

## Nedarim 36A

Rav Simi bar Abba asked **מתיב רב שימי בר אבא**  
**אם היה כהן** if he was a Kohen  
**זרוק עליו** he can 'throw' for him  
**דם חטאתו** the blood of his chatas  
**דם אשמו** and the blood of his asham

The Baraisa tells us that even if the person who is assur to give benefit to this person is a Kohen, that Kohen can still 'throw the blood' of this person's korban chatas or korban asham. The 'throwing of the blood' is one of the parts of bringing a korban and the Baraisa tells us that the Kohen can do this for this person. That is, from here we see that not only can the Kohen bring this person's mi'chusrei kapparah, but the Kohen can even bring other korbanos as well (i.e., the chatas and asham). And if so, we have a proof from this Baraisa that the Kohanim are the s'luchim of shamayim and not our s'luchim (because if they would be our s'luchim, they would not be allowed to do this).<sup>36</sup>

The Gemara answers:

(The Baraisa is discussing the) blood **דם**  
of the chatas of a metzora **שֶׁל מְצוּרָע**  
and the blood **דם**  
of the asham of a metzora **שֶׁל מְצוּרָע**  
as it is written (Vayikra 14:2) **דְּכַתִּיב**  
"This should be **זאת תהיה**  
the halacha of the metzora" **תורת המצרע**  
whether he is **גדול** gadol  
or whether he is a katan **קטן**

The Gemara answers that the Baraisa is only discussing the chatas and asham of a metzora. And the chatas and asham of the metzora are considered mi'chusrei kapparah and therefore a person can bring them on behalf of this friend even without that friend's knowledge. If so, even if the Kohanim would be our s'luchim, a Kohen who is forbidden to give benefit to a particular Yisroel, would still be allowed to bring these korbanos for this

### <sup>36</sup> Why Does the Gemara Not Ask from Our Mishna?

Seemingly the Gemara could have asked the same question from our Mishna. Our Mishna clearly says that the Kohen can even bring the person's chatas and asham. If so, why does the Gemara have to ask from the Baraisa if it could have asked the very same question from our Mishna?

The Ran brings that as a result of this question, there were those that said that this proves that the correct girsa (version) of our Mishna does not include the words 'chatas and asham'. And if so, we understand why the Gemara's question was only from the Baraisa and not the Mishna.

However, the Ran says that it is not necessary to change the girsa of the Mishna. That even if the Mishna would include these words, there would still be no question, as follows.

The Gemara answers that there is no proof from the Baraisa because we can say that the Baraisa is only dealing with a case of mi'chusrei kapparah.

person. That is, since the Kohen can bring these korbanos even without this person's consent, when the Kohen does bring it, it is not considered that he is doing it on behalf of this person, and as such, it is not considered a benefit for him.

The Gemara then proves that the chatas and asham of the metzora can be brought even without the person's consent as we see that even a katon has to bring these korbanos. That is, a person would have to bring these korbanos for a katon who is a metzora even though the katon does not have the ability to give consent for the korbanos, and if so, we see that these korbanos do not need a person's consent.

### When is a Kohen Chayiv to Pay for a Korban that He Made Pigul?

The Gemara continues to try and determine if the Kohanim in the Bais Hamikdosh are our s'luchim or the s'luchim of shamayim.

We learned in a Mishna **תנן**  
**הכהנים שפיגלו** Kohanim that make a korban pigul  
**במקדש** in the Bais Hamikdosh  
**מזידין** if they did it on purpose  
**חייבין** they are chayiv (to pay for the korban)  
**הא** (this implies) but  
**שוגגין** if they would have done it by mistake  
**פטורין** they would be patur (from paying)  
**אלא שפיגולן** but their act of making it pigul  
**פיגול** (will still) make the korban pigul

If while bringing a korban in the Bais Hamikdosh, a Kohen has in mind to bring it during the 'wrong' time (i.e., he has in mind to bring the korban in a time that he is not allowed to), the halacha is that the korban becomes what is called 'pigul'. This korban is now pasul and must be burned.

The Mishna tells us that if the Kohen made the korban pigul purposely, then the Kohen would have to pay the owner of the animal for ruining the korban.

The Ran points out that this answer would be obvious in the Mishna, and this is why the Gemara does not bother to ask from the Mishna.

The Mishna lists cases of mi'chusrei kapparah and immediately afterwards lists the case of a chatas and asham. If so, this would seem to indicate that the chatas and asham are also part of this category of korbanos, and as such, there would be no question from the Mishna.

It is only from the Baraisa that there is a question. The Baraisa just mentions the case of chatas and asham, and this would seem to indicate that the Baraisa is discussing the regular case of chatas and asham (and as such we would have a question).

And the Gemara answers that even in the Baraisa we can say that the reason the Kohen can bring the chatas and asham is because they are the chatas and asham of a metzora, i.e., they are also mi'chusrei kapparah, and perhaps this is the reason that they can be brought by even this Kohen (who is assur to benefit the person).

This halacha would seem to imply that if the Kohen made the korban pigul by mistake, then although the Kohen would not have to pay for the owner's loss, the act of making the korban pigul would still be effective and the animal would have to be burned (that is, the difference between the two cases is only with regard to payment but not with regard to actually making the korban pigul).

