

OVERVIEW of the Daf

1) Marital relations the first time on Shabbos (cont.)

The Gemara states that there is a dispute between Rav and Shmuel whether it is permitted for the husband and wife to have marital relations the first time on Shabbos.

The assertion that Rav follows R' Shimon who permits unintended acts is challenged.

The Gemara answers that even R' Shimon agrees that when the unintended outcome is inevitable (פסיק רישיה) it is prohibited.

The Gemara successfully demonstrates that Rav does not follow R' Shimon and therefore explains how Rav can maintain that relations the first time on Shabbos is permitted even though he subscribes to R' Yehudah's strict position concerning unintended acts.

2) Shmuel's position concerning relations the first time on Shabbos.

R' Chisda unsuccessfully challenges Shmuel's strict ruling concerning cohabiting the first time on Shabbos from a Mishnah related to a groom's exemption from reciting Krias Shema.

R' Yosef unsuccessfully challenges Shmuel's ruling from a Mishnah on a related topic.

This challenge leads to a discussion related to the principle of, "One engaged in a mitzvah is exempt from a mitzvah."

R' Ami begins to challenge Shmuel's ruling from a Mishnah related to opening a boil on Shabbos. ■

REVIEW and Remember

1. Why is it prohibited to stuff a rag into the opening of a barrel on Yom Tov?
2. Why, if Rav holds like R' Yehudah, is it permitted to cohabit the first time on Shabbos?
3. What is the reason a groom is exempt from Krias Shema?
4. Why are attendants necessary for those who are בקיאים בהטייה?

Distinctive INSIGHT

A new groom is exempt from reading Shema

חתן פטור מקריאת שמע וכו'

Rav Yosef cites the Mishnah in Berachos (16a) as part of the analysis whether a husband and wife can have marital relations the first time on Shabbos. The halacha in the Mishnah in Berachos teaches that the husband is exempt from reading the Shema for up to four nights, beginning Wednesday and until Motzai Shabbos, if he has not consummated his marriage with his wife. It seems, therefore, that the mitzvah of cohabiting with his wife may be completed on Friday night, although it is Shabbos. This indicates that no violation of Shabbos is inherent in the act. The Gemara deflects this proof by explaining that the exemption of the groom may be due to the act's being prohibited, and the distraction he experiences by not being able to take his wife.

Rambam (Hilchos Krias Shema 4:1) rules that anyone who is busy and overwhelmed in performing a mitzvah is exempt from all mitzvos and from reading Shema. Kesef Mishnah notes that Rambam holds that the groom is not only exempt from reading Shema, but also from all mitzvos. It also seems, he says, that Rambam holds that the husband is exempt from reading Shema each morning as well as at night. However, Rabeinu Manoach, in the name of Raavad, is of the opinion that the groom is only exempt from reading Shema each night, when he is in seclusion with his new wife.

הגהות מימונית explains that it appears from Tosafos in Sukka that the groom is, in fact, exempt from Shema even in the mornings. But, he concludes, that in our days when the degree of our intent when reading Shema is always compromised, we cannot claim that we cannot read properly when we are distracted. Therefore, no one can claim an exemption, and even a new husband is obligated to read Shema. In fact, if he would claim this exemption, he would appear haughty, apparently demonstrating that his intent was generally perfect, except for this time.

חידושי אנשי שם on the Mishnah in Berachos explains that the new husband is exempt only from Shema, but he

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לע"נ הרב אביגדור בן הרב שאול אלחנן ע"ה
Rabbi Victor Amster o.b.m. on the occasion of his 31st yahrzeit,
by his children, Mr. and Mrs. Jeremy Amster

HALACHAH Highlight

An inevitable outcome that produces an undesirable result
האי מסוכריא דנזייתא אסור להדוקה ביומא טבא

Regarding the beer-barrel stopper, it is prohibited to put it in place on Yom Tov

