

The “just in case” korban - Horayot 8b - אשם תלוי

The Gemara in Horayot 8b mentions the *asham talui*, literally the “hanging guilt offering.” It is called this because one offers it when one is unsure about whether they committed a sin that requires a *hatat*. If one later finds out that one has indeed committed said sin, one needs to bring a *korban hatat* anyway. So what exactly does the *korban asham talui* accomplish? What is the logic behind it?

Questions? Comments? Email dinanddaf@gmail.com

1. ויקרא ה:ז-יט

וְאִם-לִפְשֵׁי כִי תִחַטָּא וְעָשְׂתָה אַחַת מִכָּל-מִצְוֹת יְ-הוָה אֲשֶׁר לֹא תַעֲשֶׂינָהּ וְלֹא יָדָע וְאָשָׁם וְנָשָׂא עֹנֹו:
And a person who, without knowing it, sins in regard to any of God's commandments about things not to be done, and then realizes guilt: Such a person shall be subject to punishment.

וְהָבִיָּא אֵיל תַּמִּים מִן-הַצֹּאן בְּעֶרְכָּהּ לְאָשָׁם אֶל-הַכֹּהֵן וְכָפַר עָלָיו הַכֹּהֵן עַל שְׁגָגָתוֹ אֲשֶׁר-שָׁגָג וְהוּא לֹא-יָדָע
וְנִסְלַח לוֹ:

That person shall bring to the priest a ram without blemish from the flock, or the equivalent, as a guilt offering. For the error committed unwittingly, the priest shall make expiation on behalf of that person, who shall be forgiven.

אָשָׁם הוּא אָשָׁם אָשָׁם לִי-הוָה: {פ}

It is a guilt offering; guilt has been incurred before God.

2. הוריות ח:

מִתְנִי' אֵין חֲיִיבִין עַל עֲשָׂה וְעַל לֹא תַעֲשֶׂה שְׁבִמְקַדָּשׁ, וְאֵין מְבִיאִין אָשָׁם תְּלוּי עַל עֲשָׂה וְעַל לֹא תַעֲשֶׂה
שְׁבִמְקַדָּשׁ...

MISHNA: The court is not liable to bring a bull as an unwitting communal sin-offering for issuing a ruling with regard to a positive mitzva or a prohibition related to the defiling of the Temple by one being there while ritually impure, or the defiling of its sacrificial foods by one partaking of them while ritually impure. There is a positive mitzva to remove impure people from the Temple, and there is a prohibition against entering the Temple while in a state of ritual impurity. And one does not bring a provisional guilt-offering for a positive mitzva or a prohibition related to the defiling of the Temple or its sacrificial foods...

3. משנה כריתות ו:ג

רבי אליעזר אומר, מתנדב אדם אשם תלוי בכל יום ובכל שעה שירצה, והיא נקראת אשם חסידים. אמרו עליו על בבא בן בוטי, שהיה מתנדב אשם תלוי בכל יום, חוץ מאחר יום הכפורים יום אחד. אמר, המעון הזה, אלו היו מניחים לי, הייתי מביא, אלא אומרים לי, המתן עד שתכנס לספק. וחכמים אומרים, אין מביאים אשם תלוי אלא על דבר שזדונו כרת ושגגתו חטאת:

Rabbi Eliezer says: A person may volunteer to bring a provisional guilt offering every day and at any time that he chooses, even if there is no uncertainty as to whether he sinned, and this type of offering was called the guilt offering of the pious, as they brought it due to their constant concern that they might have sinned. They said about Bava ben Buta that he would volunteer to bring a provisional guilt offering every day except for one day after Yom Kippur, when he would not bring the offering. Bava ben Buta said: I take an oath by this abode of the Divine Presence that if they would have allowed me, I would have brought a guilt offering even on that day. But they would say to me: Wait until you enter into a situation of potential uncertainty. And the Rabbis say: One brings a provisional guilt offering only in a case where there is uncertainty as to whether he performed a sin for whose intentional performance one is liable to receive *karet* and for whose unwitting performance one is liable to bring a sin offering.