And on this the Gemara asks:

אי אמרת בשלמא אי אמרת בשלמא  
 (that) they are s'luchim of shamayim הוּוּ  
 this is (how we understand) הִינוּ  
 (this that) their pigul is pigul שְׁפִיגוּלָן פִּיגוּל  
 but if you say אֵלֵא אִי אִמְרַת  
 they are our s'luchim הוּוּ דִּינָן הוּוּ  
 why is their pigul, pigul פִּיגוּלָן פִּיגוּל  
 let him say to him (the person to the Kohen) לֵימַא לֵיהּ  
 "I made you a shliach שְׁוִיִתִּיךָ  
 'for my benefit' (lit. to fix for me) לְתַקוּנִי  
 but not to 'hurt me' וְלֹא לְעוֹתִי

The Ran explains as follows. Even if we say that the Kohanim are our s'luchim, we understand why the Kohen can purposely make the korban pigul. That is, if the Kohen did it purposely, then although it would be true that he can no longer be considered the person's shliach but that would not make a difference. The rule is that *אדם אוסר דבר שאינו* – A person has the ability to assure something that does not belong to him with an action. Therefore, we understand very well why this Kohen has the ability to purposely make the korban pigul. But in the case that the Kohen made the korban pigul accidentally, if we say that the Kohen is our shliach (and not the shliach of Hashem), why should the korban become pigul?

In the case that the Kohen makes it pigul accidentally, if we say that the Kohanim are our s'luchim, why is the pigul, pigul? Since this Kohen only made it pigul accidentally, we understand that he was not acting on his own but rather he was only acting as the shliach of the owner of the animal. But if so, why can't the owner say, "For this I never made you my shliach". The owner only gave the Kohen the power to act upon his behalf if the Kohen's action benefits the owner. Therefore, in the case that the Kohen made the korban pigul, the owner should be able to say, "I only made you a shliach to benefit me and not to hurt me", and if so, the pigul should not be pigul.

In other words, if the Kohanim are the s'luchim of shamayim, then we understand why the owner's protests will not make a difference and the animal will become pigul. But if the Kohen is

acting as the owner's shliach, then he should not have the ability to accidentally make the animal pigul.

The Gemara answers:

They said אָמְרֵי  
 it is different with regard to pigul שְׁפִיגוּל  
 for the posuk says דְּאָמַר קָרָא  
 "He may not think it' לֹא יַחְשֹׁב לוֹ  
 in any instance (lit. place) מִכָּל מְקוֹם

The Gemara answers that while it is true that logically if the Kohanim are our s'luchim then they should not have the power to accidentally make a korban pigul, there is a drasha that says otherwise. The posuk says that the Kohen may not think to bring the korban in the wrong time. The Gemara learns from the words of the posuk that this applies in all circumstances, i.e., even if the Kohen does it mistakenly.

Therefore, since there is a special drasha to include this case, the fact that the Kohen can accidentally make the korban pigul does not indicate whether they are our s'luchim or the s'luchim of Shamayim.

**According to R' Yochanan, Which Korbanos Can be Brought Without the Owner's Consent and Which Cannot be Brought Without the Owner's Consent?**

(With regard to the actual halacha) גּוֹפֵא  
 R' Yochanan said אָמַר רַבִּי יוֹחָנָן  
 all (korbanos) הַכֹּל  
 need (the owner's) knowledge צְרִיכִין דַּעַת  
 except for the mi'chusrei kapparah חוּץ מִמְּחוּסְרֵי כַפָּרָה  
 for a person can bring a korban שְׁהָרִי אָדָם מְבִיא קֶרְבָּן  
 for his sons and daughters עַל בְּנָיו וְעַל בָּנוֹתָיו  
 (that are still) children הַקְטָנִים

The Ran explains that R' Yochanan holds that one can be דִּינָן אֶפְשָׁר לִמְשָׂא אֶפְשָׁר – Learn something that is possible from something that is impossible.

That is, R' Yochanan holds that one can bring the 'mi'chusrei kapparah' for a person even if that person did not give his consent for it. R' Yochanan learns this from the fact that a father can bring the 'mi'chusrei kapparah' for his children, even though his children are not old enough to give their consent. That is, R' Yochanan holds that the same way a father can bring the 'mi'chusrei kapparah' for his children without their consent, so too a regular person can bring the 'mi'chusrei kapparah' for his friend, even though that friend never gave his consent for this.

This is a chiddush as one could have said that there is a big difference between the two cases. The case of a person's children

is a case of **אֵי אֶפְשֶׁר**, that is, it is impossible for the father to bring the 'mi'chusrei kapparah' for them with their consent because they do not have the ability to give their consent. If so, perhaps the reason why the father has to ability to bring these korbanos for his children without their consent is because there is no other possibility (as they do not have the ability to give their consent).

But if so, what is the proof to a regular case of one adult bringing the 'mi'chusrei kapparah' for a different adult? Perhaps since an adult has the ability to give his consent, a different person cannot bring these korbanos for him unless he gets that consent.

R' Yochanan holds not this way. He holds that one can learn the case of **אֶפְשֶׁר** (i.e., the case of one adult bringing them for a different adult) from the case of **מִשְׁאֵי אֶפְשֶׁר** (the case of bringing the 'mi'chusrei kapparah' for children who do not have the ability to give their consent).

And on this the Gemara asks:

But now **אֵלָא מַעֲתָה**  
 a person (should be able) to bring **בְּיָמָא אָדָם**  
 the 'chatas chaylev' for his friend **חֲטָאת חֵלֶב עַל חֲבִירוֹ**  
 for a person brings (a chatas chaylev) **שָׂכֵן אָדָם מִבֵּיא**  
 for his insane wife **עַל אִשְׁתּוֹ שׁוֹטָה**  
 like the (shita of) R' Yehuda **כְּרַבִּי יְהוּדָה**  
 (and yet) we see **אֲלָמָה**  
 that R' Elazar said **אָמַר רַבִּי אֶלְעָזָר**  
 one who separates **הַפְּרִיֵשׁ**  
 a chatas chaylev for his friend **חֲטָאת חֵלֶב עַל חֲבִירוֹ**  
 as not done anything **לֹא עָשָׂה כְּלוּם**

The Mefaraish explains the Gemara as follows. Previously the Gemara quoted the shita of R' Yehuda that says that a husband brings all of his wife's korbanos, even if she is now insane. From the fact that R' Yehuda said that he brings all of her korbanos, this would seem to imply that he brings her korban chatas, even though she is now a soteh (an insane woman who does not have the ability to give consent).

