

## OVERVIEW of the Daf

### 1) Two people transporting an object (cont.)

The Gemara continues to explain the source for each of the three opinions and how each Tanna explains the other sources.

An earlier ruling stated: If one was able to carry the object himself and the other could not and they carry the object together, everyone agrees he is liable. The Gemara wonders which of the two is liable.

R' Chisda answers that it is the one who could carry the object himself because the other only assisted in carrying and assisting carries no legal significance.

Four different proofs are presented that demonstrate that assisting has no legal consequence.

An earlier ruling stated: If each person could carry the object himself and nonetheless they carried the object together, R' Meir rules that both people are liable. The Gemara asks whether this ruling applies when together they carry two measures or even if together they carry a single measure.

R' Chisda and R' Hamnuna dispute this issue. According to one opinion they are liable only if they carry two measures, one for each of them. The second opinion holds that it is enough to carry one measure between them.

Three proofs to the second opinion are presented as well as one unsuccessful proof.

A Baraisa is cited that presents the dispute R' Shimon and Tanna Kamma whether two people who transport an object are liable.

2) **MISHNAH:** The Mishnah discusses the liability of carrying an object that is secondary to a more significant object.

### 3) Carrying subsidiary items

A Baraisa rules: If a person transports food in a utensil he is liable only for carrying the food unless he also needs the utensil for an additional purpose in which case he would be liable as well for carrying the utensil.

This ruling seemingly indicates that if a person ate two pieces of cheilev in one lapse awareness he should be liable to offer two offerings. ■

## REVIEW and Remember

1. In a case where one person can carry the object himself and another person cannot and they carry the object together who is liable?
2. Does the service done by a kohen become disqualified if his foot rested on an object?
3. If two people steal and slaughter a sheep, how much does each thief have to pay?
4. If one carries fruit in a basket, how many korbanos must he bring and why?

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## Gemara GEM

### Who Knows Three? I Know Three! and other Assorted Issues

רבי יהודה אומר אם לא יכול אחד להוציאו והוציאו שנים חייבין ואם לאו פטורין

If one person alone cannot carry an object out to the public domain, and two people join together to carry it out, they are both חייב. However, if one person can carry an object by himself, but two people do so jointly, they are both exempt. This is the statement of Rabbi Yehuda in our Gemara, and this is how Rambam rules (Hilchos Shabbos 1:15).

Rabbi Akiva Eiger, in his notes to Rambam (see Frankel edition), proposes the following inquiry. What would be the law if we had an object which needs two people to carry it out, but, instead, three people join together to transport it? He rules that all three would then be exempt. We analyze this case as we do the case of an object where one person is capable of carrying the object all by himself, and a second person there is not capable of moving it without assistance. In this case, when they carry it together, the one who could carry it by himself is liable, and the one who could not do it by himself is simply an accessory (מסייע), which is insignificant. We can view the case of three people in a similar vein. Each set of two are capable on their own, and the third person in is simply a helper, which is not significant, and he is exempt. Consequently, each of the three is therefore exempt.

In the Responsa of the Avnei Nezer (Yoreh De'ah #393:10) the issue is raised whether this consideration of two people doing an act which is usually done by one is an exemption only in the laws of Shabbos, or if it applies in other areas of halacha as well.

In reference to the case where each of two people is capable of carrying an object on their own, and both join together to transport it, they are both exempt. Rashi explains the reason is because once each is able to do the act on his own, when they carry it out together they are doing the job in an unusual manner (כלאחר יד). According to Rashi, this concept is only applicable in the realm of the laws of Shabbos, where an act is only considered a bona fide prohibited violation of Shabbos if it is done in a specified, normal manner (מלאכת מחשבת). This is not a criterion in other areas of sinful acts. Avnei Nezer also brings support for this view from Rashba (Bava Kama 53b). This also is the conclusion which the Pnei Yehoshua arrives at in our Gemara.

Eglei Tal (חורש אות א') notes that in a case of plowing, neither the person nor the ox can conceivably do the plowing without the other party. Under normal conditions, the case of two people working together to do an act of violating Shabbos when neither party is able to do the melacha individually is a machlokes in the Gemara. Rabbi Meir and Rabbi Yehuda hold that both are חייב, whereas Rabbi Shimon exempts both of them. Yet, in the case of a person plowing with an animal, even Rabbi Shimon would hold that the person is fully liable. The only reason Rabbi Shimon exempts the two people who work together is that he does not allow two people to be able to be liable for one violation of Shabbos. However, this is only when two people are involved. When we have only one person, and the other party is an animal, even Rabbi Shimon would hold the person fully responsible for the act. ■

# HALACHAH Highlight

*Carrying a living being<sup>1</sup>*

*If one carries a live person on a bed he is exempt even for taking out the bed*

An exception to the melacha m'deoraisa of hotzoa/transferring between one domain and another is the carrying of a living person. One is not liable when carrying a living person because of the principle of "Chai Noseh Es Atzmo", literally "a living creature carries itself." The principle of "Chai Noseh Es Atzmo" is based upon the physical phenomenon that the weight of a living person is not felt by the carrier as much as is dead weight, because the live person carries himself to some extent.

This distinction delineates a category of carrying that has no source in the Mishkan, namely, the carrying of living persons. Therefore, carrying a "living weight" in רשות הרבים (or transferring from one domain to another) is not hotzoa m'deoraisa. (However, carrying a person is rabbinically prohibited, even in a karmelis.)

