

THE NOÉ EDITION

תלמוד בבלי

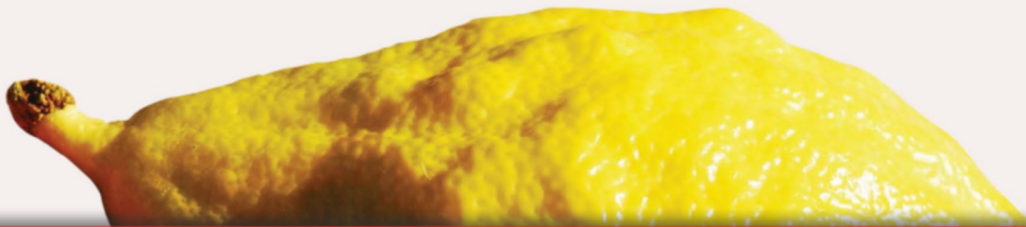
KOREN TALMUD BAVLI

SUKKA

COMMENTARY BY
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KOREN TALMUD BAVLI

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**Sneak peek of Tractate Sukka –
Selected by the Editors**

HALAKHA

A sukka at the top of a tree – סוכה בראש האילן – If one establishes a *sukka* at the top of a tree or on an animal, it is fit; however, one may not enter it on the Festival. If it is partially on a tree and partially on a different surface, and it is constructed in a manner that it would remain standing if the tree were removed, then one may enter it on the Festival (*Shulḥan Arukh, Oraḥ Hayyim* 628:3).

BACKGROUND

Atop a camel – על גבי גמל –



Sukka built on a camel

Perek II

Daf 23 Amud a

NOTES

This is the principle, etc. – זה הכלל וכו' – The early authorities noted that the addition of the expression: This is the principle, comes to teach several additional *halakhot*. If the *sukka* can stand firmly without resting against the tree, then even if the walls are in the tree, the *sukka* is fit. On the other hand, if its primary support is the tree, the *sukka* is unfit even if most of the walls stand on the ground (Rabbeinu Yehonatan; *Me'iri*; and others).

HALAKHA

Sukka at the top of the ship – סוכה בראש הספינה – If one establishes a *sukka* on top of a ship, the following distinction applies: If it cannot withstand a typical land wind, it is unfit; if it can withstand a typical land wind, then even if it cannot withstand a typical sea wind it is fit, in accordance with Abaye's interpretation of the opinion of Rabbi Akiva (*Shulḥan Arukh, Oraḥ Hayyim* 628:2).

Rabbi Akiva – רבי עקיבא – Akiva ben Yosef was one of the greatest of the *tanna'im*. He lived from just after the destruction of the Second Temple until the bar Kokheva revolt. According to legend, Rabbi Akiva began his studies at the age of forty, when Rahel, the daughter of the wealthy Kalba Savva, consented to marry him on condition that he would agree to study Torah. Rabbi Akiva became the student of Rabbi Eliezer ben Hyrcanus and Rabbi Yehoshua ben Hananya. Ultimately, he became a prominent Torah scholar with twenty-four thousand students.

Among Rabbi Akiva's first students were Shimon ben Azzai and Shimon ben Zoma, with whom he entered the orchard (see *Hagiga* 14b), i.e., engaged in the study of esoteric elements of the Torah. Subsequently, Rabbi Meir and Rabbi Shimon bar Yohai, among others, became his students. He was a staunch supporter of bar Kokheva's revolt against Rome, and even declared him the Messiah. During the period of Roman Emperor Hadrian's decrees, Torah study was prohibited, but Rabbi Akiva continued convening assemblies and teaching Torah. Ultimately, he was apprehended and executed, and he is one of the ten martyrs whose execution is described in liturgy.

מתני' העושה סוכתו בראש העגלה או בראש הספינה – בשרה, ועולין לה ביום טוב. בראש האילן או על גבי גמל – בשרה, ואין עולין לה ביום טוב.

שתיים באילן ואחת בידי אדם, או שתיים בידי אדם ואחת באילן – בשרה, ואין עולין לה ביום טוב. שלש בידי אדם ואחת באילן – בשרה, ועולין לה ביום טוב.

בשרה ואין עולין – It is fit but one may not ascend and enter it – *לה*. A *sukka* on a tree or an animal is fit for the intermediate days of the festival of *Sukkot*. However, even if one violates the rabbinic decree and actually enters the *sukka* on the first Festival day, he has fulfilled his obligation to reside in a *sukka*.

