

## OVERVIEW of the Daf

### 1) Cooking on Yom Tov for weekday use (cont.)

Two more unsuccessful challenges to R' Chisda are presented.

R' Chisda unsuccessfully challenges Rabbah's position that we subscribe to the principle of הוואיל.

Abaye unsuccessfully challenges Rabbah's position. ■

## REVIEW and Remember

1. Why, according to R' Chisda, are the lechem hapanim not baked on Yom Tov?
2. What eight prohibitions could be violated when plowing one furrow?
3. What are the five prohibitions violated when one cooks and eats a gid hanasheh with milk on Yom Tov?
4. What is the source for the opinion that maintains that the prohibition of muktzeh is Biblical in origin?

## HALACHAH Highlight

### *The halachic status of non-religious Jews*

כאבא שאול דאמר לכם ולא לנכרים

Like Abba Shaul who said "yours" and not for the gentile.

The Poskim<sup>1</sup> write it would also be forbidden to cook on Yom Tov for a Jew who publicly desecrates Shabbos, for such an individual has the halachic (legal) status of a non-Jew for every Jewish law. There is a dispute amongst the Rishonim and poskim of the status of those children born<sup>2</sup> to parents who (erroneously) raised them with heretical beliefs (for example<sup>3</sup> the "Karaites"). There are those<sup>4</sup> who hold that even though these children were subsequently exposed to authentic

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## Distinctive INSIGHT

### *Can הוואיל work to allow crushing clods of dirt on Yom Tov?*

אמר רב פפא בר שמואל אבנים מקורזלות, ראויות לכותשן...

The Gemara analyzes the concept of הוואיל and under what circumstances רבה applies his rule. The Baraisa quoted lists eight different sets of מלקות which apply in the case of a kohen and nazir who leads a team of animals through a vineyard in a cemetery on Yom Tov during Shemitta. Among the punishable infractions is plowing. Rav Chisda challenges Rabah. If we have the rule of הוואיל, there should be no lashes for plowing, because the dirt might be needed to cover the blood of birds which might be slaughtered. Rabah answers that in fact, if we were speaking about regular dirt being plowed, one would not be liable for lashes. However, we are dealing with a case where the person is plowing and dislodging hardened clumps, which cannot be used for covering the blood of a bird.

Rav Chisda pursues the discussion further, and points out that it should be allowed to crush the clump of dirt to use the soft ground to cover the blood. Rabah answers that crushing the dirt is not allowed on Yom Tov.

Tosafos (ד"ה כתישה) cites ריב"א who asks why, in fact, do we not allow crushing the clod of dirt due to הוואיל, as we were willing to allow plowing? Rashbam answers that there is a fundamental difference between the suggestion of the Gemara to fulfill the mitzvah of covering the blood by plowing and crushing the clod of dirt. The goal of plowing is to prepare the ground for planting. Using the dirt for a different purpose results in the labor of plowing being a מלאכה—where it is being done for an objective other than what plowing is aimed to accomplish normally. The challenge of the Gemara is, therefore, that this should be a labor which is אינה צריכה לגופה and should be permitted. However, when the Gemara suggests to crush a clump of dirt, which is a form of the labor of grinding (טוחן) this would be precisely the labor itself, with its being performed for

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Jews (Jews who keep Torah and Mitzvos properly) and still did not return to keeping the Torah, they nonetheless retain their status as Jews. They have the status of "tinok shenishba" (captive in infancy), for they were raised with false beliefs (they would only lose this status if they were given the active opportunity to return and chose<sup>5</sup> not to). Others<sup>6</sup> hold, once they were exposed to "Torah-true" Judaism, and nevertheless continued to publicly disgrace Shabbos (etc.), they have a status of a non-Jew. In our days, this dispute manifests itself in how to view children born to irreligious families. Although Mishna Berura<sup>7</sup> brings down both opinions and does not indicate to be lenient, the Chazon Ish<sup>8</sup>, however, writes that they do indeed have a status of a tinok shenishba.

