

OVERVIEW of the Daf

1) Does a positive command override a prohibition that carries the punishment of kares? (cont.)

The attempt to prove the principle that a positive command overrides a prohibition that carries the punishment of kares from the mitzvah to honor one's father and mother is refuted.

The refutation is successfully challenged and an alternative refutation to deriving this principle from the mitzvah of honoring one's parents is presented.

The mitzvah of building the Beis Hamikdash is suggested as a possible source for this principle but this suggestion is also rejected.

2) Awe of the Beis Hamikdash

As part of the previous discussion the Gemara cites a Baraisa that spells out the parameters of the obligation to have awe for the Beis Hamikdash.

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

The Gemara suggests that the prohibition against lighting a fire can be used to derive the principle that a positive command overrides a prohibition that carries the punishment of kares.

The suggestion is dismissed in light of an alternative explanation, namely, it was a kal v'chomer that led to the possibility that executing someone with fire would override Shabbos, and not the principle that a positive command overrides a prohibition that carries the punishment of kares. ■

REVIEW and Remember

1. What is the source that honoring one's parents does not include obeying when they instruct their child to sin?
2. Why does the verse mention Shabbos and Mikdash together?
3. Why is the melachah of lighting a fire singled out from all the other melachos?
4. What Shabbos prohibitions are violated if Beis Din executes a person by burning on Shabbos?

Distinctive INSIGHT

Searching for the source

אלא משום דאיכא למיפרך מה להנך שכן הכשר מצוה

We have the general principle of עשה דוחה לא תעשה even regarding a negative command which is deserving of כרת. The source brought was the mitzvah of honoring one's parents, whose fulfillment cannot undermine Shabbos. This means, therefore, that in general a positive commandment can override a negative command which entails כרת. Nevertheless, the proof fails, because the nature of the violation of Shabbos discussed might not be an outright מלאכה such as slaughter of an animal or cooking, but simply מחמר, which is not liable for כרת.

At this point, the Gemara notes that if we are dealing with מחמר, we can at least use the case of honoring one's parents as the exception which indicates that a simple positive commandment can usually obviate a negative command (even if not necessarily one which involves כרת). Why, then, is this lesson learned from shaatnez and its proximity to tzitzis?

The Gemara answers that the reason we cannot learn from honoring one's parents is that this is a case of הכשר מצוה. Rashi and Tosafos offer differing explanations of this answer. Rashi explains that, in fact, we revert back to dealing with a case where the parent asks that Shabbos be violated by a full melacha, such as cooking. Yet we cannot learn from here that a positive command can cancel a כרת, because listening to one's parent as one violates the Shabbos is a certain and complete fulfillment of honoring the parent, and perhaps only here would one think that the mitzvah may be done. That is why the verse had to teach that the Shabbos should still not be desecrated. But in the case of yibum, the positive command is not essential. This is only a הכשר מצוה, because the mitzvah can be done with chalitzah, and the ערוה woman does not have to be married. There is no הוה אמינא to allow marrying an ערוה.

Tosafos learns that the Gemara is still dealing with violating Shabbos with מחמר. Yet we cannot learn that a regular positive command can defer a regular negative command. This is because obeying the wishes of a parent to lead an animal, or even to cook, the mitzvah to honor the parent is only preliminary (the actual honor is when the parent later eats). Yet we might have thought that honor due a parent is so im-

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In loving memory of their son
ישעיה שמחה בן ברוך יוסף ז"ל.

By Dr. & Mrs. Baruch Twersky, Los Angeles, CA

HALACHAH Highlight

Obedience without pleasure

דתניא יכול אמר לו אביו היטמא או שאמר לו אל תחזיר יכול ישמע לו וכו'
 As it was taught in a Baraisa: One might think that if one's father told him to become tamei or his father told him not to return a lost object, it might be thought that he should listen etc.