שתיים באילן ואחת בידי – *אדם*: There are various opinions with regard to the situation described by the mishna. Some maintain that part of the *sukka*

זה הכלל: כל שיטת האילן ויכולה לעמוד בפני עצמה – בשרה, ועולין לה ביום טוב.

גמ' מני מתניתין – רבי עקיבא היא. דתנא: העושה סוכתו בראש הספינה, רבן גמליאל פוסל ורבי עקיבא מכשיר.

MISHNA In the case of one who establishes his *sukka* at the top of the wagon or at the top of the ship, although it is portable it is fit, as it is sufficient for a *sukka* to be a temporary residence. And one may ascend and enter it even on the first Festival day. In the case of one who establishes his *sukka* at the top of a tree^a or atop a camel,^b the *sukka* is fit, but one may not ascend and enter it^c on the first Festival day because the Sages prohibit climbing or using trees or animals on the Festival.

If two of the walls of the *sukka* are in the tree and one is established on the ground by a person,^d or if two are established on the ground by a person and one is in the tree, the *sukka* is fit, but one may not ascend and enter it on the first Festival day because it is prohibited to use the tree. However, if three of the walls are established on the ground by a person and one is in the tree, then since it contains the minimum number of walls required, it is fit, and one may enter it on the first Festival day.

NOTES

floor rests on the tree and part of the floor is supported by poles driven into the ground. Another opinion explains that the floor of the *sukka* is supported by the pegs driven into the tree (Rashi; *Me'iri*). Others explain that the tree is a wall of the *sukka* and the roofing rests on the tree. Use of that *sukka* is prohibited because people would typically store objects on the roofing of the *sukka*, and use of a tree is prohibited on a Festival (see *Tosafot* and *Melekheth Shlomo*).

The mishna summarizes that **this is the principle**:^N Any case where, were the tree removed, the *sukka* would be able to remain standing in and of itself, it is fit, and one may ascend and enter it on the Festival, since the tree is not its primary support.

GEMARA The Gemara comments: In accordance with whose opinion is the mishna? It is in accordance with the opinion of Rabbi Akiva,^P as it is taught in a *baraita*: In the case of one who establishes his *sukka* at the top of the ship,^Q Rabban Gamliel^P deems it unfit and Rabbi Akiva deems it fit.

PERSONALITIES

Rabbi Akiva collected early rabbinic statements and began organizing the material of the Oral Torah. The Mishna, redacted by Rabbi Yehuda HaNasi and his disciples, is based on his work.

Rabban Gamliel – רבן גמליאל – Rabban Gamliel was *Nasi* of the Sanhedrin and one of the most important *tanna'im* in the period following the destruction of the Second Temple. Rabban Gamliel's father, Rabban Shimon ben Gamliel the Elder, had also been *Nasi* of the Sanhedrin and one of the leaders of the nation during the rebellion against Rome. Rabban Gamliel was taken to Yavne by Rabban Yohanan ben Zakkai after the destruction of the Temple, so that he became known as Rabban Gamliel of Yavne. After Rabban Yohanan ben Zakkai's death, Rabban Gamliel presided over the Sanhedrin.

Under Rabban Gamliel's leadership, Yavne became an important spiritual center. The greatest of the Sages gathered around him, including his brother-in-law Rabbi Eliezer, Rabbi Yehoshua, Rabbi Akiva, and Rabbi Elazar ben Azarya. Rabban Gamliel sought to create a spiritual center for the Jews that would unite the entire people, a role that had been filled by the

Temple until its destruction. Therefore, he strove to enhance the prominence and central authority of the Sanhedrin and its *Nasi*. His strict and vigorous leadership eventually led his colleagues to remove him from his post for a brief period, replacing him with Rabbi Elazar ben Azarya. However, since everyone realized that his motives and actions were for the good of the people and were not based on personal ambition, they soon restored him to his position.

There are not many halakhic rulings cited explicitly in the name of Rabban Gamliel. However, in his time, and under his influence, some of the most important decisions in the history of Jewish spiritual life were made. These included the decision to follow Beit Hillel, the rejection of the halakhic system of Rabbi Eliezer, and the establishment of fixed formulas for prayers. Those halakhic decisions attributed to Rabban Gamliel reflect an uncompromising approach to *halakha*; in reaching his conclusions, he was faithful to his principles. It is known that two of his sons were Sages: Rabban Shimon ben Gamliel, who served as *Nasi* of the Sanhedrin after him, and Rabbi Hanina ben Gamliel.



