

34.4.3

19a (משנה 22) → 20b (סיום הפרק)

1. או הודע אליו חטאתו **אָשֶׁר חָטָא בָּהּ** וְהִבִּיא אֶת קַרְבָּנוּ שְׁעִיר עִזִּים זָכָר תָּמִים: וּיקרא ד, כג
 2. וְאִם נָפֶשׁ כִּי תִחָטָא וְעָשְׂתָה אַחַת מִכָּל מִצְוֹת ה' אֲשֶׁר לֹא תַעֲשֶׂינָהּ וְלֹא יָדַע וְאָשֶׁם וְנָשָׂא עוֹנוֹ: וּיקרא ה, יז

- I 22 dispute: **מַשְׁנֵה ב2**: dispute about liability for חטאת when the doubt is between 2 (ר"א: liable; ר"י: exempt)
- a Arguments: ר"א – either way, he is liable for חטאת
- i Retort (ר' יהושע): v. 1 indicates that he must be aware of the specific violation
- ii ר"א interprets **אֲשֶׁר חָטָא בָּהּ** as excluding מתעסק (see note below)
- 1 Question: what sort of מתעסק is exempt?
- (a) *Can't be*: מאכלות אסורות or ביאות אסורות – in those cases, per שמואל, מתעסק is liable as he got הנאה
- (b) *Can't be*: שבת, as מלאכת מחשבת אסרה תורה (→ he is exempt in any case, without dispensation of מתעסק)
- (c) *Must be*: a מלאכת מחשבת, but with intent for היתר (per dispute רבא/אביי in re intent to cut תלוש and cut מחובר)
- (i) לרבא he intended to cut תלוש and cut מחובר
- (ii) לרבי he intended to lift up תלוש and cut מחובר
- b Examples: 1 piece of meat, חלב or נותר; 1 woman, his נדה wife or his sister; 1 מלאכה, שבת or יוה"כ (מלאכה was done ביה"ש)
- c ר' יוסי dispute was not about השמשות בין המלאכה – we could argue that ½ was done on each day (פטור)
- d Rather: dispute was if done during day – but doesn't know which day or doesn't know per which אב his act is categorized
- i ר' יוסי ברייתא noted that חכמים challenged him and hurt their own cause – they asked if he lifted during השמשות בין (no טעור-duration) how would he answer – and his response – ½ the הגבהה was 1 day, the other ½ - on the other day
- 1 Challenge: doesn't ר' יוסי agree that ר"א finds for liability for מלאכה גמר (putting last thread on a weave)
- (a) Answer: ר' יוסי has different version – must start with 3 threads or at least add 2 to weave to be חייב (for אורג)
- e ר' יהודה would exempt even from תלוי אשם, per v. 2 – if he doesn't know which sin it was, no אשם תלוי
- i ר' יוסי that's exactly the one who does bring תלוי אשם; but if he isn't sure if he ate חלב or not (no "either/or") – unclear
- 1 Conclusion: ברייתא – if he doesn't know which his sin was or if he sinned – brings א"ת
- (a) Note: must be ר"ש, as he holds that if he didn't know which sin it was – he brings; yet he also obligates in case the penitent doesn't know if he sinned
- II ג משנה: ר"ש ור"ש שזורי take on the dispute
- a ר"ש ור"ש dispute was not about a case of two actions of the same שם (e.g. cutting this or that stalk of wheat)
- i Rather: dispute was about unclarity which שם he violated (e.g. figs קוצר or grapes בוצר)
- ii ר' יהודה even if he intended to cut 1 fruit and cut another (figs/grapes) or 1 kind of fig and cut another (black/white)
- 1 But: ר' יהודה wondered whether ר' יהושע really would exempt in that case; what does **אֲשֶׁר חָטָא בָּהּ** (v. 1) mean?
- 2 Answer: it excludes מתעסק (when involved with an entirely different action and he inadvertently does מלאכה)
- (a) שמואל is liable in case of מאכל or ביאות – as he had הנאה; exempt in case of שבת due to מחשבת
- (b) Challenge (רבי לר"ג, who quoted שמואל): in the case of "mistaken babies": and ר"י would be מחייב
- (i) If he had 2 babies (e.g. twins) to circumcise, 1 בשבת, 1 ביום and he did א יום on שבת
1. Rulings: ר"א – liable; ר' יהושע – exempt (but only because he was engaged in a מצוה)
2. Answer: this case is unique, as he is מקלקל (חבורה) → מתעסק בקלקול חבורה חייב
- (c) Challenge (רבי יהודה לשמואל): ר' יהודה exempts figs/grapes – but not figs/figs (if same color) – though מתעסק
- (i) Defense (שמואל): case is where he forgot what he wanted to pick; intended grapes, forgot and went for figs then inadvertently picked grapes
1. ר"א liable, as his original plan (כוונתו) was completed
2. ר' יהושע exempt, as his immediate intent (מחשבתו) was missed
- (ii) Challenge (ר' אושיעא): ר' יהודה must be disagreeing with ר"ש ור"ש → ר' יהושע doesn't exempt מתעסק
1. Defense1: he agrees with מתעסק פטור; disagrees about forgetting (per above) in אחד שם
- a. ר"ש ור"ש only exempt if two different שמות (as per above); not אחד שם
- b. ר' יהודה in all cases, they disagree
2. Defense2 (רבא): they disagree about significance of completing his intent – but out of sequence
- a. Per: תוספתא שבת יא: – if he had 2 candles and intended to light or put out 1 and did other פטור
- b. And: if he intended to light one then extinguish other and did both in one breath – חייב
- i. Justification: ר"א since he didn't accomplish the sequence he wanted – should be פטור
- ii. Therefore: since he didn't violate sequence (earlier wasn't later – just same time) – חייב