Tosafos¹ writes at great length about the topic of putting a moist rag into the hole of a barrel. In his analysis, he presents a dispute regarding the principle of performing an act where the inevitable outcome is a melachah (פסיק רישיה) but the outcome produces an undesirable result (דלא ניחא ליה). The Aruch maintains that a פסיק רישיה דלא ניחא ליה is permitted even on a Rabbinic level, whereas other Rishonim maintain that although Biblically it is permitted, Rabbinically it is prohibited. Shulchan Aruch² cites the lenient position of the Aruch with the words, “There is an opinion that is lenient – יש מי שמתיר” and then writes that “others disagree with him – וחלקו עליו.” He concludes his ruling on the matter by observing that people conduct themselves in accordance with the lenient position, and he suggests a support for following that position. This clearly indicates that Shulchan Aruch maintains that halacha should follow the strict position that פסיק רישיה דלא ניחא ליה is Rabbinically prohibited, yet he concedes that the

(Insight. Continued from page 1)

remains obligated in all other mitzvos during this time, and his distraction does not interfere with his fulfillment of other mitzvos. ■

common custom is to follow the lenient position.

An important point regarding this issue is mentioned in Bayur Halacha³. In the specific context of putting a rag into the hole of a barrel, whatever wine that is squeezed out of the rag is ruined, so it constitutes a case where the inevitable outcome produces an undesirable result. The truth is, mentions Bayur Halacha in the name of Tosafos, that even when the inevitable outcome is not undesirable but the outcome produces nothing that is beneficial it is also permitted (פסיק רישיה דלא איכפת ליה).

Mishnah Berurah⁴ adds that this discussion of whether an inevitable outcome that produces an undesirable result is Rabbinically prohibited is limited to Shabbos prohibitions because of the requirement of מלאכת מחשבת – thoughtful, intentional melachah. Regarding other prohibitions the consensus is that an inevitable outcome that produces an undesirable result is Biblically prohibited. ■

1. ד"ה האי מסוכרייא דנזייתא.
2. שו"ע או"ח סי' ש"כ סעי' י"ח.
3. ביאור הלכה שם ד"ה דלא ניחא ליה.
4. מ"ב שם ס"ק נ"ג. ■

STORIES Off the Daf

Vasikin at the Kosel

”מודה ר"ש בפסיק רישיה ולא ימות...”

Rav Avigdor Neventzahl, shlit"א, goes regularly to the Kosel to daven k'vasikin on Shabbos. Once, he noticed that as someone went through the metal detector on Shabbos, it beeped. Since the light was disabled the Rav had always assumed that the machine was off, which is what the guards always claimed. Now it was clear that the machine was operating as usual even on Shabbos, and only the lights were disabled. After Shabbos, the Rav made further inquiries and found out that the guards left the security camera on as well, which captured video of all the passersby. Rav Ne-

ventzahl had serious doubts as to whether he could continue to daven at the Kosel with his regular minyan on Shabbos under such circumstances.

He reasoned, “On the one hand, Tosafos in Shabbos and Kesuvos 6a permits performing a melachah where one has no interest or gains no benefit from its outcome –a פסיק רישיה דלא איכפת ליה. On the other hand, the Rit"א and others hold that this is Rabbinically forbidden. However, there are cases in which this is permitted, such as a makom mitzvah.” For this reason, Rav Neventzahl remained in doubt about this issue.

Someone suggested that they ask Rav Chaim Kanievsky, zt"l.

An emissary brought the question before Rav Kanievsky in Bnei Brak, and the gadol responded, “Tell Rav

Neventzahl that there is room to be lenient since this is similar to an emergency situation, a שעת הדחק, where we permit פסיק רישיה דלא איכפת ליה.”

When the response reached Rav Neventzahl, it raised a further question. “It is obvious that Rav Chaim reasons that my prayer is a tzorech mitzvah with the same halachic validity as a sha'as hadechak. However, did you tell him that there is another vasikin minyan in the Jewish quarter of the Old City that would not necessitate my passing the guard station? Perhaps Rav Chaim believes that I don't have another minyan available for vasikin.”

The emissary went right back to Rav Kanievsky and presented this new point. Rav Chaim clarified, “Davening at the kosel at any time is enough of a tzorech mitzvah to permit this!” ■