

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY

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Shiur 01: Wearing Shoes on Yom Kippur

One of the five experiences forbidden on Yom Kippur relates to wearing shoes – "ne'ilat ha-sandal." Though the commonly accepted practice is to allow non-leather shoes, several positions among the Rishonim may suggest a total ban on all shoes, regardless of material. This question stems from our understanding of the basis of this prohibition against wearing shoes on Yom Kippur.

As noted in an earlier shiur, (5755 Shiur #39), the Torah does not specifically mention the five inuyim (deprivations) of Yom Kippur. Instead, it simply establishes an obligation of inuy. By iterating this instruction five times, the Torah alludes to five experiences from which one must abstain, since they relieve the suffering required by the inuy obligation. Chazal determined for us the five experiences to which the Torah presumably refers. With regard to ne'ilat ha-sandal, the gemara in Yoma (77a) extracts this prohibition from a pasuk in Yirmiyahu (2:25) which juxtaposes bare feet with thirst ("Min'i ragleikh mi-yachaf u-geroneikh mi-tzama"). Based on this implicit association, the gemara concludes that donning shoes disrupts inuy just as drinking liquids brings one relief from thirst. Notably, the gemara does not cite any pasuk or other source which specifically mentions shoes. Instead, the EXPERIENCE of walking barefoot is compared to the discomfort of thirst.

How might we understand the issur of ne'ilat sandal on Yom Kippur? Does this law forbid wearing only shoes, or outlaw any material worn to protect the foot? This fundamental question, which arises from the fact that the Torah never actually refers to shoes, could potentially impact several issues concerning the scope of the ne'ilat ha-sandal prohibition.

The Terumat Ha-deshen (siman 149) questions the permissibility of standing upon leather pillows or mats on Yom Kippur. This certainly shields the feet from contact and pressure, but clearly differs from wearing shoes. He remains somewhat ambivalent in his conclusion, and the uncertainty stems from an ambiguity in the comments of the Mordekhai regarding pillows. Ultimately, he writes that there is ample room for leniency, though one should preferably avoid this type of comfort. Clearly, this question revolves around the nature of the prohibition. If the prohibition relates specifically to shoes, then pillows should obviously be allowed. But if the issur means that one may not protect his feet from contact with the ground, we would outlaw pillows, as well.

The Or Zarua (Hilkhos Yom Ha-kippurim 277) issues a very provocative ruling that also touches upon this fundamental question. He allows wearing torn shoes on

Yom Kippur, though he admits indecision regarding the extent to which a shoe must be torn for this ruling to apply. Presumably, he believed that only shoes are forbidden on Yom Kippur, and that once a shoe is torn and thus loses its halakhic status as a "shoe," it may be worn. In fact, the Terumat Ha-deshen quoted this ruling of the Or Zarua as a basis for permitting standing on leather pillows. Logically, one might accept the Terumat Ha-deshen's position without necessarily embracing the leniency of the Or Zarua. Even though the prohibition was formulated as banning shoes, to the exclusion of pillows, we might still forbid torn shoes. True, a severe tear might eliminate the formal status of a shoe and may have implications regarding tum'a (only halakhically defined utensils or articles of clothing may receive tum'a status) or even chalitza (which may only be performed with an undamaged shoe). On Yom Kippur, however, one may not wear anything which functions as a shoe even if the formal status of a shoe is eliminated. An item which still functions as a shoe (by surrounding the foot) - even if its damage has eliminated its formal halakhic status – may still be forbidden.

Undoubtedly, the most significant halakhic issue affected by the definition of the issur is the question of which materials are forbidden. The gemara itself actually ponders this question and inquires about rubber shoes and shoes constructed of various other materials. The dominant position among the Rishonim prohibits leather but allows all other materials. Based on comparisons to the laws of chalitza, these Rishonim maintain that only leather shoes are halakhically recognized as "shoes," and thus only they are forbidden on Yom Kippur. A notable dissenting opinion can be discovered in the Rambam, who doesn't specifically mention leather, but does permit rubber shoes or wrapping a cloth around one's feet. In his justification for this allowance, he claims that in these instances "the contact with the ground will still be felt and he will feel barefoot." The simple reading of the Rambam implies two notions:

- 1) The Rambam defined the issur as forbidding anything which absorbs the contact and protects the feet.
- 2) Though rubber shoes and cloth wraps are permitted, wooden shoes would probably be forbidden, and modern-day cloth shoes, which also absorb impact, would likewise be prohibited. In fact, one may even question how the Rambam would rule about rubber shoes with sturdy soles. Since the impact is absorbed, these, too, should perhaps be forbidden.

It is fairly evident from the Rambam's formulation that he defined the prohibition very differently than most other Rishonim. Interestingly, however, the Lechem Mishneh disagrees with this reading and claims that the Rambam, in line with most other Rishonim, would allow any non-leather shoe.

This debate regarding the nature of the issur may have already evolved in the debates among the Amoraim. The gemara in Yoma (78b) cites a machloket between Rabbi Meir and Rabbi Yossi whether one may walk through a public domain on Shabbat with a prosthetic device. Rabbi Meir deems an artificial foot a shoe, and thus permits wearing it on Shabbat, whereas Rabbi Yossi claims that it is not a shoe and thus may not be worn in public on Shabbat. Yet, the gemara cites a berayta claiming that both Tannaim would prohibit wearing such a device on Yom Kippur. (It is not clear, however, that all Tannaim accept this 'unanimous' prohibition on Yom Kippur. See the Ramban's comments in the Milchamot Hashem to Yoma 77). Abayei and Rava offer

different readings of this passage. Abayei claims that although Rabbi Yossi doesn't define this artificial foot as a shoe, since it braces the foot and provides 'ta'anug' it is universally prohibited. Abayei very likely defined the issur of ne'ilat ha-sandal as a prohibition against benefiting from 'shock' and 'contact' absorption. Rava retorted to Abayei, "Is pleasure from non-shoes forbidden on Yom Kippur? Didn't Rabba bar Rav Huna wrap a garment around his foot on Yom Kippur (which, according to Rava, provided support)?" Rava therefore claimed that both Rabbi Meir and Rabbi Yossi consider a prosthetic device a shoe, and it is therefore forbidden on Yom Kippur according to all views. Their debate concerning wearing such a device in public on Shabbat surrounded a parochial Shabbat issue: should we fear that a person might remove the device and carry it, in violation of Shabbat. But since there is no debate about its status as a shoe, it may not be worn on Yom Kippur. Rava evidently believed that only shoes are forbidden, and conceded that by prohibiting an artificial foot on Yom Kippur, both Rebbi Meir and Rebbi Yossi define it as a shoe.

The Shulchan Arukh (O.C. 614) appears to follow the lenient position adopted by most Rishonim, that shoes made from neither leather nor wood are permitted. The Magen Avraham shows some sensitivity for the more stringent position of the Rambam, and this sensitivity is echoed by the Chatam Sofer. The Taz, however, issues a strident defense of the commonly accepted practice to wear non-leather and non-wooden shoes, and strongly opposes any attempts to alter the accepted norm. The Mishna Berura (614:5), by contrast, is far more embracing of the chumra not to wear sturdy shoes of any material.