

OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

The Gemara concludes questioning why those activities placed in the non-mandatory category are not, in fact, mitzvos that would qualify them for the third category.

The reason why one is not permitted to sanctify property is that it resembles business.

The Mishnah's ruling concerning the prohibition against separating terumah is explained and clarified.

The Gemara explains the progression of the three terms used to categorize the mitzvos in the Mishnah.

2) The difference between Shabbos and Yom Tov

The Mishnah's statement of "the only difference between Shabbos and Yom Tov is food preparation" is challenged from an earlier Mishnah that presented an additional difference.

R' Yosef resolves the contradiction by distinguishing between the opinion of R' Eliezer and the opinion of R' Yehoshua. A Beraisa presents the dispute between the two opinions.

Abaye rejects the comparison between the two cases.

R' Pappa offers an alternative resolution that distinguishes between Beis Shammai and Beis Hillel. A Mishnah presents the dispute between the two opinions.

The Gemara unsuccessfully challenges the comparison between the two cases.

3) MISHNAH: The Mishnah discusses the detailed laws of the limitation placed on the transportation of utensils based on who is considered the owner.

4) Clarifying the author of the Mishnah

It is noted that the Mishnah's ruling that an animal is limited to the owner's techum rather than the shepherd's is seemingly inconsistent with R' Dosa's opinion as recorded in a Beraisa.

The Gemara explains how there is, in fact, no conflict between R' Dosa and the Mishnah.

R' Yochanan rules in accordance with R' Dosa.

This ruling is unsuccessfully challenged.

5) An item shared by two people with different techumim

A Beraisa is cited that elaborates on the law of an item that is shared by two people with different techumim.

Rav and Shmuel disagree regarding a case of an animal or barrel of wine purchased before Yom Tov and divided on Yom Tov. According to Rav the barrel can be carried where

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Distinctive INSIGHT

In whose תחום are the sheep?

לא קשיא כאן ברועה אחד כאן בשני רועים

Rav Dosa stated that the techum of an animal which is given to a shepherd on Yom Tov is limited to the domain of its shepherd, while the Mishnah ruled that such an animal is limited to the domain of its original owner. Nevertheless, the Gemara concludes that Rav Dosa could be the author of the Mishnah, and varying circumstances affect the outcome. Rav Dosa ruled that if there is only one shepherd in town it is obvious that the animal will be given specifically to him, and this is why the animal adopts the domain of the shepherd. The Mishnah's case is where the owner will hand his animal to one of several shepherds. Being that as Yom Tov began there was no clear designation which shepherd will be chosen, the domain of the animal remains that of the owner.

Rashba notes that the rule is that we apply the concept of ברירה in cases which are דרבנן. Therefore, although there are two or more shepherds available, we should say that whoever is chosen the next day should be determined retroactively to be the one in whose domain the animal is placed.

Rashba and Meiri answer that we only apply ברירה when the person makes a clear condition, as we find (Bava Kamma 69a) where a person declares, "Whatever stalks the poor people choose will be ownerless (to avoid their being guilty of taking stalks which are technically not available for them.)" Here, however, the owner of the sheep does not make any statement saying that the shepherd who he chooses the next day should be considered in control as of the moment Yom Tov enters.

Others want to say that ברירה does not apply in a case where lack of designation of a specific shepherd at least leaves the animal in its current status of being in its owner's תחום. However, in the case of the poor people who take stalks, the owner has decided to allow the poor to have it, and ברירה helps to decide which stalks it will be. ■

REVIEW and Remember

1. What is the progression of the Mishnah's three cases?

2. Under normal circumstances, how far may a person transport his utensils on Yom Tov?

3. How far may a garment be transported if it was borrowed by two people who have different techumin?

4. Explain האחין שחלקו לקוחות הן.

HALACHAH Highlight

Pidyon HaBen on Yom Tov and Chol HaMoed

גזירה משום מקח וממכר

It is a decree because [of its resemblance to] business

The Rivash¹ ruled that it is prohibited to perform a pidyon haben on Yom Tov because it resembles business in that the father is obligated to give five coins to the kohen. Furthermore, even if one was to assert that the transfer of money is akin to repaying a debt it would not be permitted since repaying debts is also prohibited on Yom Tov. Moreover, the coins used for the pidyon haben are muktza and thus they can not be handed to the kohen. Thus, it is prohibited to perform a pidyon haben on Shabbos². The Noda B'Yehudah³ includes in this prohibition the performance of a pidyon haben on Yom Tov since the reason to prohibit the activity on Shabbos applies on Yom Tov.

