not** any other animal that you may eat. The Torah prohibits eating the flesh of any animal that lacks the indicators that it is a kosher animal. **And if it is as you say, that an inference from a positive mitzva entails a prohibition, why do I need the following verse: "This you may not eat"** (Deuteronomy 14:7), as it was already inferred from the mitzva? Rather, apparently, the status of a prohibition that stems from a positive mitzva is that of a positive mitzva, and one is not liable to receive lashes for its violation.

אלא אי איתמר הכי איתמר, אמר
 רב גידל אמר רב: זו שאכל מחטאת
 ואשם לפני זריקה - פטור, מאי
 טעמא - דאמר קרא 'ואכלו אותם
 אשר כפר בהם', כל היכא דקרינן
 ביה 'ואכלו אותם אשר כפר בהם' -
 קרינן ביה 'זו לא יאכל קדש', וכל
 היכא דלא קרינן ביה 'ואכלו אותם
 אשר כפר בהם' - לא קרינן ביה 'זו
 לא יאכל'.

Rather, if it was stated, this was stated: Rav Giddel says that Rav says: **A non-priest who ate of a sin-offering or a guilt-offering^h before the sprinkling of their blood is exempt from receiving lashes. What is the reason for this? It is as the verse states: "And they shall eat them, that with which they were atoned... and a non-priest may not eat, as they are sacred"** (Exodus 29:33), and it is expounded as follows: **Anywhere that we read concerning it: "And they shall eat them, that with which they were atoned," we read concerning it: "And a non-priest may not eat sacrificial food."** But anywhere that we do not read concerning it: **"And they shall eat them, that with which they were atoned,"** e.g., in this case, where it is prohibited for priests to partake of the flesh of the offerings before the sprinkling of their blood, **we do not read concerning it: "And a non-priest may not eat."**

NOTES

לא הבא - A prohibition that stems from a positive mitzva – **מבלי עשה**: There are mitzvot that contain only one aspect: A mitzva to perform a particular action, e.g., picking up a *lulav*, or donning phylacteries, or even an explicit prohibition phrased in the positive, e.g., the prohibition to eat and drink on Yom Kippur, which is formulated as a positive mitzva. Other positive mitzvot cannot be understood as mitzvot to perform a particular action, nor are they mitzvot to refrain from performing an action. Instead, such a mitzva is formulated as a positive mitzva, although in essence it is a prohibition, as any situation that deviates from that which is described in the verse is prohibited.

The case in the Gemara is an example of the latter, as the verse is not commanding one to consume the meat of an animal with indicators that it is kosher; rather, it serves to prohibit consumption of the meat of animals that lack those indicators.

The dispute in the Gemara is whether a mitzva of that sort is deemed a prohibition for which one is liable to receive lashes, or whether the fact that it is formulated as a positive mitzva lacking any explicit directive to refrain from an action classifies it as a positive mitzva, whose violation does not render one liable to receive lashes.

HALAKHA

A non-priest who ate of a sin-offering or a guilt-offering, etc. – זו שאכל מחטאת ואשם וכו' – A non-priest who ate an olive-bulk of the flesh of an offering of the most sacred order in the Temple courtyard after the sprinkling of its blood is liable to receive lashes, as it is written: "And they shall eat them, that with which they were atoned... and a non-priest may not eat, as they are sacred" (Exodus 29:33). The verse indicates that if a non-priest partakes of the flesh and it is a time and place in which it is permitted for a priest to eat its flesh, that non-priest is liable to receive lashes. If he partakes of that meat outside

the courtyard, he is flogged only for eating the flesh outside the Temple, he is not flogged for eating sacrificial food as a non-priest, as it is also prohibited for a priest to eat the meat there. Similarly, if he ate the flesh in the Temple courtyard before the sprinkling of its blood he is flogged only for partaking of the flesh of the offering before the sprinkling of its blood, but not for partaking of sacrificial food as a non-priest, in accordance with that which Rav Giddel says that Rav says (Rambam *Sefer Avoda, Hilkhot Ma'aseh HaKorbanot* 11:8).