

Daf Notes

Insights into the Daily Daf

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Daily Daf

Thoughts of a Child

Rav Chiya bar Abba quoted Rabbi Yochanan asking whether a child's thought carries legal weight.

Rabbi Ami noted that since Rabbi Yochanan only asked about thought, he must know that a child's action does carry legal weight.

Rabbi Ami challenged his question, since the same *Mishna* which teaches that a child's action carries legal weight also teaches that his thought does not. The *Mishna* teaches that if a child hollowed out a fruit shell to measure dirt, or to use for a balance, it is considered a vessel, and can become impure. The *Mishna* explains that this is because a child's action is legally valid, but his thought is not.

Rav Chiya bar Abba answered that although a child's independent thought is not valid, Rabbi Yochanan's question is about a child's thought which is apparent in his actions, e.g., a child who moves an *olah* sacrifice from the south to the north of the courtyard, indicating that he is slaughtering it as an *olah*.

The *Gemora* challenges this, as Rabbi Yochanan already proved that such a thought is valid. The *Mishna* says that if one put his fruit on the roof to avoid infestation, and

then dew fall on it, the fruit does not become susceptible to impurity, but if he is pleased when he sees the dew on it, it does become susceptible. However, if a child, deaf-mute, or an insane person put the fruit, it is not susceptible, regardless of his thoughts on the dew. Rabbi Yochanan clarified that if the child stirred the fruits once the dew fell, indicating his pleasure, it is susceptible. This proves that Rabbi Yochanan considers a thought indicated by actions to be legally valid.

Rav Chiya bar Abba clarified that Rabbi Yochanan's question was whether such a thought is valid according to Torah or Rabbinic law.

Rav Nachman bar Yitzchak said that Rabbi Yochanan's question was whether a child's action is legally valid. Rabbi Ami noted that since Rabbi Yochanan is assuming that a child's thought is not valid, from the *Mishna* about impurity of a fruit shell, he should also use the same *Mishna* to learn that his action is valid.

Rav Chiya bar Abba answered that Rabbi Yochanan's question was whether the child's action was valid according to Torah or Rabbinic law. Rabbi Yochanan resolved his question with the conclusion that a child's action is valid from the Torah, his independent thought

is not valid at all, and his thought that is apparent from his actions is valid Rabbinically. (12b – 13a)

Inadvertent Slaughtering

Shmuel asked Rav Huna how we know that one who inadvertently slaughtered a sacrifice is invalid. Rav Huna answered that the verse says that one must slaughter “the ox,” indicating that the act must be with the intent of slaughtering the ox.

Shmuel answered that he knew this verse, but this may only teach the correct way to slaughter. He was asking how we know that it invalidates the sacrifice, and Rav Huna answered that the verse states that one must slaughter the sacrifice *lirtzonchem* – for your intent, and this extra verse teaches that it is invalid if done. (13a)

Non-Jew’s Slaughtering

The *Mishna* says that an animal slaughtered by a non-Jew is *neveilah* – a non-kosher carcass, and therefore makes someone who carries it impure.

The *Gemora* infers that the animal is a *neveilah*, but we are not prohibited from benefiting from it.

Rav Chiya bar Abba quotes Rabbi Yochanan saying that this is inconsistent with Rabbi Eliezer, who says that we assume that a non-Jew’s intent in slaughtering an animal is for idolatry, which would be prohibited from benefit.

Rabbi Ami infers from the *Mishna* that while an animal slaughtered by a non-Jew is a *neveilah*, an animal slaughtered by a *min* – committed devotee of idolatry is considered a sacrifice to idolatry, and therefore prohibited from benefit. This supports the *braisa*, which says the following about a *min*:

1. An animal he slaughters is considered an idolatrous sacrifice
2. His bread is like a Cuthean’s
3. His wine is assumed to be libated to idolatry
4. His books (even books of the Tanach) are considered idolatrous

5. His fruit is considered untithed
6. Some say his children are considered illegitimate, as he does not mind if his wife is unfaithful. The first opinion says that he still does want his wife to be faithful, and we therefore assume his children are legitimate. (13a – 13b)

Devotion to Idolatry

The *Gemora* asks why we an animal slaughtered by a non-Jew is only a *neveilah*, as he may be a *min*, who slaughters as a sacrifice to idolatry?

Rav Nachman answers in the name of Rabbah bar Avuhah that there aren’t non-Jewish *mins*.

The *Gemora* explains that, as we see, there are non-Jews who are *mins*, but Rav Nachman means that most of them are not, just as Rabbi Yochanan says that non-Jews outside of *Eretz Yisroel* simply worship idolatry out of tradition, and not out of devotion.

Rav Yosef bar Minyomi quotes Rav Nachman saying that there is no category of *min* among non-Jews. The *Gemora* explains that he is not referring to slaughtering, as an animal slaughtered by a Jewish *min* are considered an idolatrous sacrifice, so certainly one offered by a non-Jewish *min* is. He is also not referring to the rule that one may put a *min* in a dangerous situation, as one may do that to a Jewish *min*, and certainly to a non-Jewish *min*.