4. כריתות כה.

מ"ט דר' אליעזר? אי סלקא דעתך חובה היא מתיידע ליה אמאי מייתי חטאת? אלא שמע מינה נדבה היא. ורבנן עולה ושלמים הוא דאתו בנדר ובנדבה אבל חטאת ואשם חובה נינהו, ואשם תלוי היינו טעמא דמייתי מקמי דמתיידע ליה: להגן עליו דהתורה חסה על גופן של ישראל.

What's the reasoning of R. Eliezer? If you think it is a requirement, then one should one bring a *hattat* upon realizing that the sin occurred? Rather, learn from this that it is a voluntary offering. The rabbis, however, hold that the burnt offering and peace offering can be given as an oath or a voluntary gift, but sin and guilt offerings are obligatory. And this is the reason why one brings an offering before knowing definitively if one sinned: as protection (from punishment), for the Torah is protective of Jewish bodies.

א"ל רב אחא בריה דרבא לרב אשי: דילמא אשם תלוי כעולה ושלמים - מה עולה ושלמים דאתו בחובה ואתו בנדבה אשם תלוי נמי דאתי בחובה אתי נמי בנדבה.

Rav Aha son of Rava said to Rav Ashi: But maybe an *asham talui* is like a burnt or peace offering - just as those sometimes are given to fulfill obligations and sometimes are given voluntarily, *asham talui* may come as an obligation (i.e., if one is in doubt over a *karet/hatat sine*) and sometimes voluntarily (i.e., anytime).

תני רבי חייא קמיה דרבא אשם תלוי בא על הנבלה. אמר ליה והאנן תנן וחכמים אומרים אינו מביא אשם תלוי אלא על דבר שזדונו כרת ושגגתו חטאת, ואי ר' אליעזר בנדבה נמי אתי! אמר ליה מאי טעמא לא מתנית? זימנין סגיאינן תניתה קמיה מר ומנו רבה ואמר לי הא מני? ר' אליעזר היא ד"אמרו לו" דתנן, "אלא אומרים לו המתן עד שתכנס לבית הספק."

Rabbi Hiyya taught before Rava: An *asham talui* can be brought even for doubt over eating a non-slaughtered animal (even though that is not a *karet/hatat* worthy sin). He responded: But do we not learn in the mishnah: “and the rabbis say that one does not bring an *asham talui* except for doubt over a sin that incurs excision if done purposely and a sin offering if done out of lack of knowledge? And if the position you are citing belongs to R. Eliezer, then he does not even require doubt over a sin like eating a non-slaughtered animal because one can volunteer an *asham talui* anytime!

Rabbi Hiyya responded: Why have you not learned? Many times, I taught this in front of master - that is, Rabbah - and he responded to me - who is the author of this ruling? R. Eliezer, but according to the “they told him” from the mishnah, i.e., “but they tell him (=Bava ben Buta/i), wait until you actually have doubt over some sin.” (- i.e., any sin, even one that doesn’t require *karet/hatat*.)

5. כריתות יז:יח.

אמר רב יהודה אמר רב: היו לפניו שתי חתיכות אחת של שומן ואחת של חלב אכל אחת מהן ואינו יודע איזו מהן אכל חייב. חתיכה אחת ספק של חלב ספק של שומן ואכלה פטור...

Rav Yehuda said in the name of Rav: If one had two pieces of meat before them - one of permissible fat and the other of prohibited fat, and the person ate one but is unsure which, that person must bring an *asham talui*.

If, however, there is only one piece of meat present - without clarity as to whether it is permissible fat or forbidden fat - and the person ate it, that person is exempt from offering an *asham talui*.

איתיביה אביי: רבי אליעזר אומר כוי חייבין עליו אשם תלוי...