Celebration in the Temple, with poles and basins in the background

וַיֵּדֶךְ נָמִי, הָאֵל כְּתִיב: "וַיֹּאמֶר
חֶזְקִיָּהוּ" – הָכִי קְאָמֶר: "הַחֵל שִׁיר
ה' " – בְּפֶה, "עַל יְדֵי כָלִי דְּוִיד מֶלֶךְ
יִשְׂרָאֵל" – לְבִסּוּמֵי קָלָא.

וַיֵּדֶךְ נָמִי, הָאֵל כְּתִיב: "וַיְהִי כְּאַחַד
לְמַחְצָרִים וּלְמִשְׁוֹרִים! הָכִי קְאָמֶר:
מִשְׁוֹרִים דּוּמִיָּא דְּמַחְצָרִים, מָה
מַחְצָרִים בְּכָלִי – אִף מִשְׁוֹרִים
בְּכָלִי.

The Gemara asks: And according to the other *tanna* too, who holds that the primary essence of song is singing with the mouth, isn't it written: "And Hezekiah commanded... the song of the Lord began also, and the trumpets, together with the instruments," indicating that the instruments are the primary essence? The Gemara answers: This is what the verse is saying: "The song of the Lord began," indicates that the primary essence is with the mouth; "with the instruments of David, King of Israel," is to sweeten the sound, as the instruments are merely to accompany and enhance the singing.

The Gemara asks: And according to the other *tanna* too, who holds that the primary essence of song is singing accompanied by musical instruments, isn't it written: "And it came to pass, when the trumpeters and the singers were as one," indicating that the primary essence is with the mouth? The Gemara answers: This is what the verse is saying: Through their juxtaposition, one derives that the singers are similar to the trumpeters; just as trumpeters produce their sound with an instrument, so too the singers produce their song with an instrument.

מִתְנִי מִי שֶׁלֹּא רָאָה שְׂמֵחַת בֵּית
הַשְּׁוֹאֵבָה לֹא רָאָה שְׂמֵחַת מִיָּמָיו.
בְּמוֹצָאֵי יוֹם טוֹב הָרָאשׁוֹן שֶׁל חֲגֵי יִרְדּוֹ
לְעוֹרֹת נָשִׁים וּמִתְקַנֵּן שֶׁם תִּיקוֹן גָּדוֹל.
מְנוֹרוֹת שֶׁל זָהָב הָיוּ שָׁם, וְאַרְבָּעָה
סְפָלִים שֶׁל זָהָב בְּרֹאשֵׁיהֶם, וְאַרְבָּעָה
סוּלָמוֹת לְכָל אֶחָד וְאֶחָד, וְאַרְבָּעָה
יָלָדִים מְפִירְחֵי כְהוֹנָה, וּבִידֵיהֶם כְּדִים
שֶׁל מֶאֱהָ וְעֶשְׂרִים לוֹג שֶׁהֵן מְטִילִין
לְכָל סְפֵל וְסְפֵל מִבְּלָאֵי מִכְנָסֵי כְהֵנָם
וּמִהֶמְיָנֵיהֶן, מֵהֵן הָיוּ מְפַקְעִינָן, וּבֵהֵן
הָיוּ מְדַלִּיקִין. וְלֹא הָיָה חֹצֵר בִּירוּשָׁלַם
שֶׁאֵינָהּ מְאִירָה מֵאוֹר בֵּית הַשְּׁוֹאֵבָה.

MISHNA One who did not see the Celebration of the Place of the Drawing of the Water^h never saw celebration in his days. This was the sequence of events: At the conclusion of the first Festival day the priests and the Levites descended from the Israelites' courtyard to the Women's Courtyard, where they would introduce a significant repair, as the Gemara will explain. There were golden candelabra atop poles there in the courtyard. And there were four basins made of gold at the top of each candelabrum.⁸ And there were four ladders for each and every pole and there were four children from the priesthood trainees, and in their hands were pitchers with a capacity of 120 *log* of oil that they would pour into each and every basin. From the worn trousers of the priests and their beltsⁿ they would loosen and tear strips to use as wicks, and with them they would light the candelabra.^h And the light from the candelabra was so bright that there was not a courtyard in Jerusalem that was not illuminated from the light of the Place of the Drawing of the Water.

