

34.4.3

19a (משנה 22) → 20b (סיום הפרק)

1. או הודע אליו חטאתו אשר חטא בה והביא את קרבנו שעיר עזים זכר תמים: ויקרא ד, כג  
 2. ואם נפש כי תחטא ועשתה אחת מכל מצות ה' אשר לא תעשינה ולא ידע ואשם ונשא עונו: ויקרא ה, יז

- I 22a 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 אשר חטא בה 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: 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) לאביי 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 or שבת (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 השמשות (no duration-עיוור) 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 22b dispute: שורי ור"ש ור"ש's take on the dispute
- a ר' יוסי 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 אשר חטא בה (v. 1) mean?
- 2 Answer: it excludes מתעסק (when involved with an entirely different action and he inadvertently does מלאכה)
- (a) שמואל: מתעסק is liable in case of מאכל or ביאות – as he had הנאה; exempt in case of שבת due to מחשבת
- (b) Challenge (רבא לר"י, 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 (ר' 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 מתעסק (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"ש 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 חטאת 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 וחנניא בר אבין): he intended to do both הבערה and כיבוי
    - 1 ת"ק holds like ר' יוסי that הבערה was singled out (שמות לה:ג) to be a לאו (only- no חטאת)
    - 2 דאב"צ holds like ר' נתן that הבערה was singled out for חילוק חטאות
  - iv Answer3 (דבא): 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