Abaye tried to undercut that position by citing the following baraita: R. Eliezer says - one who eats the *helev* of *koy* (unclear whether that animal is halakhically considered domesticated, making that fat prohibited, or is halakhically considered wild, making that fat permitted)...

אמר רב נחמן אמר רבה בר אבוא אמר רב היו לפניו שתי חתיכות אחת של חלב ואחת של שומן ואכל אחת מהן ואינו יודע איזו מהן אכל חייב. חתיכה ספק של חלב ספק של שומן ואכלה פטור. אמר רב נחמן מאי טעמא דרב? קסבר שתי חתיכות איקבע איסורא, חתיכה אחת לא קבעה איסורא...

Rav Nahman said in the name of Rabbah bar Avuha in the name of Rav: If one had present two pieces of meat - one of prohibited fat and the other of permitted fat, and ate one of them without knowing which, one must bring an *asham talui*; if, however, it was only one piece of meat - unknown whether prohibited fat or permitted fat - and one ate it, one is exempt from bringing an *asham talui*. Rav Nahman said: What is Rav’s reasoning? He thinks that in a case of two pieces of meat, prohibition has been established; in the case of one piece, not prohibition has been established...

ר' אליעזר לא בעי קביעותא לאיסורא...

R. Eliezer (however) does not require the establishment of prohibition...

אמר רבה בר אבוא אמר רב חתיכה ספק של חלב ספק של שומן ואכלה, באנו למחלוקת ר' אליעזר וחכמים.

לר' אליעזר מאי איריא כי אכלה? אפילו לא אכלה נמי! דהתנן ר' אליעזר אומר מתנדב אדם אשם תלוי בכל יום! אמר רב אשי ר' אליעזר אליבא דבבא בן בוטא, דתנן אלא אומרים לו המתן עד שתכנס לבית ספק...

Rabbah bar Avuha said in the name of Rav: in the case of one piece of meat - unclear whether prohibited or permitted fat - and someone ate it - we have come to a dispute between R. Eliezer and the sages.

(The anonymous voice in the Gemara asks:) Actually, for R. Eliezer, why did one even need to eat it to bring an *asham talui*?! He would allow one to bring an *asham talui* even without having eaten it, for did we not learn in the mishnah: R. Eliezer says - one can volunteer an *asham talui* every/any day!

Rav Ashi says - we refer to R. Eliezer speaking with the constraints of the Bava ben Buta perspective - in which we learn in the mishnah, "but they say to him - wait until you enter a situation of doubt."

6. כריתות כה:

תנו רבנן חמשה אשמות מכפרין, אשם תלוי אין מכפר כפרה גמורה. מאי קאמר?

אמר רב יוסף הכי קאמר חמשה אשמות מכפרין כפרה גמורה ואשם תלוי אין מכפר כפרה גמורה, ודלא כר' אליעזר דאמר אשם תלוי בא על הנבלה.

רבינא אמר הכי קתני חמשה אשמות אין אחר מכפר כפרתן, דכי מתיידע ליה מייתי, אשם תלוי אחר מכפר כפרתו דלכי מתיידע לא מייתי, כדתנן חייבי חטאות ואשמות ודאין שעבר עליהן יום הכיפורים חייבין להביא אחר יום הכיפורין, חייבי אשמות תלוין פטורין.

The rabbis taught: 5 *asham* offerings achieve atonement. The *asham talui*, however, does not atone (a full atonement - *these words are missing from many manuscripts*) What does this mean?

Rav Yosef said: it means that 5 *asham* offerings afford full atonement, whereas the *asham talui* does not offer full atonement; and this does not follow R. Eliezer, who says that *asham talui* can even be given for the sin of eating unslaughtered meat (which has no other *korban*).

