

8 Nissan 5782
April 9, 2022



Yevamos Daf 33

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Daf Notes is currently being dedicated to the neshamah of

Tzvi Gershon Ben Yoel (Harvey Felsen) o"h

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Regarding what are they arguing? The Gemora explains that Rabbi Chiya and Bar Kappara are arguing in regards to an inclusive prohibition (*more objects become forbidden to the same people*) taking effect on an existing prohibition, and according to Rabbi Yosi (*who maintains that one prohibition can take effect on an existing one*). Rabbi Chiya holds that Rabbi Yosi maintains that the inclusive prohibition does take effect and therefore he has violated two transgressions. Bar Kappara holds that it does not take effect and he has violated only one prohibition.

The Gemora asks: What are the inclusive prohibitions in each of three cases cited above?

The Gemora answers: The first case is where a non-Kohen performed the Temple service in the Beis HaMikdash on Shabbos. The non-Kohen is permitted to perform labor, but is prohibited from perform the Temple service. When Shabbos arrives, we can say that since he is now prohibited from engaging in any labor, he also is prohibited from performing the Temple service on account of Shabbos. (*This is an inclusive prohibition since more objects become forbidden.*)

The second case is where a blemished Kohen who performed the Temple service in the Beis HaMikdash while he was *tamei*. The blemished Kohen is permitted to eat portions of the sacrificial offerings, but he is prohibited from performing the Temple service. When he becomes *tamei*, we can say that since he is now prohibited from eating portions of the sacrificial offerings,

he is also prohibited from performing the Temple service on account of *tumah*. (*This is an inclusive prohibition since more objects become forbidden.*)

The Gemora asks that the third case cannot be explained to be referring to an inclusive prohibition taking effect on an existing prohibition since both prohibitions take effect simultaneously. As soon as the *melikah* is performed, the meat of the bird offering becomes forbidden to a non-Kohen and it becomes a *neveilah* at the same time.

The Gemora explains that Rabbi Chiya and Bar Kappara are arguing in regards to simultaneous prohibitions, and according to Rabbi Yosi (*who maintains that he would be liable for two prohibitions*). Rabbi Chiya holds that Rabbi Yosi maintains that the inclusive prohibition does take effect and therefore he has violated two transgressions. (*Rabbi Yosi must be referring to the following case: Two brothers designated one agent to go and betroth two sisters. The sisters also appointed an agent to accept the betrothals for them. The agent of the brothers gave the two betrothals to the agent of the sisters simultaneously. The prohibition of his wife's sister and his brother's wife occurred simultaneously.*) Bar Kappara holds that it does not take effect and he has violated only one prohibition.

The Gemora asks: What are the simultaneous prohibitions in each of three cases cited above?

The Gemora answers: The first case is where a non-Kohen performed the Temple service in the Beis HaMikdash on Shabbos. This is referring to a case when he grew the two



pubic hairs that render him an adult on Shabbos. The prohibition against a non-Kohen performing the Temple service and the prohibition against engaging in labor on Shabbos occur simultaneously.

The second case is where a blemished Kohen who performed the Temple service in the Beis HaMikdosh while he was *tamei*. This is referring to a case when he grew the two pubic hairs that render him an adult after he had a blemish and became *tamei*. These two prohibitions occur simultaneously. Alternatively, we can say that his finger got cut off with a knife that was *tamei*. (*The third case, we explained previously.*)

The Gemora asks on this explanation: According to Rabbi Chiya, we can understand Rebbe's two statements; the statement that he has violated two transgressions is following Rabbi Yosi's opinion and the statement that he has violated only one transgression is following the opinion of Rabbi Shimon. However, according to Bar Kappara, was Rabbi Chiya lying when he stated in the name of Rebbe that he has violated two transgressions?

Rather, the Gemora explains that Rabbi Chiya and Bar Kappara are arguing in regards to simultaneous prohibitions, and according to Rabbi Shimon (Rabbi Chiya *maintains that by simultaneous prohibitions, he would be liable for two prohibitions, and not by an inclusive prohibition, and Bar Kappara holds that he will never be liable for two transgressions*).

¹ Rabbi Chiya could say that Bar Kappara was mistaken when he quoted Rebbe as ruling that one is liable for only one transgression in all three cases. Although it is true that Rabbi Shimon would hold that in cases of an inclusive prohibition, he is liable for only one; but in cases involving simultaneous prohibitions, Rabbi Shimon would concede that they both take effect. Rebbe did not issue a ruling to Bar Kappara regarding the third case where a non-Kohen ate the meat of the bird offering which was slaughtered through *melikah*. This case can only be

The Gemora asks: One can well understand why Rabbi Chiya took an oath. He did it in order to dispel Rabbi Shimon's view. What need, however, was there for Bar Kappara to take an oath?

