

OVERVIEW of the Daf

1) Transporting barrels of wine

A Baraisa teaches that when it is not possible on Yom Tov to deviate when transporting the barrels it is permitted to transport them in the normal fashion.

Examples of transporting in an unusual fashion are presented.

R' Chanan bar Rava questions why women transport buckets without employing a deviation and no one protests their practice.

R' Ashi demonstrates that in that case a deviation is not possible.

2) Protesting violations

Abaye presents the parameters for the principle, "It is better that they should be unintentional violators rather than intentional violators."

Abaye maintains that this principle is only used for a Rabbinic enactment but the Gemara dismisses that position by demonstrating that is used even for Biblical law.

3) Determining the author of the Mishnah

R' Kahana notes that one part of the Mishnah seemingly follows R' Shimon who rejects the principle of muktza and yet the end of the Mishnah seemingly follows R' Yehudah who accepts the principle of muktza.

The Gemara explains how the latter part of the Mishnah could be explained like R' Shimon.

A second version of this exchange is recorded.

4) MISHNAH: The Mishnah discusses the permissibility of removing wood from a hut on Yom Tov.

5) Clarifying the Mishnah

The Gemara questions the distinction between the permitted case of the Mishnah and the prohibited case.

R' Yehudah in the name of Shmuel distinguishes between the roof and the walls.

R' Menashya explains that the permitted case refers to bundles that were not untied.

A Baraisa is cited that elaborates on the halachos of the Mishnah and the Gemara analyzes the different parts of the Baraisa.

One discussion relates to the issue of whether a stipulation can remove the sanctity invested into the wood or the decorations of the sukkah.

The Gemara concludes with an explanation as to why a stipulation will work for an esrog but not for the wood of the sukkah. ■

Distinctive INSIGHT

The Mitzvah of rebuke to intentional and unintentional sinners

הנח להם לישראל מוטב שיהיו שוגגין ואל יהיו מזידין

Ritva writes that if it is clear that the person committing the sin is aware that what he is doing is wrong, an observer is obligated to speak up to correct him and to stop his sinful ways, even if the person will not listen to him. In this case, there is no reason to remain quiet because "it is better that he act as a שוגג." In fact, it is better to confront the sinner who is acting defiantly, so that he not think that his actions are acceptable. If someone witnesses blatant violation of halacha and he remains silent, he is held responsible for not rising to correct the sinner.

Rosh explains that the option of remaining silent and allowing violation to continue as שוגג rather than speaking up and risking that people will sin willfully is only said when it is certain that the people will not hearken to his words. If there is a possibility that people will accept his words of instruction and refrain from sinning, the observer is obligated to speak up and try to advise people how to act properly. Rosh cites the opinion of the בעל העיטור who clarifies that this halacha only applies when the violation involved is one which is derived from a דרשה and is not mentioned explicitly in the Torah. An example of this is יום הכיפורים Here, it is understandable that people are unfamiliar with the halacha, and they might resist accepting a law which they do not know. However, there is no excuse to remain quiet and not instruct sinners who are acting in violation of a halacha that is explicit in the Torah. This is the ruling of Rema (O.C. 608:2).

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REVIEW and Remember

1. Is there an obligation to protest violations of halacha?

2. Does the principle of 'מוטב שיהיו שוגגין וכו'' apply to Biblical law?

3. Why, according to R' Yehudah in the name of Shmuel, is it permitted to take wood from the walls of a hut?

4. Is an esrog automatically muktza for all seven days of Sukkos?

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In memory of the 39nd yahrzeit of our father
HaRav Simcha Bunim ben R' Zalman Moshe HaLevi.

HALACHAH Highlight

Bells on a Sefer Torah

תנן אין מטפחין ואין מספקין ואין מרקדין

We learned in the Mishnah, "It is prohibited to clap, slap one's thigh or dance [on Shabbos or Yom Tov.]"

Shulchan Aruch¹ rules like this Mishnah and prohibits clapping, slapping one's thigh or dancing on Shabbos or Yom Tov because of the concern that it may lead one to fix a musical instrument. This restriction is limited though to those instances where a person intends to produce a melodious sound. If, however, the intent is not to produce a melodious sound but just sound, it is permitted. Thus, it is permitted for a person to knock on a door with his hand² because although a sound is produced, it is not melodious. Rema³ qualifies this ruling and writes that if the instrument producing even the non-melodious sound is designed for the purpose of producing sound it is prohibited. Thus, Rema prohibits the use of a door knocker since it is designated for the purpose of producing sound.