## a) Carrying a person who cannot walk

The principle of "Chai Noseh Es Atzmo" applies only when carrying a human being who is able to walk on his own. It does not apply to persons unable to walk on their own (for whatever reason). Such persons are in the same halachic category as dead weight.

Therefore, one who carries an invalid or a baby in רשות הרבים is liable for the melacha m'deoraisa of hotzoa. A person whose legs are bound, or one who is very ill and bedridden, is also in the non-walking category. Dragging a child is also hotzoa.

A child who is capable of taking steps may be walked in רשות הרבים, even if he needs help while doing so, but one must make certain that the child is not holding anything in his hand. However, one who carries such a child is liable for the melacha m'deoraisa of hotzoa. Carrying a child who is holding an object in his hand is equivalent to carrying the object itself. In fact, one who carries this child in רשות הרבים is transgressing the melacha of hotzoa m'deoraisa.

## b) Carrying a toddler who refuses to walk home

### 1: In a karmelis (e.g. rural and most suburban areas)

If a toddler was taken for a walk and suddenly became upset and is unwilling to walk home, one should make every effort to coax the child to walk home, even if this takes a great deal of extra time. If coaxing is not effective, and the child is crying and implacable, one may carry him back home if this is the only way to calm him.

### 2: In רשות הרבים (e.g. large cities, or very busy thoroughfares)

# Distinctive INSIGHT

## Fully Responsible for One's Actions

אף אכן נמי תנינא השותפים שגנבו

According to Rabbi Yehuda, two people can both be liable for a shared instance of violating the Shabbos if neither one could have done the melacha by himself. According to Rashi, the Gemara now presents an inquiry whether this obligation is only applied when the particular act of carrying, for example, was done on a double shiur, or volume, of food or material, or could they both be liable even if they acted upon a single shiur? The Ohr Sameach points out that the question is really probing whether each could be obligated to bring

his own chattas offering or not. Can each be required to bring a chattas only if each has contributed towards his own full volume of material being part of the violation of Shabbos, or could they each be obligated even though they only together caused a single volume of material to be carried?

According to this explanation, we might have difficulty understanding the proof brought by the Gemara from the case of two partners who stole an animal and then slaughtered it. In this case, there is a single monetary restitution that must be made. If they stole a \$100 animal, there is no possibility to require that they each pay \$100. We do not need a "full amount per person" for liability for repayment of a theft. What is the point of the Gemara in comparing that situation to our case of assigning each a chattas offering?

Ohr Sameach notes that when two people steal an animal, and one of the thieves cannot pay his portion of restitution, the other partner must pay the entire amount. He cannot excuse himself by claiming that he is only responsible for his percentage of the theft. The lesson is, therefore, that although two people might jointly steal something, they are each considered a full thief. They each are guilty of a crime, and not just part of a crime. We conclude from here that each party involved in an act is fully responsible for it and its consequences. This, then, is the proof to our case of two people carrying an object on Shabbos. Even if they only carried a minimal volume of material, nevertheless, we expect that each will now be responsible for bringing a chattas offering. ■

If the child refuses to walk himself while in רשות הרבים, he may not be carried home, even if very upset and insistent. He should also not be dragged home because dragging is equivalent to carrying. If gentle coaxing is not effective, a non-Jew may be asked to carry the child home. If a non-Jew is not available, one will need to resort to a halachic compromise which will permit carrying the child (partly on the basis of Chai Noseh Es Atzmo) in this difficult circumstance. However, one must first remove anything that the child may be carrying in his hand or pocket, and discard them. The principle of Chai Noseh Es Atzmo applies only to the person himself (and the clothing etc. that he is wearing). It does not apply to items being held or carried by the person. The correct procedures for carrying the child home are as follows:

## ■ Hand the child from one person to the next

If another person is available, the child should be handed back and forth, from one adult to the other (with each person carrying the child less than 6 feet), and brought back in that manner.

It is permissible to stop (within 6 feet) before handing over the child. However, this entire back and forth procedure should preferably be done without stopping. This means that each person carrying the child should hand the child directly to his friend while walking beside him, and his friend should reciprocate. This process should be constantly repeated every few feet (i.e. less than 6 feet) until they reach their destination.

## ■ Carry the child for less than 6 feet intervals

If a second person is not available (i.e. handing the baby back and forth is not possible), the child may be carried by a single person, stopping momentarily at intervals of every four feet (and preferably putting down the child each time).

## ■ The special problems when bringing the child into the house

Upon arriving near the house, the child should be put down and again be coaxed to enter the house (or enclosed yard, deck or porch) on his own. If this is not possible, and a non-Jew is not available, the child may be placed onto the outstretched arms of a second person whose feet and body are in רשות היחיד (i.e. in the house, stoop, deck or porch), but whose hands are extended into רשות הרבים (i.e. over the sidewalk or street).

## 3: In dangerous circumstances

If this situation occurs under dangerous circumstances (e.g. in an unsafe neighborhood, sudden severe electrical storm etc.), one may immediately carry the child and run (not walk) home without any of the previously described precautions.

In view of the many Halachic compromises necessary when a child refuses to walk home, it behooves a parent to carefully consider the consequences before taking a very young child for a walk on Shabbos. ■

1. The 39 Melachos by Rabbi Dovid Ribiat, pages 1336-1339. Used with permission of the author.

