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Mav the studying of the Daf Notes be a zechus for their neshamot and mav their souls find peace in Gan Eden and be bound up in the Bond of life

Mechamer: Unintentional and Deliberate

Rav Zevid taught the preceding teaching in the following manner: Rami bar Chama said: If one performs *mechamer*, leading an animal carrying a load on *Shabbos*, if done unintentionally, he is not liable a *chatas* (for he did not perform the *melachah* by himself), and if done intentionally, he is liable *sekilah*, death by stoning (for the verse juxtaposes an animal and the owner in the same Biblical prohibition of performing *melachah* on *Shabbos*; just like when the man does *melachah* on *Shabbos*, he is liable *sekilah* for an intentional act, so too when he performs a *melachah* together with his animal, he is liable *sekilah* for the intentional act).

Rava objected (on the basis of the following *Mishna*): One who violates the *Shabbos* by performing an unintentional act and being liable a *chatas*, will be liable *sekilah* when performing the act intentionally. The implication for this statement is that if he will not be liable a *chatas* for committing the act unintentionally, he will not be liable *sekilah* for performing the act intentionally. [Accordingly, *mechamer*, where one is not liable a *chatas* when it is performed unintentionally, cannot be subject to *sekilah* when performed intentionally!?!]

The *Gemora* answers: Does the *Tanna* explicitly teach: If he will not be liable [a *chatas* for committing the act unintentionally, he will not be liable *sekilah* for performing the act intentionally]? He merely said: Every offence for which, if unintentionally, one is liable to a *chatas*, if deliberate he is liable to stoning. Yet there is something for

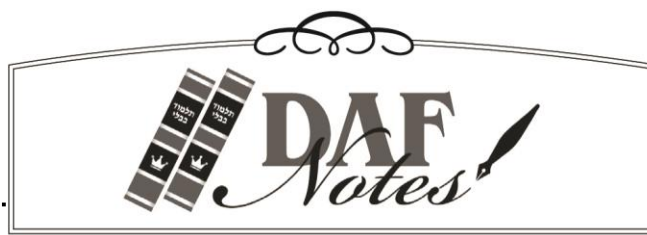
which, if performed unintentionally, a *chatas* is not incurred, nevertheless if performed deliberately, one is liable to stoning. And what is it? Leading a laden animal. (154a)

Rav Mari bar Rachel

Rava, the brother of Rav Mari bar Rachel, and others state, the father of Rav Mari bar Rachel ...

The *Gemora* interrupts the ruling, by asking the following: According to the second version there is the difficulty that Rav declared Rav Mari bar Rachel eligible for a position of authority, and appointed him as an officer of Babylon. [The law is that a convert to Judaism cannot be appointed to any leadership position over other Jews. This is based on the verse that states *som tasim alecho melech*. You must appoint over you a king... who is from the midst of your brothers. From the double term *som tasim*, we derive that any appointment to leadership must be from who descends from the Patriarchs, which would exclude a convert. In the case of Rav Mari bar Rachel, his father was not Jewish but his mother was Jewish, so Rav sanctioned the appointment of Rav Mari bar Rachel as an officer in Babylon. According to the second version, however, his father was indeed Jewish, so what was the necessity to declare him fit?]

The *Gemora* answers: Perhaps there were two men of the name of Mari bar Rachel. (154a)



The prohibition not to do any work is a warning not to perform a forbidden act of labor that could make one liable the death penalty.

The *Gemora* continues: He (*Mari bar Rachel*) taught in the name of Rabbi Yochanan that one who leads his animal on *Shabbos* is completely exempt. If he leads the animal unintentionally, he is not liable a *chatas*, because to be liable a *chatas* one must perform an act, like we find by idolatry. One who leads an animal intentionally and was not warned or did not have witnesses observing him violate the *Shabbos* will not be liable *sekilah*. The reason for this is that the *Mishna* states that one who violates the *Shabbos* with regard to an act that when performed unintentionally, one would be liable a *chatas*, then when performed intentionally one would be liable *sekilah*. The implication of this statement is that when one performs an act unintentionally and he will not be liable a *chatas*, then if he commits the act intentionally he will not be liable *sekilah*. One will also not be liable *malkus*, lashes, for having violated a negative commandment, because when the Torah states *lo saaseh melachah*, do not perform, any work, this is a negative prohibition that functions as a warning not to perform *melachah* lest one incur the penalty of death by *Beis Din* (court). One does not incur the punishment of lashes for transgressing a prohibition that serves as a warning for court-imposed execution. And even according to the opinion that maintains that a prohibition that serves as a warning for a court-imposed execution will make one liable lashes, he will agree that leading an animal on *Shabbos* does not make one liable lashes. The reason for this is that since the verse states, '*do not do any work you and your animal*,' the extra word *you* teaches that the person who performs the forbidden act will incur lashes, but when one animal performs a forbidden act, he will not incur lashes. (154a -154b)

