



OVERVIEW of the Daf

1) Perforated earthenware utensils

R' Asi stated: An earthenware shard that has a hole that allows water to seep in loses its status of being a utensil.

A dispute is recorded regarding the size hole that would render a plant in a flowerpot as attached to the ground.

A ruling is quoted regarding an earthenware utensil with a hole the size of an olive.

הדרן עלך המצניע

2) **MISHNAH:** The liability for transporting an item through throwing or handing is discussed.

3) **The source for the prohibition against "taking out" and its derivatives**

The Gemara asks: Where is the prohibition against "taking out" written that we could identify throwing as a derivative of that melacha?

A source is provided for the prohibition against "taking out" which prompts the Gemara to ask for the source against "bringing in."

The difference between avos and toldos is explained.

The Gemara asks: What is the source that indicates liability for throwing an object four amos in a public domain?

The final conclusion of the Gemara is that liability for all transfers in a public domain comes from an oral tradition.

4) מקושש עצים

Three different opinions are recorded regarding the specific prohibition violated by the מקושש עצים. We know that there is one prohibition of the 39 for which the punishment is not stoning. The importance of knowing which prohibition the wood collector violated is that we would then know that it was not the one prohibition for which there is no penalty of stoning.

R' Akiva maintains that the מקושש עצים was Tzlophchad, and R' Yehudah ben Besaira disagrees and instead suggests that Tzlophchad was amongst those who attempted to conquer Eretz Yisroel following the sin of the spies. ■

REVIEW and Remember

1. Are utensils made of stone or clay susceptible to any sort of tumah?

2. What is the precedent to prohibit handing an object to another person over a public domain?

3. What two practical differences are there in categorizing some activities as avos and others as toldos?

4. What are the three opinions concerning the sin committed by the מקושש עצים?

Gemara GEM

Second-Rate Melacha

הוצאה גופה היכא כתיבה

Now, after realizing that זריקה/throwing is a sub-category of transferring (תולדה דהוצאה), the Gemara suddenly is puzzled and attempts to find the scriptural source for הוצאה itself. This confronts us with several questions. First of all, Pnei Yehoshua notes that the question regarding the source for הוצאה should have been asked at the very beginning of the Massechta, where the Mishnah discussed the cases of uprooting and placing down items. Or, the Gemara could have probed this issue in the seventh chapter (73a) when the Mishnah presented a full and comprehensive listing of all the melachos. Why is this question presented only here, when we discuss throwing?

Pnei Yehoshua explains that the other cases in the Gemara discuss a situation where a man carries an object as he walks from one domain to another, or even if he stays where he is, but he hands the object to someone in another domain. Those cases do not need scriptural origins. Here, however, we present to case of throwing, and we consider it a תולדה of הוצאה. This is a new and unusual application of transferring, and unless we find a precedent in the Mishkan, the Gemara challenges whether this would also be a form of הוצאה (עיי"ש).

Tosafos (ד"ה הוצאה גופה) notes that each melacha is derived from the very fact that these activities were found in the construction of the Mishkan. None of the melachos have specific scriptural sources from which they are derived. Rather, it is the construction of the Mishkan which is associated with the laws of Shabbos, and the various labors involved are defined as those which constitute melachos. Once we know that the beams for the walls of the Mishkan were transported from the wagons to the public domain, this is the source itself. Why does the Gemara expect (and succeed) in finding a verse to substantiate this labor?

Tosafos answers that transferring is גרועה – מלאכה – it is a weak and "second-rate" melacha. (Tosafos 2a פ"ט ד"ה explains that only taking out to the public domain is חייב, but taking in to the private domain is not דאורייתא. This suggests that this melacha is weak and not easily understood). Many Rishonim explain that it is the only labor of Shabbos in which there is no physical change by man upon the object, but yet it is a bona fide melacha. Our Gemara was not satisfied in relying upon the fact that this activity was in the Mishkan to establish it as a melacha, until we find a verse which teaches that it is, in fact, a full and complete melacha. ■

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In memory of our mother
ומרת זלדה בת סיגמונד, ע"ה
By Mr. and Mrs. Elchonon Margolis

HALACHAH Highlight

Forbidden Gatherings

רב אחא ברבי יעקב אמר: מעמר הוה (שבת צ"ו ב'). האי מאן דכנף מלחא חייב משום מעמר (רש"י שם)

Rav Acha the son of Rabbi Yaakov said, he was [punished by death for the transgression of] 'gathering'. (Shabbos 96b) One who gathers salt transgresses the prohibition of 'gathering'. (Rashi)

The words of Rashi call our attention. A number of opinions are listed by the Gemara regarding the crime of the famed 'wood collector' - the man that desecrated Shabbos as the Jews traversed the wilderness. Of them, the prohibition of מעמר/gathering, refers primarily to gathering reaped produce from the field. It is the only one for which Rashi cites a source. Why is this so?

Furthermore, rather than simply citing the mention of מעמר in the Mishna, Rashi cites a particular detail in the laws of the prohibition - namely, that gathering salt is included in the transgression. Why does Rashi specifically mention this law?