But if so, based on this R' Yochanan should hold that a person can bring his friend's chatas chaylev (the korban that one brings when he eats chaylev, the forbidden fats of an animal). That is, he should hold that the same way a person can bring his wife's korban chatas without her consent (in the case that she is a soteh), so too he should be able to bring his friend's chatas chaylev without his friend's consent. And yet, R' Elazar says that a person cannot do so, and if a person does bring his friend's chatas chaylev, what he has done will have no effect.

The Gemara answers:

(The case of) his wife being a soteh **אִשְׁתּוֹ שׁוֹטָה**  
 how is it **הֵיכִי דָמִי**

if she ate it (i.e., the chaylev) **אֵי דְאָכְלָה**

while she was a soteh **כְּשֶׁהִיא שׁוֹטָה**

but she is not a 'bas korban' (i.e., someone with **לֹא בַת קָרְבָן הִיא**

the ability to bring a korban)

A soteh (insane person) is not held accountable for his actions and therefore if his wife ate the chaylev while she was a soteh, she will not be chayiv to bring a korban.

And if she ate it **וְאֵי דְאָכְלָה**

when she was a sane person **כְּשֶׁהִיא פְּקֻחָת**

and then became a soteh **וְנִשְׁתַּטְּיֵת**

But R' Yirmiyah said **הָא אָמַר רַבִּי יִרְמְיָה**

(that) R' Avahu said **אָמַר רַבִּי אַבְהוּ**

(that) R' Yochanan said **אָמַר רַבִּי יוֹחָנָן**

one who ate chaylev **אָכַל חֵלֶב**

and separated a korban **וְהַפְּרִיֵשׁ קָרְבָן**

and (then) became a soteh **וְנִשְׁתַּטְּיָה**

and he then 'returned' **וְחָזַר**

and he regained his sanity **וְנִשְׁתַּפָּה**

it (the korban) is pasul **פְּסוּל**

since it was 'pushed off' **הוֹאֵיל וְנִדְחָה**

'it is pushed off' **דְּחָה**

The Gemara asked that according to R' Yochanan we should say that the same way a person has the ability to bring a chatas chaylev for his insane wife without her consent, so too a person should have the ability to bring a chatas chaylev for his friend without his consent. And yet R' Elazar said that a person cannot bring a chatas chaylev for his friend. If so, we need to understand why a person cannot do so according to R' Yochanan.

To which the Gemara answers that in reality there is no case of a man bringing a chatas chaylev for his wife. And once we know that this is true, we no longer have a case in which a person can bring a chatas chaylev for someone without their consent and that is why a person cannot bring a chatas chaylev for his friend.

The reason why we cannot find a case of a husband bringing a chatas chaylev for his insane wife is because a husband only brings his wife's korbanos if she is chayiv to bring the korban, but in the case that she is not chayiv, then the husband is not chayiv as well. Based on this the Gemara tells us that there is simply no case in which an insane woman will be chayiv in a chatas chaylev. The Gemara explains that if she ate the chaylev when she was a soteh then there is no obligation to bring the chatas as an insane person is never responsible for his/her actions. And even if she ate it while she was sane (and as such she became chayiv in the korban), once she becomes insane, she is then patur from the korban (as an insane person is patur from bringing korbanos).

And even if she later becomes sane again, she will still not be chayiv. The halacha is that once a chiyuv korban is ‘pushed off’ (i.e., the person becomes patur from the korban), the chiyuv cannot come back. Therefore, even if she ate the chaylev when she was sane, and now she is sane, if at any time she was not sane, she will not be chayiv to bring this korban. Therefore, since she is not chayiv to bring the korban, the husband will not be chayiv either, and as such, we no longer have a case in which a husband can bring a chatas chaylev for his wife without her consent.

**Separating a Korban Pesach for Someone Without their Consent (with regard to one’s friend and with regard to one’s children – the chiyuv שָׁה לְבֵית אָבֶת with regard to children)**

The Gemara continues to ask on R' Yochanan.

But now (acc. To R' Yochanan) אֵלָא מַעֲתָה  
 a person (should be able) to bring זְבִיא אָדָם  
 a (korban) pesach for his friend פָּסַח עַל חֲבִירוֹ  
 for a person שָׁכַן אָדָם  
 brings (a korban pesach) מְבִיא  
 for his sons and daughters עַל בְּנָיו וְעַל בְּנוֹתָיו  
 who are minors הַקָּטָנִים  
 (and if so) why אֵלָמָה  
 (did) R' Elazar say אָמַר רַבִּי אֶלְעָזָר  
 one who separated הִפְרִישׁ  
 a (korban) pesach for his friend פָּסַח עַל חֲבִירוֹ  
 has not done anything לֹא עָשָׂה כְּלוּם

The halacha is that one is able to bring a korban pesach for his children, even though they cannot give their consent to it. But if so, according to R' Yochanan we should say that the same way you can bring it for them without their consent, you should be able to bring it for your friend without his consent as well, and yet, R' Elazar said not that way. According to R' Elazar one cannot separate a korban Pesach for his friend.

The Gemara answers:

R' Zayra said אָמַר רַבִּי זֵירָא  
 (the chiyuv of) “Seh L'Bais Avos’ שָׁה לְבֵית אָבֶת  
 (with regard to children) is not לֹא  
 M'Dorayisa דְּאוֹרַיִסָא

The posuk of “Seh L'Bais Avos” tells us that a person can only eat from a korban pesach if he was appointed to the group (chaburah) before the person shected the korban pesach. R' Zayra now tells us that while it is true that there is such a chiyuv,

this chiyuv does not apply to children. Children can eat from the korban pesach even if they were not appointed to that particular group. The Ran explains that although there is a chiyuv to be appointed to a particular group, this only applies to someone who is able to be appointed, i.e., someone who has the daas (intelligence) to be appointed to a group. This comes to exclude minors who do not have this capability.