If ones animal was carrying glass on *Shabbos*, one can bring pillows and cushions to place under the animal and then loosen the ropes holding the glass, and the glass will fall on the pillows and cushions.

The *Mishna* stated that one who was traveling immediately prior to *Shabbos* and reaches the outermost courtyard of the city, when unloading his donkey, he may remove utensils that can be moved on *Shabbos*. Regarding utensils that cannot be moved on *Shabbos*, however, he cannot move them directly. Rather, he must loosen the ropes that are attached to the saddle and the load falls on its own.

Rav Huna states that if the animal was carrying glass utensils, one may place pillows and cushions on the animal and then loosen the ropes and the sacks fall on their own. Although the *Mishna* stated that one may remove from the donkey utensils that can be moved on *Shabbos*, this case in the *Gemora* refers to glass pipettes used by one who lets blood, and since that glass has no value on *Shabbos*, they are deemed *muktzeh*. Allowing the glass to fall on the pillows and cushions does not constitute *mavatel kli maheichano*, nullifying a utensil from its state of preparedness, because the pipettes of glass are small and they can be removed indirectly from the pillows and cushions. (154b)

If one's animal was carrying *tevel* and glass bars before *Shabbos*, he must loosen the ropes and let the glass fall to the ground, even if the glass will break.

The *Gemora* asks from a *braisa*: If one's animal was carrying *tevel*, untithed produce and glass bars before *Shabbos*, he is required to loosen the ropes and let the loads fall to the ground on their own, even if the glass will break.

The *Gemora* answers that the reason for this is because we are dealing with large pieces of glass, and since they cannot be rolled off the pillows and cushions, if they were to land on the pillows and cushions, one would be *mavatel kli maheichano*; nullifying a utensil from its state of preparedness. The large pieces of glass are like the *tevel*, the untithed produce, which is useless on *Shabbos*. The



reason it was stated that the glass falls to the ground even if it breaks is to teach us that the Chachamim were not concerned with the minuscule financial loss involved, and they did not remove the decree of *mavatel kli maheichano*, nullifying a utensil from its state of preparedness, because of a slight financial loss. (154b)

If one's animal was carrying a sack of produce that was untithed before *Shabbos*, he should use his head to push the sack off the animal and the sack will fall off by itself.

The *Gemora* cites a *braisa*: Rabbi Shimon ben Yochai said: If one's animal was carrying a sack of produce before *Shabbos*, he should place his head under one end of the sack and push the sack over the other side of the donkey so that the sack will fall on its own. Rabban Gamliel's donkey was carrying honey at the onset of *Shabbos* but Rabban Gamliel did not want to unload the donkey until after *Shabbos*, and after *Shabbos* the donkey died.

The *Gemora* explains that although honey is edible and one can remove utensils that can be moved on *Shabbos* – as was taught in our *Mishna* - this case was dealing with honey that had spoiled. Rabban Gamliel was transporting the honey to be used as a remedy for wounds on the camels' backs.

The *Gemora* notes that loosening the sacks and letting them fall to the ground was not an option, because then, the honey would have been ruined. Placing pillows and cushions under the sacks was also not a solution, because then he would have been *mavatel kli maheichano*, nullifying a utensil from its state of preparedness. As far as *tzar baalei chaim*, causing pain to an animal, Rabban Gamliel was of the opinion that causing pain to an animal is only a Rabbinic prohibition, and the Chachamim did not waive the prohibition of being *mavatel kli maheichano* in light of the rabbinic prohibition of *tzar baalei chaim*. (154b)

Rabbah allowed his son to slide down the back of a donkey on *Shabbos*.