Poskim debate whether a child is obligated to demonstrate obedience to a parent when the request does not provide any physical benefit to the parent. The Ritva¹ in his comments to our Gemara writes that a child is not obligated to comply with a parental request that does not provide physical pleasure to the parent and the cases of the Baraisa refer to where the father will benefit from his request. Similarly, the Maharik² ruled concerning a father who protested against his son marrying a particular girl that any matter that does not relate to the physical well-being of the parent is outside the scope of the mitzvah to honor. Therefore, a child does not transgress the obligation to revere his parent when he does not obey a request that does not relate to the physical benefit of his parent.

Rav Yerucham Fishel Perlow³, in his commentary to the Sefer Hamitzvos of Rabbeinu Saadyah Gaon, cites many authorities who maintain that there is a mitzvah to comply with the wishes of a parent even when it does not provide physical benefit to the parent. For example, the Rosh⁴ rules that if a parent instructs a child not to speak to someone, the parent

(Insight. Continued from page 1)

portant, with its being associated with the honor of Hashem, that even its preliminary fulfillment should defer Shabbos. This is why we need the verse to instruct us not to violate the Shabbos to obey a parent. There is no lesson to learn, however, regarding the general rule of עשה דוחה לא תעשה when a מצוה הכשר מצוה is all that is being accomplished. ■

should be ignored. One reason is that it is beyond the scope of the parent to instruct the child to transgress a prohibition, i.e. not speaking to one out of hatred, and secondly, since the parent demonstrating hatred he or she is not behaving properly and thereby forfeits the privilege of receiving honor. It is evident, notes Rav Perlow, that if the parent instructed the child to do something that did not involve a sin, there would be an obligation to comply even though the request does not provide any physical pleasure to the parent.

Later authorities⁵ advise following the wishes of the parents even when the mitzvah of honoring one's parents is not fulfilled especially when it does not involve a loss to the child. The reason is that it is likely that the mitzvah to revere (מורא) one's parents will be fulfilled even if the mitzvah of honor (כבוד) is not applicable. ■

1. ריטב"א לסוגייתנו
2. שו"ת המהרי"ק שורש קס"ו אות ג'
3. בביאורו לשה"מ לרס"ג ח"א דף ק
4. שו"ת הרא"ש כלל ט"ו סע' ה'
5. ע' ביאור לשה"מ לרס"ג הנ"ל וספר המקנה לקידושין לא ד"ה ת"ר ■

STORIES Off the Daf

Entering Har Habayis

בשמן שאין בית המקדש קיים מנין

Our Gemara states that it is prohibited to enter Har Habayis even nowadays.

The first High Commissioner of Palestine was appointed by the British Mandatory authorities between the two World Wars. A semi-observant Jew, Sir Herbert Samuels was known to be careful not to violate Shabbos publicly. Every Shabbos, he would walk the long distance from his home on Augusta Victoria on Mount Scopus all the way to the great Churvah of Rav Yehuda Ha-Chassid in the Old City.

When Sir Herbert first met the Rav

of Yerushalayim, Rav Yosef Chaim Sonnenfeld, zt"l, the venerable gadol made a request. "Please have warning signs affixed near all of the entrances to Har Habayis so that ignorant Jews will know not to enter the area and risk transgressing the many prohibitions involved. They could even be liable to kares unless we take steps to prevent such violations!"

In those years, the Jewish community was very careful with this prohibition and did not enter Har Habayis at all. Although there is documentary evidence that some Rishonim did enter certain permitted areas of the Har Habayis, later generations would not rely on this since there are conflicting opinions and there is too much of a possibility of error.

Sir Herbert requested in turn that Rav Sonnenfeld put his request in writing.

The Rav wrote, "I have taken the

liberty to request permission of Your Honor to place signs in Hebrew, Yiddish, and Spanish to inform the Jewish people that we lack the ability to purify ourselves properly to enter this most holy place nowadays. It is therefore prohibited from the Torah for any Jew to enter the Har Habayis."

When they left, the Rav's escort asked him why he made this request, since no Jews of the yishuv ever considered doing such a thing.

Rav Sonnenfeld responded, "It is true that no one goes there now. However, what about Sir Herbert himself? As High Commissioner, isn't it likely that he will be required at some time to go there? Once the signs are posted, they will provide him with an excuse to refuse to enter the area without offending the British authorities!" ■