Ravina says: this is what it says: 5 *asham* offerings, nothing else achieves atonement for them, for even once one knows about the sin, one has to bring the *asham* offering (i.e., in the case of realizing the need for an *asham* after Yom Kippur for a sin committed before Yom Kippur); but the *asham talui*, something else atones for it, so that when one

realizes that they need to give an *asham talui* (for a doubt from before Yom Kippur) they need not give the *asham talui* (after Yom Kippur), as we learn in the mishnah: Those obligated to bring sin and guilt offerings for sins they certainly committed, even if Yom Kippur passed, they still have to bring the offerings after Yom Kippur. But those who require *asham talui* offerings for doubts from before Yom Kippur are exempt from doing so once Yom Kippur has passed.

7. משנה כריתות ו:א

הַמְבִּיא אֶשֶׁם תְּלוּי וְנוֹדַע לוֹ שֶׁלֹא חָטָא, אִם עַד שֶׁלֹא נִשְׁחַט, יֵצֵא וְיִרְעָה בְּעֶדֶר, דִּבְרֵי רַבִּי מֵאִיר. וְחֹכְמִים אוֹמְרִים, יִרְעָה עַד שֶׁיִּסְתַּאֲב, וְיִמָּכֵר, וְיִפְּלוּ דָמָיו לַנִּדְבָה. רַבִּי אֱלִיעֶזֶר אוֹמֵר, יִקְרַב, שָׂאֵם אֵינוֹ בָּא עַל חָטָא זֶה, הֵרִי הוּא בָּא עַל חָטָא אַחֵר. אִם מִשְׁנִשְׁחַט נֹדַע לוֹ, הַדָּם יִשְׁפָּךְ וְהַבֶּשֶׂר יֵצֵא לְבֵית הַשְּׂרָפָה. נִזְרַק הַדָּם, הַבֶּשֶׂר יֵאָכֵל. רַבִּי יוֹסִי אוֹמֵר, אֶפְלוּ הַדָּם בְּכוֹס, יִזְרַק, וְהַבֶּשֶׂר יֵאָכֵל:

In the case of one who brings a provisional guilt offering due to uncertainty as to whether he sinned, and it became known to him that he did not sin, if he made that discovery before the ram was slaughtered, it shall emerge and graze with the flock as a non-sacred animal, since its consecration was in error. This is the statement of Rabbi Meir. And the Rabbis say: Its status is not that of a non-sacred animal; rather it is that of a guilt offering that was disqualified for sacrifice. Therefore, it shall graze until it becomes blemished; and then it shall be sold, and the money received for it shall be allocated for the purchase of communal gift offerings by the Temple treasury. Rabbi Eliezer says: It shall be sacrificed as a provisional guilt offering, as if it does not come to atone for this sin that he initially thought, it comes to atone for another sin of which he is unaware. If it became known to him that he did not sin after the ram was slaughtered and its blood collected in a container, the blood shall be poured into the canal that flows through the Temple courtyard, and the flesh shall go out to the place of burning, like any disqualified offering. If the blood was sprinkled before he discovered that he did not sin, and the meat is intact, the meat may be eaten by the priests like any other sin offering, as from the moment that its blood was sprinkled the meat is permitted to the priests. Rabbi Yosei says: Even if the blood was still in the cup when he discovered that he did not sin, the blood shall be sprinkled and the meat may be eaten.

8. רמב"ן ויקרא ה:טו

וטעם אשם תלוי מפני שבעליו סבור שאין עליו עונש כי לא נודע שחטא מפני זה החמיר עליו הכתוב בספקו יותר מודאו

The reason ... because of the tendency to think that there is no punishment when it is not certain that he made an error. This is the reason of the stringency for this offering which comes after a doubt... (there is above a large explanation of the word *asham*)