Abaye once saw Rabbah sliding his son down the back of a donkey on *Shabbos*. Rabbah justified his actions, by stating that the Chachamim never decreed a prohibition regarding the use of the sides of an animal.

The *Gemora* attempts to provide support for Rabbah from the *Mishna*, as we learned that one loosens the ropes holding *muktzeh* utensils and the sacks fall on their own. The assumption is that the sacks are saddlebags that are tied, and one has to lean on the donkey in order to loosen the saddlebags.

The *Gemora* rejects this proof, stating that the *Mishna* refers to saddlebags that are untied, and are held together by a pin. By freeing the pin the saddlebags fall down. Alternatively, the saddlebags are held together with chains that are tied with a clip. Either of these cases does not require that one lean on the donkey. (154b)

If a man makes two walls of a *sukkah* and a tree makes another wall, the *sukkah* is valid but one cannot use the *sukkah* on Yom Tov.

Abaye asked Rabbah from the following *Mishna*: If a *sukkah* is comprised of two man-made walls and a third wall that is formed by a tree, the *sukkah* is valid, but one cannot make use of the *sukkah* on Yom Tov. [*The reason for this is that since a tree is supporting the schach (sukkah covering), and one places utensils and removes them from the schach, when one uses the schach, he is using the tree, which is forbidden on Yom Tov.*] Does that not mean that one made grooves on the tree (*and fastened the wall into the tree*), so that it is the sides (*of the tree which is supporting the schach*), and thus proving that the sides are forbidden!?



The *Gemora* answers: No, it means that he bent over the tree and placed the *schach* directly upon it, so that he makes use of the tree (*itself*).

The *Gemora* asks: If so, consider the second clause: If three are made by man and a fourth is in a tree, it is valid, and one can make use of the *sukkah* on Yom Tov. But if he bent over the tree, why may he use it on Yom Tov? [*He still is making use of the tree, in spite of the other three walls, for the fourth side of the schach is still resting on the tree!?*]

[*The Gemora counters on Abaye:*] Then what would you say; that the sides are forbidden? The question then still remains: why may one make use of the *sukkah* on Yom Tov? [*It should be forbidden, for the fourth wall is being supported by the wall that is supported by the tree, and that, according to Abaye, is regarded as the side of the tree, and thus is forbidden!?*]

The *Gemora* answers: Rather, the *Mishna* is referring to a case where the wall was made out of spreading thick branches, and the tree itself was merely made a wall (*where the schach was not resting on that wall at all*). [*Rashi asks that the previous answer could have been retained, viz., that he bent over the branches of the tree, but rested the schach on the other three walls. He answers that since a fourth wall is not required at all for the validity of the sukkah, it is assumed that one would not go to this trouble unless he meant the schach to rest upon it. This is not the case if there happened to be a thick-branched tree standing in the spot to make a fourth wall.*]

The *Gemora* notes: This may be proven as well, for the *Mishna* stated: This is the general rule: wherever it (*the schach*) can stand if the tree were removed, one may make use of the *sukkah* on Yom Tov. This indeed proves it. [*It must be assumed that the sukkah is so made that the schach does not rest on the tree at all, as otherwise, it could not stand if the tree were removed. In conclusion, we cannot refute Rabbah's viewpoint that one is permitted to*

make use of the side of a tree, for this Mishna is referring to a case where the tree formed the wall.] (154b)

Everyone agrees that using the side of a tree is forbidden, and there is a dispute regarding using the sides of the sides of a tree.

