



Gid HaNasheh of a non-Kosher Animal

The *Mishnah* (7:6) records the debate regarding whether the prohibition of the *gid ha'nasheh* applies to non-kosher animals. The *Chachamim* maintain that it only applies to kosher animals whereas *R' Yehuda* disagrees. *R' Yehuda* argues that we find that the prohibition of *gid ha'nasheh* was recorded after *Yaakov* grappled with the angel. At that time, which was prior to the giving of the *Torah*, there was no distinction between kosher and non-kosher animals. Consequently, the prohibition applies to all animals. The *Chachamim* however respond that the prohibition was given at *har sinai* yet recorded in the *Torah* by the incident with *Yaakov* and the angel. In other words, when the *Torah* writes "... and therefore *Bnei Yisrael* were commanded not to consume the *gid ha'nasheh*" it is to be understood as stating "... and therefore *Bnei Yisrael* were commanded later at *har sinai* not consume the *gid ha'nasheh*".

According to the *Bartenura*, the *mitzvah* was only given at *sinai* yet *Moshe* recorded it by the incident. The *Beit Shaul* however finds this explanation difficult. Considering that the *Torah* predated the creation of the world, suggesting that *Moshe* would rearrange it appears odd. The *Beit Shaul* therefore directs us to the *Rambam* who explains that the *avot* did receive *mitzvot* prior to *Sinai*, e.g. *Avraham* received the *mitzvah* of *brit milah*. Nevertheless, what obligates us in the performance of these *mitzvot* is that they were given again at *Sinai* – "*torah tzivah lanu Moshe*".

The *Beit Shaul* uses the *Rambam* to explain another debate. The *Gemara* (*Yoma* 28b) cites the opinion of *Rav Safra* that learns the earliest time for *mincha* from *Avraham*. *R' Yosef* questions whether one can learn laws from *Avraham*. The *Beit Shaul* explains that everyone agrees that the core obligation is not derived from *Avraham* – that can only be from *Sinai*. Nevertheless, *Rav Safra* however maintains that the details of a law can be learnt from *Avraham*.

The *Gemara* however provides a different reason for the position of the *Chachamim*. According to *R' Yehuda*, even if the *mitzvah* was given prior to *Har Sinai*, there are two prohibitions at play, one *gid ha'nasheh* and the other that this animal is not *kosher*. Since the animals begin to develop prior to the *gid ha'nasheh* forming the prohibition of a non-kosher animals exists first and we have an issue of *ein issur*

chal al issur. In other words, once a prohibition exists, in general a further prohibition cannot apply to that item. The *Gemara* however explains that according to *R' Yehuda* this case is one of the exceptions to the rule, since *gid ha'nasheh* is an *issur chamur* – extreme prohibition – in that according to *R' Yehuda* this prohibition also applies to *bnei noach*.

The *Gemara* explains the position of the *Chachamim* in two ways. Either they maintain that the *gid* has a flavour yet disagree with *R' Yehuda* arguing that we do have an issue of *ein issur chal al issur*. Alternatively, the *gid* does not have a flavour, and there is potentially only one prohibition to be concerned about – *gid ha'nasheh*. Nevertheless, since the *Torah* states "therefore *Bnei Yisrael* shall not eat the *gid ha'nasheh*", it implies we are dealing with an animal about which the rest of it may be consumed. Considering that the *Chachamim* have a logical position that is not based on the when the *mitzvah* was given, why was the timing raised in their response in the *Mishnah*?

The *Rashba* (102a) answers that the *Chachamim* in our *Mishnah* were working according to *R' Yehuda's* position. Granted that according to the *Chachamim* the chronology is irrelevant, according to *R' Yehuda*, for who the chronology is important, they argue that the *mitzvah* was given at *Sinai*. Considering the *Rambam* above, countering *R' Yehuda* with this line of reasoning also teaches us the important principle regarding *mitzvot* prior to *Har Sinai*.

The *Rosh Yosef* (cited in the *Ilkut Bi'urim*) however explains that *R' Yehuda's* statement regarding the chronology was made to counter the position of the *Chachamim*. If they maintained *ein issur chal al issur*, then at the time of *Yaakov Avinu*, all meat was permitted – there was no other *issur*. Alternatively, if the *Chachamim's* position was based on the *pasuk* that it only applied to animal's whose meat was permitted for consumption, then at that time all meat was permitted. Consequently, that *pasuk*, when given, applied to all animals. This then explains why the *Chachamim* respond that the *pasuk* was referring not to the time of *Yaakov Avinu*, but rather when the *mitzvah* was given at *Har Sinai*.

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Revision Questions

חולין ז' א' – ט' ב'

- To which animals does the prohibition of *gid hanasheh* apply? (ז' א')
- Explain the debate whether the prohibition of *gid hanasheh* applies to a foetus. (ז' א')
- Can a butcher be trusted to say that they removed the *gid hanasheh*? (ז' א')
- Can one gain benefit from the *gid hanasheh*? What case is brought as an example of this law? (ז' ב')
- Is one liable to lashes if he ate a complete *gid hanasheh* that was less than a *kezayit* in size? (ז' ג')
- Why does *R' Yehuda* maintain that if one eats the *gid hanasheh* from both legs of the animal is he liable to only one set of lashes? (ז' ג')
- What is the law if a thigh was cooked with the *gid hanasheh*? (ז' ד')
- What is the law regarding a piece of *neveilah* that was cooked with other pieces of meat? (ז' ה')
- Regarding the previous question, what is the law regarding the sauce? (ז' ה')
- Explain the debate regarding whether the prohibition of *gid hanasheh* applies to non-kosher animals. (ז' ו')
- Meat from which animals does the prohibition of *basar b'chalav* apply? (ז' ח')
- Regarding which two other laws does this definition of meat apply? (ז' ח')
- What debate relating to *basar b'chalav* does *Beit Shammai* take a lenient stance? (ז' ח')
- In what manner is one allowed to wrap meat and cheese in the same napkin? (ז' ח' ב')
- Regarding whom does *Rabban Shimon ben Gamliel* allow to eat meat and milk at the same table? (ז' ח' ב')
- What is the law regarding a drop of milk that falls onto a piece of meat in a boiling pot? (ז' ח' ג')
- What is the exception to the rule in the previous question? (ז' ח' ג')
- What must one do in order to cook and eat the udder of a cow? (ז' ח' ג')
- Does the prohibition of *basar b'chalav* apply to non-kosher animals? (ז' ח' ד')
- What is the law regarding cheese that was made using the stomach of an animal? (ז' ח' ה')
- How is the prohibition of *cheilev* stricter than blood? (ז' ח' ו')
- How is the prohibition of blood stricter than *cheilev*? (ז' ח' ו')
- For which type of *tumah* can the hooves combine with the meat to make up the minimum *shiur*? For which type of *tumah* do they not combine? (ז' ח' ט')
- What other case is brought where there is a similar difference between these two forms of *tumah*? (ז' ח' ט')
- What part of the hide of an animal has the status of meat? (ז' ח' ט' ב')
- For all the skins/hides listed in the *Mishnah* that have a status of meat, when can they lose that status? (ז' ח' ט' ב')
- What does *R' Yochanan ben Nuri* add to this list? (ז' ח' ט' ב')

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Melbourne, Australia

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Chulin 9:3-4	Chulin 9:5-6	Chulin 9:7-8	Chulin 10:1-2	Chulin 10:3-4	Chulin 11:1-2	Chulin 12:1-2