9. תלמידי רבינו יונה ברכות דף א: בדפי הרי"ף

וזוהו עיקר היראה ליזהר מהספיקות, ושלא לעשות המצוות על דרך ההרגל שעונש הספק יותר מהוודאי, וכן מצינו שעל ודאי מביא חטאת ואמרין דחטאת דנקא כלומר שאפילו לא יהיו דמי כשבה או שעירה שיביא לחטאת אלא דנקא די לו בזה, ודנקא היא מעה ... ואם מביא אשם על הספק כגון שהיו לפניו ב' חתיכות אחת של שומן ואחת של חלב ואכל אחת מהן ואינו יודע איזה מהן אכל, צריך להביא ב' סלעים שהם מ"ח מעין ... והטעם בזה למה החמירו על הספק יותר מן הוודאי אומר מורי הרב שהוא מפני שעל הוודאי משים האדם החטא אל ליבו ודואג ומתחרט עליו וחוזר בתשובה שלימה, אבל על הספק עושה סברות ואומר אותה חתיכה שאכלתי אולי היתה מותרת, ולא ישית אל לבו לשוב ולזה החמירו בו יותר

And this is the essence of fear to be careful about doubt - and not to do mitzvot in a rote way - for the punishment for doubt is greater than the punishment for certain sin. And so we find that one brings a hatat for certain sin, and that can be even the worth of merely a *danka*...that's one *ma'ah* (about 60 cents) but when one brings an *asham* for a doubt, as in the case of 2 pieces of meat - one of permitted fat and the other of prohibited fat - and one ate one of them without knowing which - one must bring 2 selaim worth - that's 48 *ma'ot* (about \$30)!...and the reason they were stricter about doubt more than certain sin, my teacher says that it is because people take sins they do for certain to heart, and they regret and do full teshuva, but regarding doubt, one reasons that maybe the piece I ate was permitted, and they don't take it to heart to repent - and therefore they were stricter about this.

10. שולחן ערוך אורח חיים תרגא:

וספק עבירה צריך יותר תשובה מעבירה ודאי כי יותר מתחרט כשיודע שעשה משאינו יודע ולכן קרבן אשם תלוי הוצרך להיות יותר ביוקר מחטאת (דברי עצמו ורבינו יונה ריש ברכות):

A doubt about sin need more repentance (a greater effort to reach repentance) than a sure sin, because one who know that he have erred (naturally) repents more than one who doesn't know if he have erred. Therefore the korban Asham Talui is more expensive than the korban Chat'at (to buy it needs more financial effort).

11. בבלי חולין לז:

(יחזקאל ד, יד) ואומר אהה ה' א-להים הנה נפשי לא מטומאה ונבלה וטרפה לא אכלתי מנעורי ועד עתה ולא בא בפי בשר פגול

"Then I said: Ah, Lord God, my soul has not become impure; and from my youth until now I have not eaten an unslaughtered carcass or a *tereifa*, and no *piggul* flesh came into my mouth" (Ezekiel 4:14).

הנה נפשי לא מטומאה שלא הרהרתי ביום לבא לידי טומאה בלילה ונבלה וטרפה לא אכלתי מנעורי שלא אכלתי בשר כוס כוס מעולם ולא בא בפי בשר פגול שלא אכלתי מבהמה שהורה בה חכם משום רבי נתן אמרו שלא אכלתי מבהמה שלא הורמו מתנותיה

The Gemara explains: "My soul has not become impure" means that I did not consider any sinful thoughts during the day that would cause me to come to impurity due to a

seminal emission at night. “And from my youth until now I have not eaten an unslaughtered carcass or a *tereifa*” means that I never ate the flesh of an animal that was in danger of imminent death, leading one to say: Slaughter it, slaughter it quickly, before it dies. “And no *piggul* flesh came into my mouth” means that I never ate from an animal with regard to which there was uncertainty whether it is forbidden and a Sage issued a ruling to permit it. They said in the name of Rabbi Natan that the last portion of the verse means: That I never ate from an animal whose gifts to which members of the priesthood are entitled, i.e., the foreleg, the jaw, and the maw, were not already separated.