With this the Gemara answers its question on R' Yochanan. The Gemara asked that according to R' Yochanan, once we find that a father can separate a korban pesach for his children without their consent, so too a person should be able to do so for his friend as well.

To which the Gemara now answers that there is no proof. The reason why a father can include his children in the chaburah without their consent is only because in reality they do not have to be included at all and that is why he can do so without his children’s consent.

If so, we never find a case in which someone has a chiyuv to be included in a chaburah, and someone else has the ability to include that person without that person’s consent. And this is why even R' Yochanan agrees that a person cannot separate a korban pesach for his friend without that person’s consent.

The Gemara now shows how we know that minors do not need to be included in a chaburah in order to be allowed to eat from the korban pesach.

And from what (how do we know this) וּמֵמַאי  
 (we know it) from this that we learned in the Mishna מִדַּתָּנָן  
 one who says to his sons הָאוֹמֵר לְבָנָיו  
 “I am shechting שׁוֹחֵט  
 אֶת הַפֶּסַח  
 the pesach  
 for the one עַל מִי  
 that will go up from you first שְׂעִיגְלָה מִכֶּם רִאשׁוֹן  
 לִירוּשָׁלַיִם”

After the father makes this declaration, the following halacha applies:

Since כִּיּוֹן  
 the first one entered שֶׁהַכְּנִיס רִאשׁוֹן  
 his head and the majority (of his body into וְרִבּוֹ  
 Yerusalayim)  
 (at that moment) he is zocheh זָכָה  
 in his portion בְּחֻלְקוֹ  
 and he is zocheh (he acquires for) וּמְזַכֵּה  
 his brother with him אֶת אָחָיו עִמּוֹ

The father tells his children that he is shechting (slaughtering) the korban pesach for the one of them that will reach Yerusalayim

first. And yet the Mishna tells us that when the first one enters, that first child is zocheh in the korban pesach and at that point the other brothers are zocheh as well (why the other brothers are zocheh will be explained shortly).

And on this the Gemara asks:

And if you say **ואי אמרת**  
(that the chiyuv) of 'Seh L'Bayis' **שה לבית**  
is M'Dorayisa **דאורייתא**  
(can a person) stand next to the basar (i.e., the flesh **על בישרא קאי**  
of the shechted korban pesach)  
and be zocheh for them **ומזכי להו**

The Ran in his first explanation explains that the Gemara understands that what happened was that the first son was zocheh in the korban pesach because he was first and afterwards the father was zocheh in the korban pesach for the other brothers.

The Ran in his second explanation says that the Gemara understood that it was that first brother who was at first zocheh in the korban pesach for himself as he 'won the race', and afterwards he was zocheh for his other brothers.

Either way we understand the case of the Mishna, the question is the same. How can either the father or the first brother be zocheh for the other brothers? Once the korban is shechted, people cannot be added to the chaburah.

That is, we understand very well why the 'winning' son is zocheh. When the father shechted the korban, he said that he is including the one who will get to Yerusalayim first. Therefore, now that we know who that 'winning' son is, this tells us that retroactively this was the son that the father had in mind, and therefore that is why this son is zocheh in the korban.

But what about the other sons? How are they zocheh in the korban? If they were not included at the time of the shechita, how can the father/brother be zocheh for them afterwards?

The Gemara concludes that indeed it must be true that in reality there is no chiyuv of **שה לבית אבות** with regard to children, and therefore there is no problem with adding them afterwards.

But on this the Gemara asks:

But **אלא**  
why did he say this to them **למה להו דאמר להון אבוהון**

If the father all along had in mind to include all of his children in the korban pesach, why would he make this 'contest' in the first place?

The Gemara answers that he did it:

in order to 'push' them' **כדי לזרזון**  
(in their doing) of mitzvohs **במצות**

The Gemara answers that in reality there was no need to announce to them that only the first one will be zocheh in the korban pesach. However, the father made this announcement in order to train his children to do mitzvohs in the best manner possible. That is, they should not 'shlep' themselves up to Yerusalayim but rather they should run there in order to show their love for the mitzvah by demonstrating how they want to do it at the soonest time possible.

The Gemara brings another case in which a father made the same announcement as this father.

We learned like this in a Baraisa as **תניא נמי הכי**  
there was a story (that the father said this) **מעשה היה**  
and the daughters came before the sons **וקדמו בנות לבנים**  
and it found to be **ונמצא**  
that the daughters were 'zerizim' **בנות זריזות**  
and the sons were 'lazy' **ובנים שפלים**

In this case as well the father made an announcement that he was going to shecht the korban pesach for the one who came first. And it came out that his daughters were shown to be zerizim and the sons were shown to be lazy, as the daughters beat the sons to Yerusalayim.

Although the Baraisa says that the daughters were found to be zerizim and the sons were found to be lazy, the Baraisa does not say that the daughters were zocheh in the korban pesach and the sons were not. The Gemara says that indeed this was not the case as the only reason why the father made this 'contest' was not to actually decide who will and who will not be included in the korban pesach but rather it was done just to encourage them to be zerizim in the doing of mitzvohs.

**Taking Off Terumah for Someone Whom He is Forbidden to Give Benefit To**

The Mishna said:

And he can take off his terumah **כי תרומתו כי**

The Mishna said that even if a person is assur to get benefit from his friend, his friend can still take off terumah for this person and it is not considered that his friend has given him benefit.