The *Gemora* suggests that the dispute between Rabbah and Abaye is actually a dispute between *Tannaim*, for it was taught in a *braisa*: When a *sukkah* is comprised of two man-made walls and a tree forms one wall, the Chachamim maintain that one cannot use the *sukkah* on Yom Tov, and Rabbi Shimon ben Elozar in the name of Rabbi Meir maintains that one can use the *sukkah* on Yom Tov. The *Gemora* assumed that their dispute was that the Chachamim maintained that one cannot use the sides of a tree and that Rabbi Meir maintains that one can use the sides of a tree. [*The Chachamim were concerned that placing utensils on the schach that is supported by the tree would be deemed use of the side of a tree, and Rabbi Shimon ben Elozar quoting Rabbi Meir was not concerned about using the sides of a tree.*]

Abaye rejects this approach and states that even Rabbi Meir agrees that one is forbidden to use the sides of a tree. Rather, the dispute is regarding the sides of the sides of a tree, where the Chachamim maintain that one is forbidden to use the sides of the sides of a tree, and Rabbi Shimon ben Elozar quoting Rabbi Meir maintains that one can use the sides of the sides of a tree.

Rava maintained: He who forbids the sides forbids the sides of the sides as well, while he who permits the sides of the sides permits the sides as well.

Rav Mesharshiya asked on Rava from the following *braisa*: If one drives a peg in a tree and hangs a basket on it (*and places his eruv - food which allows him an extended boundary - in it; an eruv is not valid unless it is accessible on the Shabbos*) above ten *tefachim* from the ground, his *eruv* is not an *eruv* (*for a basket is generally four tefachim*



square, and if it is ten from the ground, it is technically a private domain, whereas the ground below is a public domain, and so one may not take the eruv from the basket; therefore, it is not accessible); below ten tefachim, his eruv is an eruv. Seemingly, it is only because he fixed a peg in the tree, but if he did not, even if it is below ten tefachim, his eruv is not an eruv. [If he merely tied the basket to the tree, the eruv is invalid because in order to get at it, he must make use of the side of the tree; where it is hanging on a peg, however, he only makes indirect use of the sides. Evidently, this Tanna forbids the sides, yet permits the indirect use of the sides?]

Rav Pappa said: Here, we are referring to a narrow-mouthed basket, so that in taking out the eruv he sways the tree, and thus makes use of the tree itself.

The Gemora rules: The law is that the sides are forbidden, but the sides of the sides are permitted.

Rav Ashi said: Now that you have ruled that the sides are forbidden, one must not rest an elevated ladder (one ascending a watchtower, set high up on poles near palm trees), because that is tantamount to the use of the sides of the trees; but he must rest it on pegs coming out of the palm, and when he ascends, he should not place his foot on the pegs, but on the rungs of the ladder. (154b – 155a)

INSIGHTS TO THE DAF

A Prohibition that Serves as a Warning for Court-Imposed Execution

The Gemora states that Rabbi Yochanan said that one who leads his animal on Shabbos is completely exempt. If he leads the animal unintentionally, he is not liable a chatas, because to be liable a chatas one must perform an act, like we find by idolatry. One who leads an animal intentionally and was not warned or did not have witnesses observing him violate the Shabbos will not be liable sekilah. The

reason for this is that the Mishna states that one who violates the Shabbos with regard to an act that when performed unintentionally, one would be liable a chatas, then when performed intentionally one would be liable sekilah. The implication of this statement is that when one performs an act unintentionally and he will not be liable a chatas, then if he commits the act intentionally he will not be liable sekilah. One will also not be liable malkus, lashes, for having violated a negative commandment, because when the Torah states *lo saaseh melachah*, do not perform, any work, this is a negative prohibition that functions as a warning not to perform melachah lest one incur the penalty of death by Bais Din (court). One does not incur the punishment of lashes for transgressing a prohibition that serves as a warning for court-imposed execution.

Tosfos¹ wonders why one would not be liable lashes because of the negative prohibition of *lo saaseh kol melachah*, one should not perform any work. Although this is a prohibition that serves as a warning for court-imposed execution, the Torah is still warning that one cannot perform the act of mechamer, leading an animal on Shabbos, and the prohibition of mechamer does not involve a death punishment, even though all other Shabbos prohibitions do involve the death penalty.

Furthermore, Tosfos asks, regarding every transgression that serves as a warning for a court-imposed execution, one should be liable lashes and not the death penalty, because at that moment of warning he was not warned regarding a court-imposed execution. Rather he was only warned regarding eth negative commandment, which if transgressed incurs the punishment of lashes.

Tosfos answers these questions with an essay regarding a prohibition that serves as a warning for court-imposed execution.

¹ 154a s.v. belav