The Maharam Shik⁴ suggests a method of performing a pidyon haben that will not violate the prohibition against business on Yom Tov. Magen Avrohom⁵ ruled that it is permitted to give a gift on Shabbos on the condition that it is returned to him (מתנה על מנת להחזיר). Accordingly, if the father were to give the money on the condition that it is returned it should be permitted to perform the pidyon haben on Shabbos. The reason it is prohibited, concludes Maharam Shik, must be the requirement to verbalize the transaction or because of the prohibition against repaying a loan on Shabbos.

Concerning a pidyon haben during Chol HaMoed, Rema⁶

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the owner may travel whereas the animal can only be carried within the techum shared by the two owners. Shmuel places the same restriction on the barrel.

The Gemara explains that Rav accepts the principle of retroactive clarification (ברירה) and the case of the animal is different because it is a living creature.

R' Kahanah and R' Assi successfully challenge Rav.

R' Oshaya and R' Yochanan also dispute the principle of retroactive clarification.

The Gemara begins to examine which of the two opinions accepts retroactive clarification and which opinion rejects the principle. ■

records two opinions on the matter. The Schach⁷ explains that those who prohibit performing a pidyon haben on Chol HaMoed maintain that a pidyon haben would violate the prohibition against mixing two celebrations (בשמחה) whereas those who take the lenient approach maintain that the restriction against mixing celebrations applies only to weddings. The custom is like the lenient position and it is permitted to perform a pidyon haben on Chol Hamoed⁸. ■

1. שו"ת הריב"ש סי' קנ"ז
2. שו"ע או"ח סי' של"ט סע' ד' ומ"ב שם ס"ק כ"ז
3. שו"ת נודע ביהודה תנינא יו"ד סי' קפ"ז
4. שו"ת מהר"ם ש"ק יו"ד סי' רצ"ז וסי' ש"א
5. מג"א סי' ש"ו ס"ק י"ד
6. רמ"א יו"ד סי' ש"ה סע' י"א
7. ש"ך שם ס"ק י"ג
8. ספר אוצר פדיון הבן פי"ז סע' ו' והע' כ"א ע"ש ■

STORIES Off the Daf

Kindness to animals

רבי יהושע אומר מעלה את הראשון ע"מ לשוחטו ואינו שוחטו וחוזר ומערים ומעלה השני רצה זה שוחט רצה זה שוחט

Rabbi Yehoshua taught that if a cow and its calf (or some other similar pair of kosher livestock) fell into a pit, a person is permitted to first haul the first one up in order to slaughter it, and only then "change one's mind" and haul up the second animal for the same purpose. One of the two must be slaughtered, but both are saved from the suffering of the pit in this way. The Gemara in Shabbos explains that this "trickery" is permitted

because of the injunction to be sensitive to an animal's pain.

To this end, Rav Dovid Feigels, zt"l, would carry a sack of different types of foods suitable for different species of birds from one courtyard to the next, just so that he could ensure that the birds were well fed throughout the cold winters. Many people in his area kept fowl, but assumed that they would just forage for themselves throughout the year. The Shomer Emunim, zt"l, would comment about this: "When it starts to freeze and the snow is on the ground, how are the animals and birds to forage? If their owners don't feed them, and they are confined to their pens or their yards, then one should certainly provide for them!"

The Chazon Ish, zt"l, once spotted a non-kosher animal that had fallen into a deep ditch. The animal tried with all its might to climb out of the rut without success. The gadol was then with a group of people who seemed to look on the situation with resignation. They all just shrugged, as if to say, "What can we do?"

The Chazon Ish, on the other hand, really took the poor animal's pain to heart. Without waiting for assistance from the others, he approached the pit and lowered himself down into it. Those with him could barely believe their eyes. Could it be that the Chazon Ish was actually carrying a non-kosher animal out of the ditch in his arms to set it free? ■