

OVERVIEW of the Daf

1) A positive command overrides a prohibition (cont.)

After demonstrating the source that a positive command overrides a prohibition according to Tanna D'Vei R' Yishmael, the Gemara inquires after the source for Rabanan who disagree with Tana D'Vei R' Yishmael.

The Gemara initially attempts to draw this conclusion from superfluous phrases that appear in the context of metzora but each attempt fails.

The Gemara then makes numerous attempts to derive this principle from phrases that appear in the context of tzitzis or shaatnez and finally concludes that the word שעטנז teaches the principle that a positive command overrides a prohibition.

2) Does a positive command override a prohibition that carries the punishment of kares?

The discussion moves on to the second issue, namely whether a positive command override a prohibition that carries the punishment of kares, and seeks a source that it does, which necessitates an exposition to teach that the mitzvah of yibum does not override the ערוה prohibition.

Initially attempts are made to demonstrate this principle from the mitzvos of milah, Korban Pesach and Korban Tamid but these attempts fail.

It is suggested that the mitzvah of honoring one's father and mother teaches this principle ■

REVIEW and Remember

- How many prohibitions does the metzora override when he shaves the hair off his body?

- Explain the phrase בשאלה שכן ישנו בשאלה that is used concerning a nazir.?

- What halachos are derived from the word שעטנז?

- What is the common denominator of the mitzvos of milah, Korban Pesach, and the Korban Tamid?

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 מרת ציפורה פייגא בת הרב אלכסנדר סנדר ע"ה

Distinctive INSIGHT

עשה דוחה לא תעשה שיש בו כרת לא תעשה שיש בו כרת היכא אשכחן דדחי דאצטריך עליה למיסרי

The Gemara concludes that a positive commandment defers a negative commandment. This is derived from the Torah using the word שעטנז rather than the three words שוע טווי ונוו. The Gemara then seeks the source that a positive commandment can defer even a negative commandment that is punishable with כרת. The fact that the Torah uses the word עליה to teach that yibum may not be done in a case where the brother's wife is an ערוה indicates that without this special verse, the rule would be that it is allowed.

The Gemara identifies three possible sources that עשה דוחה לא תעשה even when כרת is involved with the לאו. Each of these sources illustrates a mitzvah which can be done in violation of the laws of Shabbos, a case where כרת is prescribed. They are milah, korban Pesach, and the korban Tamid. Nevertheless, the Gemara finds a refutation to each proof, and the next attempt is to use צד שוה using two of the mitzvos at a time to act as a united source. This, however, also fails, as each set of two mitzvos share a common aspect which leaves the proof inconclusive. Pesach and milah are both liable for כרת if not fulfilled. Pesach and Tamid are both korbanos brought on the altar, and milah and tamid are mitzvos which each predated Sinai (ישנן לפני הדיבור). At this point, with the sources having failed to be conclusive, we would not know that yibum might have been allowed in a case of an ערוה. The Gemara continues its inquiry.

On a technical basis, Ritva asks why the פירכא against milah and Tamid (their being לפני הדיבור) is a problem. The fact is that yibum also predates Sinai, as we find that it was practiced in the time of Yehuda and Tamar. Nevertheless, Ritva answers that the observance of the custom of yibum in Sefer Bereshis was not yet a commandment, and we cannot formulate a rule regarding mitzvah priorities based upon what amounts to a mere custom.

Tosafos (ד"ה ומכולהו) notes that aside from the Tamid, the Gemara apparently could have introduced other korbanos which are brought on Shabbos into the equation. These would not be rejected due to pre-dating Sinai. Tosafos answers that these other offerings are subject to a פירכא that they are brought regularly, they are תדיר, and that is why they defer לאו which has כרת.

HALACHAH Highlight

Moving to Eretz Yisroel against the command of one's parents

איש אמו ואביו תיראו ואת שבתותי תשמורו כולכם חייבין בכבודי
 "A man shall revere his mother and father and My Sabbaths shall be observed," teaching that everyone is obligated in My honor.