חֲסִידִים וְאֲנָשֵׁי מַעֲשֵׂה הָיוּ מְרַקְדִּין
בִּפְנֵיהֶם

The pious and the men of action^h would dance before the people who attended the celebration,

HALAKHA

The Celebration of the Place of the Drawing of the Water – שְׂמֵחַת בֵּית הַשְּׁוֹאֵבָה: Although it is a mitzva by Torah law to rejoice on each Festival, there is a special mitzva to rejoice on *Sukkot*. On the eve of the Festival they would construct a balcony in the Women's Courtyard so that the men and the women would not mingle, and the festivities would start at the conclusion of the first Festival day. On each of the intermediate days of the Festival beginning after the sacrifice of the daily afternoon offering they would rejoice and dance for the rest of the day and throughout the night (Rambam *Sefer Zemanim*, *Hilkhot Shofar VeSukka VeLulav* 8:12).

Wicks for the Celebration of the Place of the Drawing of the Water – מְטִילוֹת לְשְׂמֵחַת בֵּית הַשְּׁוֹאֵבָה: The wicks for the lamps that were kindled for the Celebration of the Place of the Drawing of the Water were made from the worn pants and belts of the priests (Rambam *Sefer Avoda*, *Hilkhot Kelei HaMikdash* 8:6).

The pious and the men of action – חֲסִידִים וְאֲנָשֵׁי מַעֲשֵׂה: Not everyone actively participated in the Rejoicing of the Place of the Drawing of the Water; only the Sages of Israel, the pious, the learned Elders, and the men of action would dance and play musical instruments in the Temple. The rest of the people came to watch and hear the celebration (Rambam *Sefer Zemanim*, *Hilkhot Shofar VeSukka VeLulav* 8:14).

NOTES

מִבְּלָאֵי – From the worn trousers of the priests and their belts – מִכְנָסֵי כְהֵנָם וּמִהֶמְיָנֵיהֶן: See *Tosafot*, who raise the question why the tunics were not mentioned. *Tosafot Yom Tov* asks why *Tosafot* did not question the fact that the miters were not mentioned. Many commentaries, beginning with the *Kesef Mishne*, address this question. Some explain that the tunics and the miters were made from very thin material from which it would not be possible to fashion the large, thick wicks necessary to light the candelabra of the Celebration of the Drawing of the

Water (*Heshek Shlomo* based on *Kesef Mishne*). Others suggest that they used the tunics and the miters to make wicks for the candelabrum in the Temple, something for which they did not use the belts and the trousers; the belts because they were partially made of wool and as determined in the second chapter of tractate *Shabbat*, a woolen wick does not burn well in a small flame, and the trousers because it is degrading to use them in the Sanctuary (see Rabbeinu Yonatan, *Me'iri*, and *Tiferet Yisrael*).

מתני' לולב הגזול והיבש – פסול. של אשירה ושל עיר הנדחת – פסול. נקטם ראשו, נפרצו עליו – פסול. נפרדו עליו – כשר. רבי יהודה אומר: יאגדנו מלמעלה. ציני הר הברזל בשירות. לולב שיש בו שלשה טפחים כדי לנענע בו – כשר.

MISHNA A *lulav*ⁿ that was stolen^h or that is completely dry^h is unfitⁿ for use in fulfilling the mitzva of the four species. The *lulav* of a tree worshipped as idolatry [asheira]^h and a *lulav* from a city whose residents were incited to idolatry,⁸ which must be burned along with all the city's property, are unfit. If the top of the *lulav* was severed or if the palm leaves were severed from the spine of the *lulav*, it is unfit. If its leaves, although still attached, were spread and are no longer completely joined to the spine, it is fit. Rabbi Yehuda says: In that case, one should bind the *lulav* from the top, to join the leaves that spread to the spine. A *lulav* from the palms of the Iron Mountain are fit for use, although it differs from one taken from a standard palm tree, in that its leaves are shorter and do not cover the entire spine. A *lulav* that has three handbreadths in length, sufficient to enable one to wave with it, is fit for use in fulfilling the mitzva.