## Nedarim 36b

**Is One Allowed to Take Off Terumah for Another Person  
Without that Person's Knowledge?**

They asked a question **אֵיבְעִינָא לְהוּ**  
 one who takes off terumah **הַתּוֹרֵם**  
 from his own for his friend **עַל שֶׁל חֲבִירוֹ**  
 does he need his knowledge (consent) **צָרִיךְ דְּעֵתּוֹ**  
 or not **לָא אִוּ**  
 Do we say **מִי אָמְרִינן**  
 since it is a zechus for him **לּוּ הוּא לּוּ**  
 it does not need **לָא צָרִיךְ**  
 his daas (knowledge/consent) **דְּעֵת**  
 or maybe **אִו דְּלָמָּא**  
 it is his mitzvah **מִצְוָה דִּילְיָהּ הִיא**  
 and he agreeable (i.e., desirous) **וְנִיחָא לֵיהּ**  
 to do it (himself) **לְמִיעֲבָדֵיהּ**

The Ran explains that the Gemara's sofek is based on the rule of **זְכִין לְאֲדָם־שְׂלֵא בְּפָנָיו** – that one has the ability to do something for his friend's benefit even while not in front of him (i.e., without his friend's knowledge). The classic application of this rule is when a person makes a kinyan on an object with the intent to acquire the object for this friend. This rule tells us that the person has the ability to acquire the object for this friend even though his friend is unaware of what he is doing.

If so, in our case as well we should be able to say the same thing. That this person should be able to take off his grain in order to make his friend's grain patur from terumah. As the Ran explains, we can assume that the other person would be agreeable to allow this person to be his shliach to take off terumah, and as such, this person should be able to do so without the other person's knowledge.

The other side of the question says that perhaps a person does not have the power to do this. This that a person can act on behalf of his friend is only if the friend would be agreeable to this action. But in this case, since there is a mitzvah to take off terumah, perhaps the other person would specifically want to take off terumah himself in order to get this mitzvah, and therefore it would not be a zechus (benefit) for him for someone else to take off terumah for him.

The Gemara tries to answer its question from our Mishna:

Come and hear **תָּא שְׂמַע**  
 he can take off his terumah **תּוֹרֵם אֶת תְּרוּמוֹתָיו**  
 and his maasros **וְאֶת מַעֲשָׂרוֹתָיו**

The Mishna told us that even if this person cannot give benefit to the other person, this person can take off the other person's terumos and maasros with his knowledge. The Gemara will now determine the exact case of the Mishna and based on this the Gemara will come to his proof for the previous question.

In order to understand the exact case, the Gemara will have to determine two things:

1. Whose grain is being used to make the other person's grain be patur from terumah?
2. Whose knowledge is needed to make this happen?

For sake of simplicity, in the next Gemara we will say that Reuven is assur to receive benefit from Shimon, and Shimon is now trying to take off terumos and maasros for Reuven.

The Gemara starts:

With what are we dealing with **בְּמַאי עֲסָקִינן**  
 if you say **אִילִימָא**  
 (that Shimon is taking off) from **מן**  
 the owner of the pile (i.e., from Reuven) **בְּעַל הַכְּרִי**  
 על שֶׁל בְּעַל הַכְּרִי **עַל שֶׁל בְּעַל הַכְּרִי**  
 and with the knowledge of whom **וּלְדַעְתּוֹ דְּמֵאן**  
 if you say **אִילִימָא**  
 with his (i.e., Shimon's) knowledge **לְדַעְתּוֹ דִּילְיָהּ**  
 who made him a shliach **מֵאן שְׂוִיָּהּ שְׁלִיחַ**

The first possibility to explain the Mishna is to say that Shimon is using Reuven's (i.e., the owner of the pile) grain to take off terumos and maasros for Reuven's pile, and when the Mishna says that it has to be done with his knowledge, this means it has to be done with Shimon's knowledge.

But the Gemara asks that this cannot be the case of this Mishna, because if it is really the case, how would Shimon just be able to go over to Reuven's pile and use Reuven's grain to take off Reuven's terumos and maasros?

As the Ran explains, the drasha of **גַּם אַתֶּם - מֵה אַתֶּם לְדַעְתֶּם** tells us that just like when a person takes off terumos and maasros, it is done with his knowledge (as he is the one doing it), so too when a shliach takes off terumos and maasros for him, the shliach must be with the person's knowledge.

If so, when the Mishna says that 'it must be done with his knowledge' this has to be referring to Reuven and not Shimon, because if not, there would be no way that Shimon could act as a shliach on his own.

(The one exception that might be is when Shimon uses his own grain to patur Reuven's pile. In this case (i.e., the case of the Gemara's question), since Shimon is benefiting Reuven, we might say that it works because we assume that Reuven would

make Shimon a shliach. But in this case, that Shimon is using Reuven's grain, Reuven has no benefit from what Shimon is doing, and as such there is no reason to assume that Reuven would want Shimon to be his shliach).

The Gemara therefore says:

Rather (the Mishna must mean) אלא  
with the knowledge לדעתו  
of the owner of the pile (i.e., Reuven) דבעל הקרי

The Gemara tells us that if the case of the Mishna is when Shimon uses Reuven's grain to patur Reuven's pile, then it must be done with Reuven's knowledge.

But on this the Gemara asks:

But he is benefitting him הא קמהני ליה  
as he is doing his shlichus (i.e., job) דקעביד שליחותיה

The Gemara asks that if Reuven knows what Shimon is doing, i.e., Reuven gives Shimon his consent to take of the terumah and maasros, what this essentially means is that Shimon is doing the job that Reuven wants him to do. But if so, why is this not considered as if Shimon is giving Reuven benefit? The very act of fulfilling Reuven's desire should be considered a benefit to Reuven, and as such it should be assur, as Reuven is not allowed to benefit from Reuven.

The Gemara therefore says:

Rather (the case of the Mishna must be) אלא  
(that Shimon took) from his own משלו  
for the pile (of Reuven) על של הקרי

The Gemara determines that the case of the Mishna must be one in which Shimon used his own grain to patur the pile of Reuven.