The Sifrei¹ writes that dwelling in Eretz Yisroel is equal to all the other mitzvos. Ramban² counts the mitzvah of dwelling in Eretz Yisroel as one of the 613 mitzvos of the Torah. There is, however considerable debate regarding the parameters of the mitzvah. One issue³ is whether the mitzvah is still in force after the Jewish People were exiled. Another matter⁴ is whether the mitzvah is obligatory (חייבית) or optional (קיומית) and there would be no consequence for non-compliance with the mitzvah.

A common question that arises concerning this mitzvah is whether the mitzvah of moving to Eretz Yisroel overrides the mitzvah of kibbud av v'eim. Some authorities, based on a Midrash, conclude⁵ that honoring one's parents overrides the mitzvah of dwelling in Eretz Yisroel. The Midrash⁶ states that Hashem told Avrohom Avinu explicitly that he is exempt from the mitzvah of honoring his parents to travel to Eretz Yisroel whereas no one else is exempt from the mitz-

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Ritva answers that these other offerings are excluded together with the rejection of the Tamid itself. ■

vah of honoring one's parents to dwell in Eretz Yisroel. The Mabib,⁷ on the other hand, ruled that one should not listen to his parents who are protesting against his decision to move to Eretz Yisroel because the mitzvah of dwelling in Eretz Yisroel will override the mitzvah to honor one's parents. Further support for this position can be found in a teshuvah of the Maharam M'Rothenburg⁸. Maharam M'Rothenburg writes that a child should not listen to his father who forbids him from moving to Eretz Yisroel. The reason is that moving to Eretz Yisroel is a mitzvah, coupled with the exposition cited in our Gemara, namely the mitzvos of honoring parents and Shabbos, are in the same pasuk to teach that when it comes to fulfilling a mitzvah one does not listen to a parent. ■

1. ספרי דברים יב: כ"ט
2. רמב"ן בהוספות לספר המצוות מ"ע ד'
3. מגילת אסתר בספיה"מ שם לדעת הרמב"ן ומובא דבריו בספר חיי משה כללי מצוות פמ"ז עמ' רט"ז הע' 40
4. ע' חיי משה שם עמ' רי"ז הע' 42
5. פנים יפות פרשת לך לך והחכמת אדם בשער משפטי הארץ בינת האדם אות ג'
6. מדרש רבה ריש פרשת לך לך
7. שו"ת המב"ט ח"א סי' קל"ט
8. שו"ת מהר"ם מרוטנבורג דפוס ברלין שער ב' סע' כ"ח ■

STORIES Off the Daf

"Each person shall fear his mother and father, and guard my Shabbosos"
 יכול יהא כבוד אב ואם דוחה שבת ת"ל איש אמו ואביו תיראו ואת שבתותי תשמורו כולכם חייבין בכבודי

On today's daf, we find that the Baraisa proposes that were it not for the verse, one might think that honoring parents overrides the Shabbos! Clearly, if such an idea could be entertained, it only goes to prove the paramount importance of **כבוד אב ואם**.

The famous Yehudi HaKadosh, ז"ל, would deliver a regular Gemara shiur to his students that explored the commentary of Tosfos. One of his students was an extremely talented local boy who was unfortunately orphaned

of his father. Once, the Rebbe interrupted their learning so that he could concentrate deeply on a certain subject. His young student knew well that such a break could last an hour or more, so he took advantage of the pause to go home and eat.

The boy ate a quick meal and hurried out back to his Rebbe's home, but his mother called out after him that she wanted him to go up to the attic and bring something down for her. In his rush to return to study, he ignored her call, but half-way back the boy had second thoughts. "Isn't the whole purpose of study to fulfill the mitzvos? Shouldn't I honor my mother instead?" he asked himself. So he ran home and did as he was bid.

Afterward he returned to his studies, and as he opened the door to the

Rebbe's house, the Yehudi HaKadosh snapped out of his reverie and rose to his full height as a sign of respect. Beaming, the Yehudi HaKadosh asked, "What mitzvah have you just performed, because it has brought the spirit of the great Amora Abaye with you into my house."

The student told his story, and the Rebbe explained to the rest of the students: "It is well known that Abaye was an orphan—his name is an acronym of the verse, 'For in You does the orphan find mercy.' This is why his spirit accompanies a person who fulfills the mitzvah of honoring his parents—so that he should have a part in a mitzvah that was denied to him. You want to know why am I smiling? Because Abaye came and answered my question on the Tosafos!" ■