Nonetheless<sup>9</sup>, in a situation where hatred will be incurred due to the neglect of cooking food for them on Yom Tov, it would even be permissible to add food for a non-Jew into a dish which one was already preparing for himself, provided no extra melachos were performed for him. ■

1. במ"ב תקי"ב ס"ק ב' וע"ש בשעה"צ ס"ק ב' שטעם האיסור הוא מפני שהרי דינו כעכו"ם לכל דבריו [ועי' בא"ר סימן תמ"ה שאם יתבייש מלחלל שבת בפני גדול הדור אינו נחשב כמחלל "בפרהסיא"]
2. כ"ז ברמב"ם בהלכות ממרים פ"ג ה"ג
3. כ"כ הרדב"ז בפירושו לרמב"ם הנ"ל
4. כ"כ הרמב"ם הנ"ל. וכן דעת השו"ע ורמ"א ביו"ד קנ"ט ס"ד
5. כמבואר ברדב"ז הנ"ל. וכ"ה בחזו"א בהלכות שחיטה פ"א ס"ק ו'
6. כ"כ הנמ"י בפרק איזהו נשך בדפי הרי"ף מ"ב ב' בדיבור

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the purpose for which grinding is usually done. This is not permitted, even with **הואיל**, because we would have an **עשה** and a **לא תעשה** (to observe Yom Tov, and not to violate it) which would not permit the single **עשה**, that of covering the blood. ■

- הראשון. ובש"ך ביו"ד קנ"ט ס"ק ו' כתב שהרמב"ם יודה בחילונים שאין בהם את המעלות טובות שהין לקראים שבזמן הרמב"ם, שלכו"ע דינם כנכרי. וכן עי' ברדב"ז על הרמב"ם הנ"ל
7. בסימן תקי"ב ס"ק ב'. שהביא את המחלוקת שבמ"א שם, שהביא שלר"ב אסור ולמהרש"ך מותר, ועי"ש בשו"ת מהרש"ך בסוף סימן ט"ו וז"ל ולא יספיק טענת היותם אנוסים וכתיונוק שנישבה לבין הגוים שכתב הרמב"ם רק שלא למהר להורגם וכו'. עכ"ל. שמקורו מהרמב"ם הנ"ל. וכן עי' בשו"ת מה"ר בצלאל אשכנזי סימן מ"ג, שבנגן אברהם וכו"ל. שיסוד הסוגיא הוא מהדין הכללי בכל התורה של הקראים. וגם בשעה"צ ס"ק ב' רואים שהאם מותר לבשל לקראים ביו"ט תלוי בדין גם בחילונים שבזמנה"ז. וע"ע בבאה"ל בסימן ש"ל ס"ב בד"ה כותית, שהחמיר מלחלל שבת להצלת חיי הקראים. (אלא שבה נוהגים להקל כדברי חיים ואג"מ ועו"פ) ועוד פוסקים הסתפקו והחמירו בדין הקראים, עי' פת"ש ביו"ד סימן קנ"ט ס"ק ו' בשם החו"ד. ועע"ש בדרכי תשובה
  8. החזו"א בהלכות שחיטה סימן א' ס"ק ו', וצ"ע לפי"ז מדוע דם בסימן ב' ס"ק ט"ז בד"ה ונראה, החזו"א נצרך לומר טעם לקרב החילונים שבזמנה"ז מפני שבזמנה"ז יפסידו מריחוקם, והרי בלא"ה צריך לקרבם מדין תינוק שנישבה. וצ"ע
  9. במ"ב תקי"ב ס"ק ו' וע"ע בשש"כ פ"ב הערה כ"א, ובשו"ת רב פעלים ח"א ס"ב כתב שמקודם יאכל ישראל לפני שיתנו לנכרי, כיון שאפשר בהכי. [ולשון מ"ב "דאפשר" דמותקרא. ובחילונים קל עוד יותר ■

## Gemara GEM

*Is cooking milk and meat together considered an act of destruction—מקלקל?*

לוקה משום מבשל גיד ביום טוב

Abaye lists five sets of **מלקות** which can be applied to a case where a person cooks a **גיד הנשה** in milk and eats it. Because the mixture is prohibited to eat, the cooking process on Yom Tov is one of the categories which is punishable. The Minchas Chinuch (Mitzvah 298, #13) brings a

question of R' Yonasan Eybeschutz regarding this case. This person has taken two items, one kosher (milk) and the other non-kosher, but permitted to use for benefit (**גיד הנשה**). As a result of his actions, this combination becomes prohibited for benefit (**בשר בחלב**). Why should the person be liable for lashes, when the nature of this act is destructive, and we have a rule that a labor on Yom Tov that is **מקלקל** is exempt?

The answer is that **מקלקל** applies when the outcome of an action is destructive in an objective sense. In other words, the item must be become

actually ruined as a result of his action, and not merely subject to a legal limitation. If the item is still useful or functional, although an **איסור** now applies to the final product, this is not called **מקלקל**, and this is not an action which is exempt.

Another answer is that although this item has been ruined for a Jew, however, in regard to a non-Jew this item has been improved, or at least it is still useful. The fact that this mixture of **גיד הנשה** and milk can be eaten by a non-Jew is enough of a consideration for the act to be viewed as being constructive. ■