

## OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah lists the different possible ways an item can be transferred from in a house to outside or from outside a house to inside and the different liabilities for these actions.

### 2) Explaining the extra detail in the Mishnah

The Gemara notes a discrepancy between the amount of detail mentioned in our Mishnah and the Mishnah in Shavuot.

R' Pappa explains that since our Mishnah deals with the halachos of Shabbos it lists cases which are prohibited from the Torah as well as cases which are only prohibited by rabbinic decree. The Mishnah in Shavuot, which does not deal with halachos of Shabbos lists only those cases which are prohibited from the Torah.

### 3) How can the term "יציאות" refer to bringing an item "in" (הכנסות)?

When the Gemara explains that the Mishnah refers to four cases that violate the Torah when the Mishnah uses the term "יציאות" which seems to refer to transferring an item from a private domain to the public domain. Yet, there are only two cases which fit that are going out, and two are describing the item being brought in.

R' Ashi answers that the Tanna uses the term "יציאות" to refer to both transferring an item from a private domain to the public domain as well as for transferring an item from the public domain to a private domain.

Rava answers that the term "יציאות" refers to the two different domains, and not to the act of transferring an item from a private domain to the public domain.

### 4) Clarifying the number of cases mentioned in the Mishnah

R' Masna asks Abaye why the Mishnah only counts a total of eight cases when in reality there are twelve because each Rabbinic violation is violated by both parties and therefore there are

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## Gemara GEM

### An Appropriate Opening Topic

יציאות השבת שתיים שהם ארבע

Tosafos (2a, ד"ה יציאות השבת, 2a) cites the opening question of Riv"א to our Mesechta. The Mishnah begins with the rules regarding הוצאה – the transferring of objects from one domain to another. This choice of an opening topic presents us with two questions. First of all, the melachos of Shabbos are all listed in the seventh perek, in a Mishnah on 73a. There, the Mishnah lists the transfer of objects from one domain to another (the 39<sup>th</sup> melacha). Why, then, is this melacha singled out and featured at this point? Second of all, at the beginning of several Mesechtos, in presenting various time observances such as Pesach and Yom Kippur, the Mishnah is designed to follow a time schedule. In those cases, the Mishnah always begins with halachos pertinent to the preparation of the holiday (the search for chometz, or the preparation of the Kohen Gadol a week before Yom Kippur). In each case, the Mishnah progresses to the eve of the holiday, and then to the night as the holiday begins. Here, too, we should expect the Mishnah to discuss halachos dealing with preparatory rules of Shabbos, such as the tailor not walking outside while carrying his pin in his clothing (which is only later on 11a). It should then proceed to deal with the halachos of leaving food on a flame, and of insulating food (הטמנה). Why, then, does the Mesechta begin with הוצאה which is actually presented in the Mishnah on 73a, and it does not begin with the laws of Erev Shabbos?

Riv"א answers that the author of the Mishnah chose to begin with הוצאה because it is a single topic which, at once, introduces many concepts. We learn the many aspects of transfer, both from the perspective of the home owner and of that of the poor person. We see the features of uprooting and placing things down, and that one's hand is considered to be a complete domain of four by four handbreadths. This single example is multi-faceted, and it is a special case, worthy of introducing us to the Mesechta.

Rabbeinu Tam offers two other insights. We begin with הוצאה because it is a very common and prevalent issue which we face constantly. Due to its being so relevant, it deserves our attention from the outset. Furthermore, we can say that, indeed, the Mesechta is beginning from Erev Shabbos, just as the Tanna begins Pesachim and Yoma. However, in order to introduce the Mishnah of the tailor not entering the public domain with his needle in his hat, we must first set forth the basic rule of carrying and transfer of domain, and that is the topic of our Mishnah. ■

## REVIEW and Remember

1. What are the three components to the Torah prohibition of הוצאה?  
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2. Regarding the melacha of הוצאה, which act is an Av and which act is a Toldah?  
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3. Why did R' Masna assert that there should be twelve cases instead of eight?  
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# HALACHAH Highlight

**Are partial measures (חצי שיעור) Scripturally forbidden on Shabbos?**

שניהם פטורים.

[In a situation where the poor man and the homeowner each do only one of the two required elements of the Hotza'ah (transferring between domains), then] neither of them is Scripturally liable.