And with regard to this that the Mishna said that it has to be done with his knowledge, the Gemara asks:

And with the knowledge of who ודעתו דמאן  
if you say אילימא  
with the knowledge לדעתו

### 37 Why is the Fact that Reuven's Pile is Now Patur Not Considered a Benefit?

What emerges from this entire Gemara is that the fact that although Shimon is using his own grain to patur Reuven, this is not considered a benefit for Shimon. That is, even though Shimon's actions directly save Reuven money as Reuven will now not have to use his own grain to patur his pile from terumos and maasros, this is not considered a benefit for Reuven. The way that Shimon's taking off of terumos and maasros is considered a benefit for Reuven, is when Shimon does it with Reuven's knowledge, but without this factor, the very fact itself that Shimon saved Reuven money is not considered a benefit. And of course, the question will be why this is so.

The Ran gives two answers for this question. At first, he quotes the Rashba that explains that our Gemara is in accordance with the shita of Chanan. We previously quoted the machlokes if Shimon would be allowed to pay back Reuven's loan. Chanan holds that one is allowed to pay back the loan as this is not considered as if Shimon is giving Reuven anything but rather all Shimon is doing is preventing Reuven from suffering a future loss when Reuven's creditors

of the owner of the pile (i.e., Reuven) דבעל הקרי

but he has benefitted him הא קמהני ליה

As we said before, if Shimon is fulfilling Reuven's expressed desire, then this itself should be considered a benefit to Reuven.

(Therefore) is it not אלא לאו

(that the Mishna is referring) to his own דנפשיה דנפשיה  
knowledge (with Shimon's knowledge)

and from his own ומשלו

he is taking off terumah תורם

for his friend על של חברו

The Gemara has determined that the case of the Mishna must be one in which one person (Shimon) is taking off terumah for his friend (Reuven), and now the Gemara comes to its proof and says:

And if you say ואי אמרת

it needs (the) knowledge (of his friend) צריך דעת

but he has benefitted him הא קמהני ליה

As the Gemara said previously, if Shimon's taking off of the terumah is done with Reuven's knowledge, then that very act of fulfilling Reuven's desire should be considered a benefit, something that is assur for Shimon to give Reuven, and yet the Mishna said that it is mutur for Shimon to take terumah for Reuven. And if so, the Gemara now comes to the point that it was trying to prove.

(Therefore) is it not (i.e., aren't we forced to say) אלא לאו

it does not need knowledge אין צריך דעת

After all of this back and forth, the Gemara comes to its conclusion that the case of the Mishna must be one in which Shimon uses his own grain to take off terumah for Reuven, and it must be that Shimon does so without Reuven's knowledge.

And from this we see that indeed that a person is allowed to use his own grain to take off terumah for his friend, even if his friend is unaware of what this person is doing.<sup>37</sup>

would come collecting. This case is similar. What Shimon did was not to give something to Reuven but rather Shimon just prevented the loss that Reuven would suffer when he would have to take off the terumos and maasros.

The Ran argues and he holds that our Gemara can even be in accordance with the shita of the Rabbanan who argue on Chanan. The Rabbanan hold that the paying back of a debt is considered a benefit, and as such, Shimon would not be allowed to pay back Reuven's loans loan.

And yet the Ran holds that even according to the Rabbanan, Shimon will be able to use his own grain to patur Reuven's grain. This is because when Shimon gives his own grain to the Kohen and Lavi, Shimon gets the benefit know as טובת הנאה (lit. the good of the benefit). This refers to the benefit that comes from giving something to someone. That is, if you give something to someone, that person will now have gratitude to you, something that is beneficial (as he might reciprocate that good that you did for him one day). Therefore, it is beneficial to have the right to be the one to determine who will get the terumah and maasros. As such, therefore when Shimon uses his own grain to patur Reuven, it is considered as if Shimon is benefiting from this giving, as he is the one who gets

The Gemara answers that it is not a proof because we can say that:

Really לעולם  
(he took off) from the owner of the pile בעל הקרי משל  
for the owner of the pile על בעל הקרי  
as Rava said כדאמר רבא  
(the case is one in which) he (the owner) says באומר  
“Whoever wants to take of terumah כל הרוצה לתרום  
should come and take off terumah” ובא ויתרום  
here to also הכא נמי  
(the case is one in which) he says etc. באומר וכו’

In order to answer a different question, Rava said that the discussed case was one in which the owner of the pile said that whoever wants can come and take off terumah from his pile. If so, we can say that this is the case of our Mishna as well.

The Gemara previously said that the case of the Mishna cannot be one in which Shimon is using Reuven’s grain to patur Reuven. The Gemara said that this cannot be the case as there would be no case in which Shimon would have the ability to take off the terumah and not be considered as a benefit to Reuven. This is true because if Shimon took off the terumah without Reuven’s knowledge, then the terumah would not be chal (effective). And if Shimon took off the terumah with Reuven’s knowledge, then this that Shimon is fulfilling Reuven’s desire would be considered as a benefit that is assur for Reuven to receive from Shimon.

The Gemara now answers that the Mishna’s case can be one in which Reuven said that whoever wants can come and take off my terumah. The Ran explains that since he gave permission for anyone to take off the terumah, this allows Shimon to do so. And since Reuven did not explicitly make Shimon his shliach, when Shimon does take off the terumah, this is not considered a benefit for Reuven.

That is, in this case Reuven is giving permission but not expressing desire for someone to take off his terumah. And we now understand very well why Shimon can use Reuven’s grain to take off terumah for Reuven. With his declaration, Reuven gave permission for Shimon to take off his terumah but since Reuven has no desire for the terumah to be taken off, when Shimon does

take it off, it is not considered that Shimon has fulfilled Reuven’s desire and that is why it is not assur.