Rav Ukva bar Chama says he is referring to accepting a sacrifice offered in the Bais Hamikdash, as stated in the *braisa*. The *braisa* explains that the verse which refers to a person *mikem* – from you, who offers a sacrifice excludes one who rejects the Torah. Since the verse excludes such a person from the category of *bachem* – you this only applies to Jews.

The *Gemora* explains that the verse cannot be teaching that a non-Jew cannot offer a sacrifice at all, since the other verse explicitly includes a non-Jew in offering a sacrifice, when it refers to *ish ish* – any man. (13b)

Impurity of Carcasses

The *Gemora* asks why the *Mishna* must state that the animal slaughtered by a non-Jew makes someone who carries it impure, as this is implied once we learn that it is a *neveilah*.

Rava says that the *Mishna* is teaching that only *this* animal has only the impurity for carrying, but there is another category of animal which makes anyone in the same tent impure. This category is an animal sacrificed for idolatry, which Rabbi Yehudah ben Beseirah says makes someone in the same tent impure.

The *Gemora* cites an alternate version, in which Rava says that the *Mishna's* statement about impurity is teaching that all animals slaughtered by a non-Jew, even one slaughtered for idolatry. This is in contrast to Rabbi Yehudah ben Beseirah's opinion.

The *Gemora* concludes by citing the *braisa* in which Rabbi Yehudah ben Beseirah states that a sacrifice for idolatry makes someone in its tent impure, as the verse refers to such a sacrifice as a sacrifice of the dead, teaching that it is tantamount to a corpse. (13b)

Slaughtering at Night

The *Mishna* says that if one slaughters at night, or if a blind person slaughters, it is valid.

The *Mishna* implies that slaughtering is valid if done at night, but should not be done to begin with.

The *Gemora* challenges this implication from a *braisa*, which says that one may slaughter any time, day or night, and anywhere, including on a roof or a ship.

Rav Pappa answers that the *braisa* refers to slaughtering with torchlight, which one may do to begin with.

The *Mishna* refers to slaughtering at night without a torch, which is valid, but should not be done.

Rav Ashi notes that this is indicated by the context of our *Mishna*, which lists night along with a blind person, implying that the issue with slaughtering at night is a lack of visibility. (13b)

INSIGHTS TO THE DAF

Child's play?

Rabbi Yochanan discusses the different levels of validity of a child's thoughts and actions, and concludes with the following three categories:

Category	Validity
Actions	Valid from the Torah
Independent thoughts (unrelated to action)	Invalid
Thoughts indicated by actions	Valid from Rabbinic law

Rashi and Tosfos differ on the definition of these categories. Rashi offers the following definitions:

Category	Definition	Example
Action	An action, with intent explicitly stated	Bringing an <i>olah</i> from the south to the north, stating, "I am bringing it to the north, to sacrifice it in the correct place"
Independent thought	Only says, no action	Saying that he plans to use the fruit peel as a utensil
Thought indicated by action	Action, without explanation	Bringing the <i>olah</i> from south to north, without explanation

Tosfos (12b v'tiba'i) disagrees, saying that a child's words does not carry any legal weight. Rather, Tosfos says these three levels are differing levels of probability of the child's true intent, based on his actions. Tosfos offers the following definitions:

Category	Definition	Example
Action	Intent is obvious from the action	Hollowing out a fruit peel
Independent thought	Intent not likely from action	Putting fruit on the roof to avoid infestation. The goal of later having them wet from dew is unlikely
Thought indicated by action	Intent probable from action, but may be for another intent	Bringing the <i>olah</i> from south to north, probably for the right place, but possibly for a good spot

Rashi explains that the case is one who was simply swinging a knife around, without any intent to cut, and happened to slaughter a sacrifice.

Tosfos (13a minayin) disagrees, since such an act may not even be valid with an unsanctified animal, as the Sages require that one plan to sever the animal's pipes. Rather, Tosfos says the case is one who planned on severing the sacrifice animal's pipes, but not on slaughtering it per se.

Tosfos also notes that another case of *misasek* is when he thought he was slaughtering an unsanctified animal, and slaughtered for that purpose. All of these cases are included from the verse cited by the *Gemora*.

The poskim discuss whether a child may place the covering on a *sukkah*. Although one need not intend to place the covering for the *mitzvah* of *sukkah*, the covering must be for the purpose of shade.

The Pri Megadim (OH 635, Mishbetzos Zahav 1) says that it is valid, since this is considered an action with intent.

However, the She'alas Shlomo (1:90) says that this is considered a case of only thoughts, and therefore would not be valid. Even if the child states his intent, according to Rashi, this would make it a case of thought indicated by action, but that is only valid Rabbinically.