The Rosh<sup>1</sup> explains that when one person does the עקירה (lifting) and the other does the הנחה (placing), then the act is forbidden only by Rabbinic legislation since it is considered as שנים שעשאו; a Biblically prohibited act that could normally be accomplished by one person, when done by two people is only prohibited by Rabbinic interdiction, and not Scripturally. This would also appear to be the opinion of Rashi<sup>2</sup>. The Sfas Emes, questions this view. Being that both the homeowner and the poor man each perform half of the act, we could consider this as falling within the parameter of חצי שיעור, a half measure. Since we rule that even doing half or part of an act prohibited by the Torah is forbidden Biblically, in our case where each of the homeowner and the poor man do half the act, it may well remain that this is a prohibition of Torah origin for both of them. The Sfas Emes considers the possibility that חצי שיעור is forbidden by the Torah only in regards to prohibitions of eating. [This is in fact the opinion of the Chacham Tzvi<sup>3</sup>.] He notes, however, that Rashi<sup>4</sup> elsewhere seems to indicate that a half measure would be prohibited Biblically for Shabbos matters as well. Eventually, the Sfas Emes proposes that our case is not a case of a partial measure (חצי שיעור), but rather of a partial act (חצי מלאכה), which is not prohibited at all, as opposed to eating half an olive size piece of forbidden fat (חלב), where the

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four Torah violations and eight Rabbinic violations which equals twelve.

Abaye asks R' Masna that following that approach there are sixteen cases because in the Torah violations there are also different halachos which apply to the two parties which brings the total to sixteen. ■

prohibition is sure, only the full measure is lacking.

Rav Ovadiah Yosef in מאור ישראל here cites numerous sources that appear to in fact hold that a partial measure in relation to prohibited acts of labor on Shabbos is not scripturally proscribed. He references the Rambam<sup>5</sup> who states that anyone who transfers from one domain to another has transgressed a Torah prohibition, as long as the prerequisite measure has been executed. However, if he lifted without placing, or placed without lifting, or if he transferred less than the requisite amount, he is only liable due to Rabbinic injunction. This echoes the previously mentioned opinion of the Chacham Tzvi. Other authorities<sup>6</sup> state clearly that partial measure in regard to performance of acts of labor on Shabbos is forbidden due to Rabbinic prohibition<sup>7</sup>. See as well שמירת שבת כהלכתה<sup>8</sup>. ■

1. פ"א סי' א'
2. ע"י רש"י (ב ע"א ד"ה שניהם פטורים)
3. שו"ת חכם צבי (סי' פו)
4. ע"י רש"י (עד ע"א ד"ה וכו' מותר). ע"י מאור ישראל שם באורך.
5. רמב"ם (פ"ח מהל' שבת ה"ג)
6. ע"י שו"ת הרדב"ז ח"ה (סי' ב' אלפים רב) והמב"י בקרית ספר (פ"ב מהל' שביתת עשור) ורבי רפאל יוסף בן רבי בסי' דרך המלך (פ"א מהל' נדרים ה"ה, דכ"א ע"א) בשם המהרי"ט אלגאזי, וראה לרבי יצחק אלחנן ספקטור בשו"ת באר יצחק (סי' טו ענף ו), וכן בשו"ת ברית יעקב (חאו"ח סי' ב', דף ז' רע"ב). ע"ש.
7. ע"י עוד אליו בשו"ת יביע אומר ח"ד (חאו"ח סי' לג אות יז) ובסי' מאור ישראל (שבת עד ע"א).
8. ח"ג (מבוא להלכות שבת סעיף כג) ■

# STORIES off the Daf

**No Agent for Violating the Shabbos**

נתן לתוכה והוציא – שניהם פטורים

In one case of the Mishnah, the owner of the house takes the object in his hand and reaches out to the street, whereupon the poor man takes the item from his hand and puts it down. The law is פטור אבל אסור for both the house owner and the poor man – it is a rabbinically prohibited act, but they are exempt from punishment. We should point out, however, that the בעל הבית initially picks up the item on behalf of the poor man. As such, it seems that he is technically acting as the poor

man's agent in lifting the item in the private domain, and when the poor man later places the item down in the public domain, the poor man should be fully liable. He has completed a full act of violating Shabbos - the עקירה being by proxy, which is valid, and by then placing the item down (הנחה) himself. Why is the poor man not חייב – fully culpable?

There are those that say the rule of אין שליח לדבר עבירה should apply. Yet, this rule is not appropriate for this case, because the lifting of the object in and of itself is not a sinful act, not even בשוגג, and it is therefore eligible to be an assigned task to be done by the house owner for the poor person.

Tosafos (Bava Metzia 10b) deals with

this issue in regard to a kohen who sent his agent, who is also a kohen, to betroth a divorced woman for him. The Gemara there deals with the issue of אין שליח לדבר עבירה, but Tosafos notes that according to one opinion, even if the second kohen would execute his charge, a sin would ensue when the kohen marries a divorcee, and not in the betrothal. Tosafos posits that, in fact, the betrothal is not an עבירה, but when the kohen does later marry the woman, malkos are given even for the earlier betrothal.

According to this, we see that although the lifting of the object by the home owner is in and of itself not an עבירה, it is still not possible to be an agent for the poor man when a sinful act will later come as a result of this initial move. ■