The Gemora notes: This indeed is a difficulty.

The Gemora asks on this explanation: According to Bar Kappara, we can understand Rebbe's two statements; the statement that he has violated only one transgression is following the opinion of Rabbi Shimon and the statement that he has violated two transgressions is following Rabbi Yosi's opinion. However, according to Rabbi Chiya, was Bar Kappara lying when he stated in the name of Rebbe that he has violated only one transgression?

The Gemora answers: Rabbi Chiya can answer you:¹ When Rebbe taught him, he taught him two instances only where the transgressor is exempt and [thereby he, in fact] taught him the law of inclusive prohibitions in accordance with the view of Rabbi Shimon. Bar Kappara, however, considered the case of a non-Kohen who ate *melikah* and, as it seemed to be similar to the others, he treated it like the others. When, later, he examined it and found it to be possible only as a case of simultaneous prohibitions, he imagined that as this one is a case where the prohibitions occur simultaneously, so are also the others cases where the prohibitions occur simultaneously; and as the others are cases where the transgressor is exempt, so [he assumed] is this also one in which the transgressor is exempt.

referring to simultaneous prohibitions and not an inclusive prohibition. Bar Kappara erroneously (*according to Rabbi Chiya*) grouped this case together with the other two and stated that Rebbe maintains according to Rabbi Shimon that one is liable for only one transgression even when the prohibitions occur simultaneously. Rabbi Chiya disagrees and holds that Rabbi Shimon concedes to Rabbi Yosi by simultaneous prohibitions that one would be liable for two transgressions.

The Gemora asks from the following Baraisa: If a non-Kohen performed some Temple service on the Shabbos, or if a blemished Kohen performed Temple service while he was tamei, the liabilities of service by a non-Kohen and the desecration of the Shabbos (in the first case) or those of service by a Kohen with a blemish and while in a state of tumah (in the second case) are involved; these are the words of Rabbi Yosi. Rabbi Shimon said: He is only liable on account of service performed by a non-Kohen or that of service by a blemished Kohen.

The Gemora notes: The case of melikah, however, is omitted. Now, on account of whom was it omitted? [Evidently, the dispute between Rabbi Yosi and Rabbi Shimon is not applicable in this case, for one of them agrees to the other; who is that agrees to whom?] If it would be suggested on account of Rabbi Yosi (that he would maintain in this case that there is liability for only one transgression), it may be retorted as follows: Rabbi Yosi subjects one to two penalties where the prohibitions are inclusive, how much more so when they occur simultaneously!? Consequently, it must have been omitted on account of Rabbi Shimon, who thus grants exemption (on the second prohibition) only where the prohibition is inclusive, but imposes both penalties when the prohibitions occur simultaneously. This, then, is a refutation against Bar Kappara! This is indeed a refutation. (33a1 - 33b2)

The Gemora analyzes the first case of the Baraisa: If a non-Kohen performed some Temple service on the Shabbos. The Gemora asks: Of what nature? If it was slaughtering - slaughtering is permitted by a non-Kohen!? If it was the receiving or the conveying of the blood - this involves only a mere act of handling (and would not be regarded as a violation of the Shabbos)!? If it was the burning (of sacrifices on the Altar), surely Rabbi Yosi said: The prohibition of kindling is singled out to teach us that it is merely a prohibition (*whereas other labors, deliberately performed, are punishable by death or kares, and*

therefore, when performed unwittingly, one would be liable for a chatas; this is punished by lashes, like the violation of any negative precept, and consequently, there would be no chatas liability!)?

Rav Acha bar Yaakov replied: It is referring to the slaughtering of the bull of the Kohen Gadol (on Yom Kippur), and in accordance with the view of the one who stated that the slaughtering of the bull of the Kohen Gadol on Yom Kippur by a non-Kohen is invalid.

The Gemora asks: If so, what reason is there for mentioning a non-Kohen? Even an ordinary Kohen would have been equally forbidden!?

The Gemora answers: What was meant was one who is a common man as far as this service is concerned.

Rav Ashi asked: Was any mention made of chatas offerings (in the ruling of Rabbi Yosi), or of negative prohibitions? Surely, only mere prohibitions were spoken of! Rather, the amount of prohibitions that have been violated is what is being counted in the Baraisa.

The Gemora asks: What practical difference is there?