III Tangential discussion regarding intent (תוספתא שבת ב:ח): stoking coals on שבת

- a מבעיר – חטאת ת"ק liable (one ת"ק)
- b דשב"א בשם ראב"צ liable for 2 – as he stokes the lower (buried) ones, he extinguishes the upper (exposed) ones
 - i Question: if he intends to both stoke and extinguish, why would ת"ק exempt from him one?
 - 1 Or if: he intends only to extinguish – why would ראב"צ find for two חיובים?
 - ii Answer1 (ר"א ור' חנינא): he was intending to extinguish the upper ones in order to stoke the buried ones
 - 1 ת"ק is exempt מקלקל בהבעה
 - 2 דאב"צ is liable מלקלק בהבעה
 - (a) Note: ר' יוחנן agreed with this explanation
 - iii Answer2 (אב"י בר אבין וחנינא בר אבין): he intended to do both הבעה and כיבוי
 - 1 ת"ק holds like ר' יוסי that הבעה was singled out (שמות לה:ג) to be a לאו (only- no חטאת)
 - 2 דאב"צ holds like ר' נתן that הבעה was singled out for חילוק חטאות
 - iv Answer3 (רבא): they disagree about the significance of sequence – he intended to stoke, then extinguish
 - 1 ת"ק perhaps he extinguished first – cannot hold him to 2 liabilities
 - 2 דאב"צ sequence is of no matter
 - v Answer4 (ר' אשי): he intended to extinguish and they were stoked as an inadvertent result
 - 1 ת"ק holds like ר"ש (!) – דבר שאינו מתכוין פטור (see תוסד"ה סבירא ליה)
 - 2 דאב"צ holds like ר' יהודה - דבר שאינו מתכוין חייב - ר' יהודה/ר"ש
 - vi Support: conflicting ברייתות in case he stokes coals to get warm and they enflame on their own – חייב/פטור
 - 1 Resolution: ברייתות are divided (along ר' יהודה/ר"ש lines) as to the liability for מלאכה שא"צ לגופה