The answer to these questions is found in the Minchas Chinuch¹. He explains that since the gathering of the 'wood collector' was of wood, rather than of food, Rashi was compelled to find a source not only for the prohibited labor of Me'amer [gathering] but in particular for the application of the prohibition even to non-foods. Rashi found this in the prohibition of gathering salt, since salt too is not considered a foodstuff.

This, the Minchas Chinuch explains, is in contrast to Rambam², in whose opinion the prohibition of Me'amer applies to foodstuffs alone. According to Rambam the offense of the 'wood collector' was one of the other transgressions mentioned by the Gemara. As for salt, perhaps Rambam opines that salt is considered a food, in contrast to the opinion of Rashi who does not³

Here is a summary of the basic laws of מעמר/Gathering:

1. Halachically, no distinction is made between foods and non-foods. The distinction is made between things that grow from the ground and things that don't. The forbidden labor of מעמר applies only to those that grow from the ground - including fruit, wood, and so on - to the exclusion of eggs, salt, and the like.⁴
2. Despite this, the Rabbis enacted a prohibition on the gathering of salt from its place of manufacture, since it bears similarity to the action of gathering produce⁵. On the other hand, there is no prohibition on gathering eggs from the place where they were laid.⁶
3. The prohibition of gathering applies solely when the act of gathering is performed at the place of growth— i.e. in a field, or in the case of salt, at the manufacturing plant where salt is dried. The prohibition of gathering does not apply in a home.⁷
4. Having said this, if fruit scatter across a yard, one may not collect them to place them together in a basket. Although the prohibition of מעמר does not apply, the act of collecting into a basket is a 'weekday act' that may not be performed on Shabbos.⁸ If they fall in a way that is not widely scattered, they may be collected.⁹ ■

5. מצוה ל"ב מלאכת מעמר.

6. פ"ח מהל' שבת ה"ה.

7. כמבואר בדברי רש"י ב"ב דף כ' א' ד"ה המלח, דאינו מקבל טומאה כיון דלאו אוכל הוא, וכן מבואר בתוס' שם.

8. כמבואר בגמ' לעיל ע"ג ב' בדעת אב"י וכן מבואר להלכה ברמב"ם פ"ח מהל' שבת ה"ה ובמ"ב סי' ש"מ ס"ק ל"ו.

9. כמבואר בשו"ע או"ח סי' ש"מ סעי' ט'.

10. שו"ת שבט הלוח ח"ד סי' ל"ט, ע"ש מה שהאריך קצת בדעות הראשונים [יראים ואו"ז] דיש איסור מעמר אפי' בלאו גידולי קרקע, עכ"פ אינו להלכה כמבואר שם.

11. מ"ב סי' ש"מ ס"ק ל"ז.

12. שו"ע או"ח סי' ש"כ"ה סעי' ה' ע"ש במ"ב דהוא משום עובדא דחול בלבד.

13. ש"ש"כ פרק כ"ו סעי' כ"ד. ■

Distinctive INSIGHT

Tzelaphchad the Tzaddik?

אלא מהיכא הוה מויעפלו

When Rabbi Yehuda ben Besaira heard that Rabbi Akiva identified Tzelaphchad as the wood collector who violated the Shabbos, Rabbi Yehuda told him that he was slandering "a righteous man". If, in fact, even according to Rabbi Yehuda, Tzelaphchad was a member of the מעפילים, and he sinned in that he disobeyed Moshe and he died attempting to enter Eretz Yisroel while unauthorized by Hashem, how can we still call him a צדיק? Although he was not a Shabbos violator, he still died as a sinner.

Rashi explains that had Tzelaphchad sinned by violating Shabbos, this would have been a grievous sin, and the degree of his evil

would be significant. However, according to this version, the daughters claimed that he was a tzaddik, because he had only sinned in being one of the rebels of the מעפילים. Relatively speaking, this was a much lesser sin than violating the Shabbos. As the Maharshal emends, in this manner Tzelaphchad had not been involved in a חילול השם - the desecration of the Name of Hashem.

Reb Tzadok HaKohen writes in his sefer צדקת הצדיק that the sin of these fighters was that they refused to be denied the opportunity to enter Eretz Yisroel. He explains that their sin was not an intentional act of rebellion against Hashem and Moshe, but it was rather a case of terrible misjudgment. They were killed in battle due to their mistake, but this did not deem them as evildoers.

Sfas Emes points out that the daughters of Tzelaphchad admitted that their father

died due to his "חטא". The term "חטא" generally refers to an inadvertent sin. The verse in Kohelles (7:20) tells us that there is no man who is a total tzaddik in the land who will not sin even inadvertently. The wood collector had acted with intent, and Rabbi Yehuda would never had used the term tzaddik to describe him. Although Tzelaphchad had sinned, it was without intent, and this did not compromise his title as a fully righteous man.

As far as revealing the identity of Tzelaphchad is concerned, some say that Rabbi Akiva held that he acted for the sake of heaven in violating the Shabbos. He would be killed and the Jews would learn to appreciate the sanctity of the Shabbos laws (see Tosafos, Bava Basra 119b). Rabbi Akiva was not concerned about revealing his name, because it did not reflect upon his being a רשע at all. ■