

**שבת קודש פרשת שמיני | מסכת כתובות דף ל"א**

**IYUN ON THE DAF**

By Rabbi Yitzchok Gutterman

**T**he Gemara brings אבין רבי who says that if someone shoots an arrow on שבת and it tears some clothes on its way that the person is פטור from paying for the clothes because of the concept of מיניה. The reason we say his is פטור even though the clothes ripped before they went into the new ישות is because we view the עקירה of the arrow as a הנחה. What exactly does עקירה צורך הנחה do for us? The חידושי הגר"ט in סימן ל"ח has a very crucial piece on this topic. He explains that there are two ways in which ליה בדרבה מיניה works. One is a דין in חפצא and one is a דין in גברא. If a single person will be get a חיוב מיתה and a חיוב תשלומין at the exact same moment then he is פטור because גברא cant get both חיובים at the same moment. The other way to use ליה קם is in חפצא which means that we can't have two punishments from the same one action. With the first way the focus is the moment in time and the second way is the same one action even if it isn't the same moment in time. When we look at the person shooting the arrow, the two חיובים are not occurring at the same moment in time and saying עקירה צורך הנחה doesn't change that. However, it does make it that it is considered the same one action so קם ליה would apply. He uses this יסוד to answer the הפלאה's question. The הפלאה asks that once we say עקירה צורך הנחה, why didn't the גמרא say a simpler case where the person shot an arrow and then ripped the clothes himself? The answer is that those are clearly two separate actions and the חיובים are happening at two separate times so קם ליה could not possibly apply.

**STORIES OFF THE DAF**

Sir Moses and the Czar

הגונב כיס בשבת חייב

**T**his week's daf discusses the situation of a person who has stolen a purse on Shabbos by taking it into the public domain. The conclusion is that the person is not obligated to pay because at the very same time that he stole it, he did the melachah of carrying, and we have a principle of קים ליה בדרבת מייה - the greater punishment alone suffices when a multiple violation has occurred. Engaging in labor on Shabbos is one of the worst possible sins! Only a threat to life or limb can serve as an excuse for chilul Shabbos.

In the middle of one of the worst Russian pogroms, Sir Moses Montefiore approached the Czar to petition that he act to save the Jews' lives. The Czar, a virulent anti-Semite, was not very interested in going out of his way for a people whom he despised, but Montefiore was a nobleman himself and had many connections to important people. It was clear that he had the power to bring tremendous pressure to bear on the Czar and could make things unpleasant for him. It seemed as though there was no choice but that the pogroms be forcibly halted or there would be very unpleasant publicity which would show Mother Russia in a deplorable light. As it turned out, however, the Czar had an alternate plan.

One Shabbos, the Czar sent a letter to Sir Moses by courier. Although he assumed it was important, Montefiore nevertheless said to the messenger, "It's Shabbos and as an observant Jew I cannot open this letter."

The messenger opened it for him... and instantly dropped dead! The letter had contained a highly lethal material which killed anyone who even breathed it. Sir Moses immediately saw how the Czar planned to "solve" the problem. Realizing he was a wanted man, Sir Moses fled Russia at the first opportunity!

**SEFIRA CONNECTION**

**In this week's daf** the גמרא discusses someone who violated בשבת. The timing of the מצוה of ספירת העומר is also described in the תורה as starting ממחרת השבת. The ממחרת השבת is referenced here as יום טוב and not ראשית. Why did the תורה refer to יום טוב as שבת, which we know caused a lot of disagreement with the צדוקים who insisted that העומר must always start on a Sunday. Furthermore the תורה in פרשת אמור refers to the 7 weeks as שבע שבתות, like it says: וספרתם לכם ממחרת השבת מיום הביאתכם את עמר התנופה שבע שבתות תמימת תהייה פרק טז, in ספר דברים like it says in פרק טז, (פרק כג, וט) שבעה שבעת תספר לך מהחל. חרמש בקמה תחל לספר שבעה שבעות. The הקודש offers the following insight based on the זוהר regarding these 7 weeks. The זוהר compares these weeks to the שבעה נקים which a woman must count before she can go to the מקוה. בני ישראל are meant to elevate ישראל from מצרים in preparation for תורת. The word שבת means rest and in this context it means "resting" from עבודה זרה. It is therefore appropriate to describe these 7 weeks as שבתות, because it refers to our "resting" from טומאה and elevating ourselves in preparation for תורה. Perhaps this is also why we mention the ספירות of חסד, גבורה etc, every day, because we are ascending the 49 levels of קדושה and moving further away from טומאה.

## HALACHA HIGHLIGHT

Nutrition on  
Yom Kippur

גונב חלבו של חברו ואכלו

*One who steals his friend's cheilev and eats it...*

**P**oskim debate whether a person violates the prohibition against eating on Yom Kippur when the food goes down his throat (הנאת גרונו) or when his stomach is sated (הנאת מעיו).