גמ' קא פסיק ותני, לא שנא ביום טוב ראשון ולא שנא ביום טוב שני.

GEMARA The ruling in the mishna is that a stolen *lulav* is unfit. The Gemara posits: The mishna teaches this *halakha* unequivocally, indicating that there is no difference whether the stolen *lulav* is used on the first day of the festival of Sukkot, when taking the four species is a mitzva by Torah law, and there is no difference whether the stolen *lulav* is used beginning on the second day of the festival of Sukkot, when it is a mitzva by rabbinic law.

בשלמא יבש – "הדר" בעינן, וליבא. אלא גזול, בשלמא יום טוב ראשון – דכתיב: "לכם" – משלכם, אלא ביום טוב שני אמאי לא?

The Gemara asks: Granted, a dry *lulav* is unfit both on the first day and subsequently. It is unfit for use because the term *hadar* is used with regard to the four species, from which it is derived that we require beauty.ⁿ And since in a dry *lulav* there is not beauty, it is unfit. However, with regard to a stolen *lulav*, granted, on the first day of the Festival it is unfit, as it is written: "And you shall take for yourselves on the first day" (Leviticus 23:40), indicating that the four species must be taken from your own property. However, beginning on the second day of the Festival, why does one not fulfill his obligation with a stolen *lulav*?

אמר רבי יוחנן משום רבי שמעון בן יוחי: Rabbi Yohanan said in the name of Rabbi Shimon ben Yohai:

HALAKHA

לולב הגזול – A *lulav* that was stolen – A *lulav* or any one of the other four species that is stolen is unfit for use in fulfillment of the mitzva, whether it is before or after its owners despaired of recovering it, in accordance with the opinion of Rabbi Yohanan in the name of Rabbi Shimon bar Yohai. If change by means of an action was effected prior to the performance of the mitzva, the *lulav* itself is fit, but its use in fulfilling the mitzva is prohibited due to the principle: A mitzva that comes by means of a transgression. Conversely, some say that a stolen *lulav* is unfit only for the robber himself, but others who acquire it from him may use it to fulfill the mitzva after the owners despair of recovering it, even if no physical change was effected in the *lulav* (Shulhan Arukh, Orah Hayyim 649:1).

לולב... that is completely dry – **היבש** – If most of the leaves or the spine of a *lulav* are dry (*Tur*), it is unfit. What is the definition of dry? It is when the green color fades and turns pale. Others say that the definition of dry applies only when it is so dry that it crumbles when one touches it with his fingernail (*Tur*, citing *Tosafot*). The latter opinion was relied upon in lands where there were no palm trees (Rema, citing *Haggahot Maimoniyyot*). However, many later authorities hold that one may not rely on that leniency (*Taz* and others; Shulhan Arukh, Orah Hayyim 645:5).

לולב... של – A *lulav*... of a tree worshipped as idolatry – A *lulav* from an idolatrous city or from a tree that is itself worshipped as idolatry, is unfit. However, a *lulav* from a tree planted in a place where idolatry is worshipped is fit, provided the tree itself was not worshipped (Shulhan Arukh, Orah Hayyim 469:3–4).

BACKGROUND

עיר – A city whose residents were incited to idolatry – **הנדחת**: This is a city in which the majority of inhabitants worshipped idolatry (Deuteronomy 13:13–19). The city is judged by the Great Sanhedrin, the court of seventy-one. The Sanhedrin has the authority to send an army to subdue the city. Afterward, courts are convened and each of the city's adult inhabitants is judged. Those found guilty of idol worship are beheaded rather than stoned, which is the usual punishment for idolatry. The innocent are not slain. All the property in the city, including that of the righteous, is destroyed, and all its buildings are razed. It then remains in ruins forever.

NOTES

לולב – *Lulav*: Although the *etrog* precedes the *lulav* in the verse in Leviticus, the mishna begins its treatment with the *lulav* for several reasons. First, the blessing recited when taking the four species is: Blessed are You, Lord our God, King of the universe, Who sanctified us with his mitzvot and commanded us about taking the *lulav*. In addition, three of the species, i.e., the *lulav*, the myrtle branch, and the willow, are bound together. Together, they constitute the bulk of the components of the mitzva of taking the *lulav*. Furthermore, the *halakhot* of these three species are similar, while the *etrog* has several *halakhot* unique to it (Rabbeinu Yehonatan; *Kappot Temarim*).