Accordingly, the Taz⁴ writes that it is prohibited to hang bells on the Sefer Torah since it is a utensil that is designed to produce sound. The Shach⁴ disagrees and maintains that it is permitted because the sound performs the mitzvah of informing people that the Sefer Torah is moving and they should stand up. Furthermore, the one carrying the Sefer Torah does not intend to produce sound but merely to carry the Torah.

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Nevertheless, Meiri writes that if it is clear that the sinner will not listen to the rebuke, it is better to remain silent and not add an element of confrontation and personal animosity to an already sinful situation. This is also the opinion of Tosafos (Shabbos 55a, ד"ה ואע"ג, Mishnah Berura (608:2, #8-9) clarifies that if the sinner will certainly not listen to words of rebuke, he should not be confronted in public more than once. Privately, an individual should continue to influence others as tactfully as he can, until he sees that his words have no constructive effect. See ביאור הלכה ד"ה חייב. ■

The Mishnah Berurah's conclusion on this matter is that, in pressing circumstances, one may rely on the lenient opinions who allow carrying a Sefer Torah with a bell⁴.

Rav Shlomo Zalman Auerbach⁵ questions whether this leniency applies nowadays when the bells on the Sefer Torah no longer serve the mitzvah function of informing the people that Sefer Torah is in transit and thus lose the primary reason for leniency. Rav Shmuel HaLevi Vosner⁶, the Shevet HaLevi, writes that the small bells commonly found on our Sifrei Torah are not relevant to this dispute since the sound they produce is so small and thus according to all opinions it is permitted. ■

1. שו"ע אר"ח סי' של"ט סע' ג'

2. שו"ע אר"ח סי' של"ח סע' א'

3. רמ"א שם

4. ע' מ"ב שם סק"ו שמביא מחלוקת הט"ז והש"ך ובסוף דבריו מסיק דבמקום הדחק יכול לסמוך על המקילין

5. מובא דבריו בשש"כ פ' כ"ח הע' צ"ד

6. שו"ת שבט הלוי ח"א סי' ס"א ■

STORIES Off the Daf

The righteous Jewish women

דהא תוספת יום הכפורים דאורייתא הוא ואכלי ושתו עד שחשכה

On today's daf, we find the principle: "Better that they should sin inadvertently than knowingly." An example provided is of women who would eat until just before Yom HaKippurim and would not refrain for the mandatory extra time before bein hash'mashos. The Mekor Chaim, זת"ל, writes, however, that women should certainly be guided to the proper fulfillment of the law since, "...women in our times [about 350 years ago], would certainly follow the halachah when informed."

Years ago, a "progressive" religious movement made great inroads into Lithu-

ania. When it came to Brisk, it had a profound influence on the community and people began to feel that the time had come to make changes in the time-honored traditions of the town. Since such "innocent" changes had often led to breaches in the observance of halachah in other towns, the Brisker Rav, זת"ל, saw the institution of any change as a threat to the religious integrity of the whole community. He therefore vehemently opposed the idea of a choir for the high holidays despite the fact that the parnassim of Brisk were very much in favor.

Well aware of the Brisker Rav's opposition, the parnassim decided to circumvent him. They chose singers, planned at which points in the prayers the choir would sing, and even set up a platform. They planned to introduce the choir right in the middle of the Rosh Hashanah ser-

vice without asking the Rav. On the festival, when the parnassim signaled the group to take their places, the Brisker Rav immediately ordered them back to their seats. The group obliged, but as they turned to sit, the parnassim ordered them back on the platform.

As they ascended, the Rav again ordered them to their seats. The parnassim disregarded the Rav and again ordered the choir to take their places. After another few moments of this, the Rav finally turned to the women's section for help.

He exclaimed, "Jewish daughters! These people are trying to destroy the Torah and you remain silent?"

The wives of the parnassim responded to his call, publicly derided their husbands for their behavior, and the parnassim gave up! ■