**If One Takes Off Terumah for His Friend, Who Gets the טובת הנאה?**

He asked from him בעא מיניה  
R' Yirmiyah from R' Zayra רבי ירמיה מרבי זינא  
one who takes off terumah from his own משלו התרום  
for that of his friend על של חבירו  
the ‘tovas hana’ goes to who טובת הנאה של מי  
Do we say מי אמרינן  
if not for the produce of this one אי לא פירי דהאיך  
would that pile be ‘fixed’ מי מתקנא פריא דההוא  
or maybe (we should say) או דלמא  
if not for that pile אי לאו פריא דההוא  
this produce would not be לא הויין פירי דהדין  
תרומה terumah

As we previously said, one person has the ability to use his own grain to patur the pile of his friend from terumos and maasros. The question that our Gemara deals with is who gets to decide which Kohen gets it. That is, we previously mentioned the concept of tovas hana. This refers to the right to decide which Kohen will get the terumos. This ability has value as there are times that people will pay for this right.

As the Ran explains, if there is a Yisroel who has a grandson who is a Kohen (i.e., his daughter married a Kohen), then this Yisroel would be willing to pay a person who is taking off terumah a small amount to have this person give his terumah to his grandson and not to a different Kohen.

If so, we now have the Gemara’s question. If one person takes off terumah for his friend, who gets this tovas hana’, the owner of the pile or the one who is actually taking off the terumah?

Do we say that the owner of the pile gets it as if not for him, this tovas hana’ would not exist (as one cannot take off terumah from nothing)? Or do we say that the person who is actually giving his produce as terumah should be the one to get the tovas hana, as if not for him, the owner’s pile would not be patur?<sup>38</sup>

to decide which Kohen will get the terumah. Therefore, even though Reuven is also benefiting as his pile is now patur, since Shimon is benefiting too, Reuven’s benefit is only considered incidental (גרמא בעלמא) and that is why it is mutur.

**<sup>38</sup> Understanding the Gemara’s Question**

Seemingly the Gemara’s question is hard to understand. If we are dealing with the question of who has the right to decide which Kohen gets the terumah, seemingly this should have to be settled among themselves and there can’t be a definitive answer.

That is, when this person takes off terumah for his friend, he is doing this on his own volition. That is, there is no chiyuv for him to do so. If so, why can’t he simply say that he refuses to take off terumah for his friend unless he has the right to decide which Kohen gets it.

And this is true for the owner of the pile as well. In order for the other person to take off terumah for this pile, the owner of the pile has to give his consent. And if so, he should be able to say that he only gives his consent on condition that he gets to decide who gets the terumah.

The Gemara answers:

He said to him (R' Zayra to R' Yirmiyah) **אָמַר לִיה**  
the posuk (Devarim 14:22,25) says **אָמַר קָרָא**  
.. “And all the grain you planted...**אֶת כָּל תְּבוּאֹת זְרַעְךָ**  
and you should give” **וְנָתַתָּ**

The posuk describe someone planting his grain and then two pesukim later it describes the person giving that terumah. From this we see that the right to give the terumah, i.e., the tovas hana, belongs to the one who planted the grain (the owner of the pile) and not the one who ends up giving the terumah.

But on this the Gemara asks that seemingly we see from our Mishna not this way.

They asked (from our Mishna that says) **אֵי תִּבְיָהּ**  
he can take off his terumah **אֶת תְּרוּמוֹתָיו**  
and his maasros **וְאֶת מַעֲשָׂרוֹתָיו**  
with his knowledge **לְדַעְתּוֹ**

Our Mishna told us that even if Shimon is assur to give Reuven benefit, Shimon can still take off terumos and maasros for Reuven. And on this the Gemara asks:

And if you say **וְאִי אָמַרְתָּ**  
that the tovas hana **הַנְּאֻהָ**  
belongs to the owner of the pile (Reuven) **דְּבַעַל הַכְּרִי**  
but he is benefitting him **הָא קָא מְהַיְנִי לִיה**  
rather see from here **אֶלָּא שְׂמַע מִינָהּ**  
that the tovas hana is his (Shimon's) **טוֹבַת הַנְּאֻהָ דִּילֵיהּ**

The Gemara assumes that Shimon is using his own produce to patur (exempt) Reuven's pile, and yet the Mishna says that this is still mutur. But how could that be? The Gemara just told us that in the case in which one person takes off terumah for his friend, the tovas hana goes to the owner of the pile and not the one who took off the terumah. But if so, by Shimon using his own produce to patur Reuven's pile, Shimon has benefitted Reuven with the tovas hana that Reuven now gets (Reuven gets the tovas hana as Reuven is the owner of the pile). If so, how can the Mishna say that this is mutur?

The Gemara answers:

Say **אָמַרְי**  
it is not (a case in which Shimon used his own) **לֹא**  
(But rather the case is where) it belonged **מִשָּׁל**  
to the owner of the pile (Reuven) **דְּבַעַל הַכְּרִי**  
(and is given) for (the pile of) **עַל שָׁל**

Seemingly the case is one in which this person already gave the terumah for payment (from a different Yisroel) and now the question is who gets this money; the one who owns the pile or the one who actually took off the terumah.

the owner of the pile **בַּעַל הַכְּרִי**

with the knowledge **וְלְדַעְתּוֹ**

of the owner of the pile **דְּבַעַל הַכְּרִי**

in (case that) he says **בְּאוֹמַר**

“Whoever wants to take off terumah **כָּל הַרוֹצֶה לְתַרוֹם**

he should come and take off terumah” **יָבֵא וְיִתְרוֹם**

The Gemara answers that in reality the case of our Mishna is one in which Reuven (the owner of the pile) said that whoever wants can come and take terumah, from his pile and the Mishna tells us that in this case, Shimon can come and take off terumah from Reuven's pile.

In this case, the reason Reuven gets the tovas hana is not because Shimon causes him to get it, but rather Reuven has it because it is his grain that is being given as the terumah for his pile, and if so, there is no problem with Reuven getting the tovas hana.

**The Halachas of One Who Gives an Animal to Hekdesh on Behalf of His Friend – R' Yochanan's Shita with Regard to Who Gets the Tovas Hana in the Gemara's Case**

The next Gemara will discuss the halachos of person who has a chiyuv to bring a korban and his friend made an animal hekdedesh on his behalf (i.e., his friend designated an animal with which this person can now bring as a korban in order to satisfy his chiyuv).