The Avnei Nezer (475) rules that it is valid, as long as the one telling the child to place it intends it for shade, as there is no requirement that one have special intent, but rather that the covering be placed for the purpose of shade.

Rav Ovadia Yosef (Chazon Ovadia Sukkos p. 64) rules that a child may place the covering on the *sukkah*.

Inadvertent Slaughtering

The *Gemora* discusses the source for invalidating one who slaughters a sacrifice when *misasek* – inadvertently.

Non-Jew's Slaughtering

The *Mishna* states that an animal slaughtered by a non-Jew is invalid.

Tosfos (3b kasavar) says this is because the verse mandates "you shall slaughter and you shall eat," teaching that only one who must slaughter makes the animal fit for eating.

The Rambam (Shechitah 4:11) says that the source is the verse which warns the Jews from making treaties with the non-Jews, as they will offer sacrifices to their idolatry, and they will invite the Jews, who will eat from their slaughtering. This progression indicates that the very act of eating from their slaughtering is a transgression, teaching that their slaughtering is invalid.

The Rambam says that from this verse any non-Jew's slaughtering is invalid, even if he is a minor, i.e., and therefore he cannot have serious intent for idolatry.

The Rambam then proceeds to say that the Sages further decreed that even a non-idolatrous non-Jew's slaughtering is invalid.

The commentators explain that since the verse connects the prohibition of eating from a non-Jew's

slaughtering with his idolatry, this would not apply to a non-idolatrous non-Jew.

The Rosh disputes the Rambam's reason, saying that the verse does not seem to be teaching anything per se about their slaughter, and he therefore agrees with Tosfos's source.

The Taz (YD 2:1) discusses the halachic differences between these two sources. He suggests that a Jew who totally disregards the requirement of slaughtering would be a difference. The Rambam would consider such a slaughtering is theoretically valid (as long as we know that it was done correctly), as the verse only excludes a non-Jew, while Tosfos would not consider it valid, as this person is not included in the category of one who slaughters.

The Taz rejects this, as the Rashba, who quotes Tosfos's reason, says that such person's slaughtering is valid.

He then suggests that the case of *ger toshav* – a non-Jew resident of Eretz Yisrael, who follows the seven Noachide laws, would be a difference. Such a person is not commanded to slaughter, yet he does not worship idolatry. Therefore, Tosfos would consider his slaughtering invalid, while the Rambam would consider his slaughtering valid. The Taz notes that the Rambam still says his slaughtering is Rabbinically invalid.

The Shach (2:2) disputes this explanation of the Rambam, and says that the correct text is that the Sages decreed that a Cutheans slaughtering is invalid, even if he does not worship idolatry.

The Shach says that the Rambam holds that any non-Jew's slaughtering is invalid from the Torah, even if he himself is not idolatrous, e.g., a *ger toshav*.

Rav Chiya bar Abba infers that the *Mishna*, which says that an animal slaughtered by a non-Jew is only prohibited in eating, does not follow Rabbi Eliezer, who says that we assume a non-Jew slaughters any animal as a sacrifice to idolatry. Rabbi Ami then says that we can infer from the *Mishna* that while a non-Jew's

slaughtering is only a *neveilah*, a *min's* slaughtering is considered a sacrifice to idolatry.

Rashi explains that Rav Chiya bar Abba and Rabbi Ami both agree that the *Mishna* does not follow Rabbi Eliezer, and they only learn different inferences from the *Mishna*.

Rabbeinu Gershom says that they do disagree. Rabbi Ami says that the *Mishna* does follow Rabbi Eliezer, but he says that Rabbi Eliezer only was referring to someone especially devoted to idolatry, like a *min*.

Sacrifices of the Dead

The *Gemora* discusses whether the *Mishna*, which says that an animal slaughtered by a non-Jew makes someone who carries it impure, is following the opinion of Rabbi Yehudah ben Beseirah, who says that if an animal is slaughtered for idolatry, it even makes someone in the same tent impure. The *Gemora* then cites the *braisa*, in which Rabbi Yehudah ben Beseirah says that the source for his opinion is the verse, which refers to such a sacrifice as a sacrifice of the dead. The comparison to the dead teaches that the sacrifice is like a corpse, which makes someone in the same tent impure.

Tosfos (13b tikroves) asks why the *Gemora* assumes that only Rabbi Yehudah ben Beseirah says that it has this impurity. The verse which he cites is also the source to the halachah, which all agree to, that such a sacrifice is prohibited from benefit, just like a corpse. If all accept this verse's principle of equivalence of this sacrifice to a corpse, they should agree that it has the same impurity as a corpse.

Tosfos answers that while all agree that this verse equates the two, the Sages say this is limited to the realm of prohibition, but not regarding impurity. Only Rabbi Yehudah ben Beseirah extends this equation to the rules of impurity as well. Tosfos notes that even the Sages agree that the sacrifice makes someone in the same tent impure, but they say that this is a Rabbinic rule.