Chasam Sofer<sup>1</sup> writes that since the Torah does not prohibit eating on Yom Kippur with the terminology of eating (לא תאכל) but rather instructs that a person must suffer (עינוי), this prohibition against eating is fundamentally different from other prohibitions. Although other eating related prohibitions are violated when the person swallows the prohibited food, on Yom Kippur the prohibition is not violated unless one's stomach benefits from the food. One of the proofs cited is our Gemara. Why, asks Chasam Sofer, does the Gemara refer to a case of stealing and eating cheilev when it could also refer to stealing and eating bread on Yom Kippur? Explains Chasam Sofer that the food is stolen when it goes down the throat, since at that point it is irretrievable, but for eating on Yom Kippur one is not liable until the food reaches the stomach. Therefore the two transgressions are not occurring simultaneously and thus the Gemara was compelled to present a case where the two transgressions occur simultaneously.

According to the approach of Chasam Sofer, Rav Chaim Ozer Grodzinski<sup>2</sup>, the Achiezer, was asked whether it is permitted to feed a person through a tube in a way that the food does not touch his mouth or throat. Achiezer responded that he is certain that the novel ruling of Chasam Sofer is limited to cases where a person eats the food but if the food does not even go into one's throat it is not an act of eating and is not prohibited even if one's stomach benefits from the food. The Avnei Nezer<sup>3</sup> suggests as proof to this position the fact that there is a mitzvah to eat Erev Yom Kippur before it is dark even though his stomach will not benefit from that food until after it is dark. This clearly indicates that benefit in the stomach, without being associated with eating, is not included in the prohibition. Accordingly, Poskim<sup>4</sup> write that the prohibition against eating is not violated if one receives nutrients intravenously.

1. שו"ת חת"ס אור"ח סי' קכ"ז

2. שו"ת אחיעזר ח"ג סי' ס"א

3. בספרו אגלי טל מלאכת טוחן ס"ק ס"ב אות ב'

4. ע' שו"ת חלקת יעקב אור"ח סי' רט"ז

## MUSSAR FROM THE DAF

Exacting  
Punishment

**T**he Gemorah continues the discussion of not punishing a person with a monetary fine if they were already given a chayiv misa - "Kam Lei Bid Rabah Minay"

Since we are just past the 2nd days of Pesach when we read about the Mizrayim drowning in the sea, we should mention the kasha of many achronim (Mishna L'Melech, Lechem Asher). We see how Hashem punished the mitzrayim with misa at the yam, but we also know that they were also given a monetary punishment, in which Klal Yisroel took their riches as they left Mitzrayim. How did Hashem give them this double punishment? Doesn't it go against the Clal of Kym Le Draba Mina? (This is only a kash according to the klal of Rabi Nachumia בן הקנה and not is not a kasha according to the Rabbnan who hold this only applies to punishments from the Bais Din)

Lets first discuss a possible machshava behind the clal of "Kam Lei Bid" Rabah Minay". We know that any Onesh is a caparah for the one who did the avera. Since one is giving an exacting punishment for an avera that should allow the person to receive a caparah, there is no reason to also demand of him a monetary fine as he is already receiving is caparah through an onesh such as Mlsa.

Now we can understand a possible answer to the question regarding the mitzrim Since Hashem first took away their treasures as an onesh, apparently this onesh wasn't enough to allow them to rethink their ways and be a capara, as they continued to chase after Klal Yisroel. Now that they continued in their ways, Hashem deemed the nation now to be worthy of a chayiv Misa through drowning in the Yam Suf.

This is an important Klal to remember. As Rav Yitzchak Blazer taught, that there is also a Shulchan Aruch to a ganav as we only give the onesh to the sinner what he deserves and not any more. Practically when one has to give a consequence to a child or student, one has to think very hard and only give up to what they deserve and not a drop more.

## POINT TO PONDER

Rashi writes ד"ה וקרע שיראים בשעה שבולעה does he mean that the act of swallowing the תרומה caused the clothing to tear? How can this happen?

### Response to last week's Point to Ponder:

Rashi writes דף ל ע"ב ד"ה אבעי ליה לאהדורה the first person didn't do anything and therefore he doesn't owe anything to the כהן. Since the first person took the תרומה from the כהן he should be חייב for גניבה, so why does רש"י write that he doesn't owe him anything?

As long as the object was intact, he could have returned it to the original owner, and thereby fulfill his obligation. Now that the second person ate it and it is no longer "returnable", it is the second person who has to pay for damaging the original object. (See ברכות אברהם).

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, [dafaweek.org](http://dafaweek.org), or download the app

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