היבש פסול – That is completely dry is unfit: There are several reasons for this ruling. *Tosafot* and the Ritva explain that it is unfit because it does not meet the criterion of beauty. Although

beauty is mentioned in the verse only with regard to the *etrog*, they hold that this *halakha* pertaining to *lulav* is derived from it. Rashi explains that a dry *lulav* is unfit based on the verse: "This is my God and I will glorify Him" (Exodus 15:2), from which it is derived that one should perform the mitzva in a beautiful fashion (*Sefer Mitzvot Gadol*; *Me'iri*). Some identify the source of the unfitness in the verse "And when you offer the blind for sacrifice, is it no evil? And when you offer the lame and sick, is it no evil? Present it now unto thy governor; will he be pleased with you?" (Malachi 1:8). It is a display of contempt to perform a mitzva with an object that one would not present to a prominent person (Rabbi Zerahya HaLevi; Rabbeinu Yehonatan; *Sefer Hashlama*). In the Jerusalem Talmud, the unfitness is attributed to the verse "The dead praise not the Lord" (Psalms 115:17), and a dry *lulav* is considered dead.

Granted a dry lulav is unfit because we require beauty – **בשלמא יבש הדר בעינן**: The commentaries and halakhic authorities discuss the parameters and *halakhot* with regard to both the requirement of beauty and the prohibition against taking a stolen *lulav*. Some explain that the requirement of beauty with regard to the four species applies for all seven days of Sukkot only in the Temple, where this is a mitzva by Torah law all seven days (*Sefer Hashlama*). Others explain that when the Sages instituted the ordinance to take the *lulav* all seven days even outside the Temple to commemorate the Temple, they included the requirement of beauty in that ordinance, but not the other requirement that it be one's own property (*Sefat Emet*). See *Tosafot* and the Ritva, who explain this distinction by differentiating between a flaw intrinsic to the object, e.g., the lack of beauty, and an external flaw, e.g., the object was stolen.

BACKGROUND

Despair – יאוש: Despairing of recovering a stolen object is not merely an emotional state of mind but a legal one as well. According to *halakha*, despair occurs when one who has lost his property despairs of the possibility of recovering it. Once this happens, the item is considered abandoned property, and anyone may take it. This concept relates to the *halakhot* of returning lost objects, as well as to the legal status of stolen property.

HALAKHA

Robbery in a burnt-offering – גזל בעולה: In a case where one steals an animal and sacrifices it as an offering, the offering is disqualified. God hates it, and needless to say it is not accepted. However, if the owner despairs of ever recovering the animal, the offering is fit. Nevertheless, the Sages said that a sin-offering whose stolen status became public knowledge does not effect atonement for the one who offers it, even after the owner despairs, in deference to the altar (Rambam *Hilkhot Issurei Mizbe'ah* 5:7).

משום דהוה ליה מצוה הבאה בעבירה. שנאמר: "והבאתם גזול ואת הפסח ואת החולה", גזול דומיא דפסח, מה פסח לית ליה תקנתא – אף גזול לית ליה תקנתא. לא שנא לפני יאוש ולא שנא לאחר יאוש.

בשלמא לפני יאוש – "אדם כי יקריב מכם" אמר רחמנא, ולא דידיה הוא. אלא לאחר יאוש – הא קנייה ביאוש! אלא לאו – משום דהוה ליה מצוה הבאה בעבירה.

ואמר רבי יוחנן משום רבי שמעון בן יוחי: מאי דכתב "כי אני ה' אוהב משפט שוים גזל בעולה". משל למלך בשר ודם שהיה עובר על בית המקדש, אמר לעבדיו: תנו מקס למוכסים. אמרו לו: והלא כל המקדש כולו שלך הוא! אמר להם: ממני ילמדו כל עובדי דרכים, ולא יבריחו עצמן מן המקדש. אף הקדוש ברוך הוא אמר: "אני ה' שוים גזל בעולה" ממני ילמדו בני ויבריחו עצמן מן הגזל.