12. חולין מד:

היה פסוקת הגרגרת דאתאי לקמיה דרב יתיב וקא בדיק לה ברוב עוביה אמרו ליה רב כהנא ורב אסי לרב לימדתנו רבינו ברוב חללה שדריה לקמיה דרבה בר בר חנה בדקה ברוב חללה ואכשרה וזבן מינה בתליסר איסתירי פשיטי בישרא

The Gemara recounts: There was a certain animal with a cut windpipe that came before Rav, i.e., it was brought for inspection to decide whether it was kosher. Rav was sitting and checking it to see if the windpipe had been cut in the majority of its width. Rav Kahana and Rav Asi said to Rav: Didn't you teach us, our teacher, that a cut windpipe is measured by the majority of its space? Rav sent the animal before Rabba bar bar Ḥana, who checked it in the majority of its space and deemed it kosher, and purchased meat from it at the price of thirteen plain *istara* coins.

והיכי עביד הכי והתניא חכם שטימא אין חבירו רשאי לטהר אסר אין חבירו רשאי להתיר שאני הכא דרב לא אסר מיסר

The Gemara asks: And how could Rabba bar bar Ḥana do this, i.e., deem permitted an animal that Rav was going to deem prohibited? But isn't it taught in a *baraita*: If a halakhic authority deemed an item impure, another halakhic authority is not allowed to deem it pure; likewise, if he prohibited it, another authority is not allowed to permit it? The Gemara responds: It is different here, since Rav did not actually prohibit the animal. He merely considered doing so, but he sent it to Rabba bar bar Ḥana before issuing a formal ruling.

וכיון דאורי בה חכם היכי אכל מינה והא כתיב (יחזקאל ד, יד) ואומר אהה ה' א-להים הנה נפשי לא מטומאה ונבלה וטרפה לא אכלתי מנעורי ועד עתה ולא בא בפי בשר פגול

The Gemara asks: And once a halakhic authority has ruled with regard to the animal, even to permit it, how could Rabba bar bar Ḥana eat from it? But isn't it written: “Then I said: Alas, Lord God, my soul has not become impure; and from my youth until now I have not eaten an unslaughtered carcass, or a *tereifa*; and no *piggul* flesh came into my mouth” (Ezekiel 4:14).

הנה נפשי לא מטומאה שלא הרהרתי ביום לבא לידי טומאה בלילה ונבלה וטרפה לא אכלתי שלא אכלתי
בשר כוס כוס מעולם ולא בא בפי בשר פגול שלא אכלתי מבהמה שהורה בה חכם משום ר' נתן אמרו
שלא אכלתי מבהמה שלא הורמו מתנותיה

The Sages interpreted the verse as follows: "My soul has not been become impure" means that I did not think of sexual thoughts during the day so as to come to the impurity of a seminal emission at night. "I have not eaten an unslaughtered carcass, or a *tereifa*" means that I never ate the flesh of an animal that was in danger of imminent death, leading one to say: Slaughter it, slaughter it quickly, before it dies. "And no *piggul* flesh came into my mouth," means that I never ate from an animal with regard to which there was uncertainty whether it is prohibited and a Sage issued a ruling to permit it. The Sages said in the name of Rabbi Natan: The phrase means that I never ate from an animal from which the gifts of the priesthood, the foreleg, jaw, and abomasum, were not separated. The above acts are technically permitted but unseemly. How, then, could Rabba bar bar Ḥana consume the meat of this animal?

הני מילי מילתא דתליא בסברא רבה בר בר חנה אגמריה סמך

The Gemara responds: This statement, that it is unseemly for a halakhic authority to rely on his own ruling to permit the meat, applies only to a matter that depends on reasoning. Rabba bar bar Ḥana relied on his learning, i.e., a received tradition. There is nothing unseemly about relying upon a received tradition.

See also The Birth of Doubt: Confronting Uncertainty in Early Rabbinic Literature.
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