Come and here **תָּא שְׂמַע**

for R' Abahu said **דְּאָמַר רַבִּי אֲבָהוּ**

that R' Yochanan said **אָמַר רַבִּי יוֹחָנָן**

the one who makes it hekdedesh **הַמְקַדִּישׁ**

he adds the 'fifth' **חוֹמֶשׁ**

and the one who gets the kapparah **וּמִתְכַּפֵּר**

makes it temurah **עוֹשֶׂה תְּמוּרָה**

The halacha is that if a person makes an animal hekdedesh and it gets a mum (a blemish that disqualifies it from being a korban), the animal is redeemed and the money is used to buy another animal. However, if the owner of the animal wants to redeem the animal, he has to add an additional fifth (a **חוֹמֶשׁ**, i.e., he has to give the value of the animal plus an additional fifth of that value).

R' Yochanan holds us that with regard to this halacha, it is the one who actually made the animal hekdedesh who is considered the owner, and as such, if he is the one who is redeeming the animal, he would have to add a fifth (as opposed to the person for whom the animal is being offered for, if this person (or any other

Alternately, it could be that both the owner and the one taking off the terumah agree that they want this terumah to be taken off, no matter who gets the tovas hana, and they just want to know who intrinsically deserves the tovas hana.

person redeems the animal, only the actual value of the animal has to be paid.)

However, with regard to the halachos of תמורה - Temurah, the other person is considered the owner. That is, the halacha of temurah says that if a person makes an animal a korban and then he says this other animal should be instead of this original animal, his designation is effective as far as making the second animal hekdesch but it is ineffective with regard to making the first animal not hekdesch. That is, both animals become hekdesch. The Baraisa tells us that with regard to this halacha, the one for whom the animal was designated for is considered the owner, and as such, only he can make the other animal temurah.

The Baraisa ends off by saying:

**והתורם מן שלו**  
**מִשְׁלוֹ**  
**על שאינו שלו**  
**טובת הנאה שלו**  
And one who takes off terumah  
from his own  
on what is not his own  
the tovas hana is his

This Baraisa clearly tells us that when a person takes off from his own produce in order to patur the pile of this friend, the tovas hana belongs to him and not to the owner of the pile.

The Ran points out that this is not like we said before. Previously, the Gemara made a drasha to say that the tovas hana goes to the one who did the planting, i.e., to the owner of the pile.

R' Yochanan, however, holds that the tovas hana does not go to the owner of the pile but rather he holds it goes to the one who actually takes off the terumah, and if so, he will have to learn the posuk differently.

The Ran explains that R' Yochanan holds that when the posuk says עֲשֵׂר תַעֲשֶׂר אֶת כָּל תְּבוּאֹת זְרַעַד הַיֵּצֵא הַשָּׂדֶה שָׁנָה שָׁנָה וְנָתַתָּה, וכי וְנָתַתָּה, the word וְנָתַתָּה – and he will give, is not referring to the words כָּל תְּבוּאֹת זְרַעַד “all the grain that you planted” (i.e., the owner of the grain) but rather it refers to the beginning of the posuk that says עֲשֵׂר תַעֲשֶׂר “you should give maaser”, that is, the person who actually takes off the maaser should be the one who has the right to give it, i.e., he should be the one to get the tovas hana.

**The Difference Between Teaching Mikra and Between Teaching Medrash, Halachos, and Aggadahs**

The Mishna said that even if Shimon is not allowed to give Reuven benefit:

**למדו**  
**מדִרְשׁ**  
**הלכות**  
**ואגדות**  
He can (still) teach him  
Medrash  
halachos  
and Aggadahs

**אבל לא למדנו**  
but he cannot teach him

**מקרא**  
Mikra (the Torah)

And on this this the Gemara asks:

**מקרא**  
(With regard to) mikra

**מאי טעמא**  
what is the reason

**לא למדנו**  
he can't teach him

**משום דקמהני ליה**  
(it is) because he is benefiting him

**מדִרְשׁ**  
(but if so, with regard to) Medrash

**נמי קמהני ליה**  
he is also benefiting him

The Ran explains that the Gemara assumes that the reason why Shimon cannot teach Reuven Mikra is because Shimon is teaching him for free, and by doing so, Shimon is benefitting Reuven with this that Reuven is being taught for free. But if that is really true, then the same should apply to the teaching Medrash etc., as well. If the teaching is being done for free, this teaching should also be considered a benefit that should be assur for Shimon to give Reuven.

To which the Gemara answers:

**אמר שמואל**  
Shmuel said

**במקום**  
(the Mishna refers to) a place in which

**שנוטלין שכר**  
they take payment for

**על המקרא**  
(the teaching) of Mikra

**ואין נוטלין שכר**  
and they do not take payment

**על המדִרְשׁ**  
for (the teaching of) Medrash

The Mishna refers to a place that the custom is only to charge for teaching mikra. Therefore, it is only with regard to Mikra that Shimon's teaching of Reuven for free would be considered as a benefit.

And on this the Gemara asks:

**מאי פסקא**  
Why (did the Mishna) 'set' this case

According to Shmuel there is no intrinsic difference between the teaching of Mikra and the teaching of anything else. The only reason the Mishna says that Shimon cannot teach Reuven Mikra is because it happens to be that in that particular location, it was the custom to only charge for the teaching of Mikra and not for the teaching of Medrash, etc. But if so, why did the Mishna pick this particular case? The Mishna could have just as easily picked a case in which the custom was to teach Mikra for free and to charge for the teaching of Medrash. And in this case, the halacha would be the opposite, that Shimon would only be allowed to teach Reuven Mikra and not Medrash. If so, the Gemara will have to explain why the Mishna picked its particular case if seemingly there was no reason to do so.