The Gemora answers: The point at issue is whether he is to be buried among the completely wicked. (33b2 – 33b3)

The Mishnah states: If two men betrothed two women, and if at the time when they entered the *chuppah*, they exchanged this one's wife for that one, and that one's wife for this one (*and they cohabitated with each other's wife*), they are liable for cohabitating with another man's wife.

If the two men were brothers, they will also be liable because of the prohibition against taking one's brother's wife. If the two women were sisters, they will also be liable because of the prohibition against taking one's wife's sister. If the two women were menstruants, they

will also be liable because of the prohibition against cohabitating with a menstruant.

(The women go back to their rightful husbands.) They are required to separate from their husbands for three months, lest they be pregnant. If they were minors who are not able to bear children, they restore them immediately. If they were daughters of kohanim, they are disqualified from *terumah*. (33b3)

The Mishnah had stated: They exchanged this one's wife for that one, and that one's wife for this one.

The Gemora asks: Are we dealing with wicked men? Furthermore, [there is the difficulty] of the statement made by Rabbi Chiya that sixteen chatas offerings are here [involved]. Is any sacrifice brought where the act was intentional?

Rav Yehudah answered: The Mishnah should read: if they were exchanged, meaning inadvertently.

This may also be proved by logical reasoning. For in the latter clause it was stated: If they were minors incapable of bearing children they may be restored at once. Now, if the act had been intentional, would [this have been] permitted! — This is no difficulty. The seduction of a minor is deemed to be a violation, and a violated woman is permitted to a non-Kohen.

The Gemora cites support for this reading from the following halachah in the Mishnah: They are required to separate from their husbands for three months, lest they be pregnant. We can infer from here that if they are not pregnant, they would be permitted to their husbands. If the Mishnah's case is referring to a willful cohabitation, the women will be forbidden to return to their husbands. This is indeed a proof that we are discussing a case where the women were exchanged by mistake. (33b3 – 33b4)

INSIGHTS TO THE DAF

WHERE DOES THE SECOND PROHIBITION GO?

The Shach (Y"D 238) rules that one who takes an oath that he will not eat *neveilah* (an animal that was not slaughtered properly), and subsequently got sick in a manner that he was permitted to eat *neveilah*; he is allowed to eat it, and he is not required to have his vow annulled.

The Peri Megadim in his introduction to Hilchos Pesach asks on this ruling. He states: That which we say that one prohibition cannot take effect on an existing prohibition merely means that the he will not be liable for violating both prohibitions; however, he is violating two prohibitions and he will be buried together with the completely wicked. Accordingly, he asks on the ruling of the Shach: While it's true that the prohibition stemming from his personal oath not to eat *neveilah* will not take effect because he is already prohibited from eating *neveilah* from the Torah, nevertheless, the oath is valid and is existent; he will not be liable for transgressing the oath. However, when he is dangerously ill and he is permitted to eat *neveilah*, the oath would subsequently take effect and he must have it annulled.

The Avnei Miluim (teshuva 12) does not agree with the way the Peri Megadim understands the Shach. He states: The ruling of the Shach is not based on the principle of one prohibition not taking effect on an existing prohibition, but rather, it is because of the principle mentioned specifically regarding an oath. One oath cannot take effect on another one and every person took an oath at Mount Sinai that he will not eat *neveilah*; this is why his personal oath is not valid and does not require annulment. He explains the distinction between the two principles: One cannot be liable for a second prohibition when a previously existing prohibition is in effect, but there are obviously both prohibitions present. Regarding an oath, one does not have the capabilities to take an



oath prohibiting himself on something that he already is sworn to uphold anyway; the second oath has no legitimacy whatsoever.

Rav Shach in Hilchos Shavuos (5:16) asks on the premise of these Acharonim. If the second prohibition is present, why isn't one liable for violating it? If a second prohibition cannot take effect on an existing one only means that we do not administer punishment for the second prohibition, why should there be an exception for an extensive or an inclusive prohibition? He therefore learns that the second prohibition does not take effect at all. The Gemora, which states that one who violates such a prohibition will be buried with the completely wicked does not mean to say that he has indeed violated two transgressions; rather, it means that he is regarded as completely wicked since he is committing an action which involves two prohibitions even though in fact, he has only violated one.

DAILY MASHAL

Esav's Head

Rav Aharon Kotler, zt"l explained that the reason Esav's head was buried in Meoras HaMachpeilah was because the Torah that Esav learned remained in his head. Esav failed to internalize his Torah, and whatever Torah he did internalize was inherently problematic. We should all merit to have Torah permeate our entire body and not remain in our heads.