It is unfit because it is a mitzva that comes to be fulfilled by means of a transgression,^N which renders the mitzva unfulfilled, as it is stated: "And you have brought that which was stolen and the lame, and the sick; that is how you bring the offering; should I accept this of your hand? says the Lord" (Malachi 1:13). Based on the juxtaposition in the verse, it is derived that the legal status of a stolen animal is equivalent to that of a lame animal.^N Just as a lame animal, because it is blemished, has no remedy and is unfit for use, so too, a stolen animal has no remedy. There is no difference before the owners reach a state of despair^B of recovering the stolen animal, and there is no difference after despair. In both cases there is no remedy.

The Gemara elaborates: **Granted, before the despair** of the owner, the robber may not sacrifice the animal because the animal does not belong to him. **The Merciful One says:** "When a person sacrifices from yours an offering"^N (Leviticus 1:2). The term "from yours" indicates that the animal must belong to the one sacrificing it, and this stolen animal is not his. However, after the despair of the owner, didn't the robber acquire the animal with the despair?^N Once the owner despairs, the animal belongs to the robber, despite the fact that he incurs a debt that he must repay the owner. Since the animal is legally his, why is it prohibited for the robber to sacrifice it as an offering? Rather, is it not because the offering is a mitzva that comes by means of a transgression? Since the animal came into his possession by means of a transgression, it is unfit for use in fulfilling a mitzva.

And Rabbi Yohanan said in the name of Rabbi Shimon ben Yohai: What is the meaning of that which is written: "For I the Lord love justice, I hate robbery in a burnt-offering" (Isaiah 61:8)?^{HN} The Gemara cites a parable of a flesh-and-blood king^N who was passing by a customs house. He said to his servants: Pay the levy to the taxmen. They said to him: Doesn't all the tax in its entirety belong to you? If the taxes will ultimately reach the royal treasury, what is the point of paying the levy? He said to them: From my conduct, all travelers will learn and will not evade payment of the tax. So too, the Holy One, Blessed be He, said: "I the Lord... hate robbery in a burnt-offering." Although the whole world is His and the acquisitions of man have no impact upon Him, God says: From My conduct, My children will learn and distance themselves from robbery,^N even from robbery unrelated to the needs of offerings.

NOTES

מצוה – A mitzva that comes by means of a transgression: The later authorities dealt at length with clarification of this subject (see *Hatam Sofer*) and they discovered several halakhic distinctions based on this principle. In any event, apparently, not every object used in the commission of a transgression is deemed unfit for use in fulfillment of a mitzva. It is unfit only in cases where the transgression itself facilitates performance of the mitzva.

A stolen animal is equivalent to a lame animal – גזול דומיא: Listed in the surrounding verses are other defects that disqualify offerings. Why then did the verse juxtapose specifically the disqualifications of stolen and lame? This juxtaposition teaches that the disqualification of the stolen animal has no remedy, just as the disqualification of the lame animal cannot be reversed (*Arukh LaNer*).

When a person sacrifices from yours an offering – אדם כי יקריב מכם: See *Tosafot*, who question this proof at length.

However, Rabbi Aaron HaLevi writes that whenever the Gemara cites an issue tangential to the central discussion, it is not particular in citing verses that prove the ultimate conclusion. It suffices with an allusion that supports the ultimate halakhic conclusion.

Acquire the animal with the despair – קנייה ביאוש: Some emphasize that this acquisition of the animal is not effected by despair alone; rather, it is brought about through a combination of despair and a change of possession. This change of possession occurs when the robber consecrates the animal as an offering and thereby transfers the animal from his ownership to God's. Everyone agrees that the combination of despair and change of possession is an effective means of acquisition (see *Ritva*).

Robbery in a burnt-offering – גזל בעולה: Some emphasize that the verse is referring specifically to a burnt-offering, since it is clearly prohibited to steal other offerings from which the priest and the owners partake. The verse teaches that even

when the entire offering is sacrificed to God, and everything belongs to Him anyway, God hates robbery (see Rav Yoshiya Pinto and others).

Parable of a...king – משל למלך: One can explain the parable as follows: The king does not want to deprive the taxmen of their wages, as they receive a small percentage of each levy. Similarly, God does not want to deprive the priests, who receive a small portion from the burnt-offering, i.e., the hides (*Da'at Kedoshim*).

From robbery – מן הגזל: Some explain that the intention here is not merely that the Jewish people should distance themselves from performing an act of robbery; rather, it means that they should find stolen objects repugnant as well, to the extent that they will not utilize them even when purchased from others (*Kappot Temarim*).



Koren Talmud Bavli

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