



OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah begins with a discussion of when a person benefitting from sacred property has violated the prohibition of me'ilah. The Mishnah addresses the topic of multiple people benefitting from sacred property.

2) Clarifying the Mishnah

Shmuel explains why in the Mishnah's first case it is the second person who violated the prohibition of me'ilah.

The ruling related to benefitting from the stone is clarified.

The fact that one violates the prohibition of me'ilah when benefitting from something attached to the ground seemingly supports Rav's ruling that one who worships a house as an idol prohibits the house.

The proof from our Mishnah is rejected.

Another unsuccessful attempt to support Rav's ruling is presented.

הדרן עלך הנהנה

3) **MISHNAH:** The Mishnah teaches and presents an example of the principle that if an agent performs his agency the principal has violated the prohibition of me'ilah.

4) Consulting

The Gemara infers from the Mishnah that whenever the agent is expected to consult with the principal whether the item he found is included in the instructions, that indicates that the two items are different.

R' Chisda asserts that the Mishnah does not follow R' Akiva in this regard.

Abaye suggests how the Mishnah could be explained in

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REVIEW and Remember

1. Does one violate the prohibition of me'ilah if he takes hekadesh money?

2. If an agent commits me'ilah who is punished?

3. What parts of an animal are not considered meat?

4. Explain מוסיף על שליחותו הוי שליח.

Today's Daf Digest is dedicated
Rabbi and Mrs. Shmuel Kurtz
In memory of their mother
מרת זיסל בת חיים נחמן ע"ה

Distinctive INSIGHT

When the messenger is not responsible for doing the sin
השליח שעשה שליחותו בעל הבית מעל

The general rule is אין שליח לדבר עבירה, an agent appointed to perform a sin on one's behalf is not valid. If Reuven assigns Shimon with a mission to do a sin as his messenger, and Shimon commits the misdeed, the infraction is attributed to Shimon, and he cannot excuse himself and say that he was only acting as an agent of Reuven. Our Mishnah teaches us that me'ilah is an exception. If Shimon is sent by Reuven to perform me'ilah, and he does as he was told, Reuven is guilty of me'ilah.

A Beraisa cited earlier in our Massechta (18b), and the Gemara in Kiddushin (42b) both report that the source for this halacha is a gezeirah shavah using the word "חטא" which appears both in regard to terumah and me'ilah. This teaches us that just as we know that one may appoint an agent to designate terumah from his fruit, so too may a person appoint an agent to violate the sin of me'ilah, and the one who sends him is responsible.

Rambam and Bertinoro explain that the source for this halacha is the posuk in Bamidbar 5:6 which states, "and that person (הנפש ההיא) shall be guilty." The emphasis of the posuk is that it is the first one who acted inadvertently to do the me'ilah who is guilty, and not the one who actually used the item.

Tosafos in Kiddushin notes that although the rule is that "there is no agency for sin," this is based upon the argument that a messenger is faced with a decision when told to perform a sin on someone's behalf. "When choosing to obey the instructions of one's Master (God) or the student (a fellow Jew), whom should one obey? Obviously a person must obey God." Therefore, a messenger cannot claim that he was only following the instructions of the sender, because those instructions had to be disregarded. When he acted, he was therefore acting on his own, and he, the messenger, is fully responsible for his actions. This, however, is only true when the agent understands that his actions were sinful. If the messenger was unaware of the circumstances, the sender ultimately is responsible. For example, if a thief tells a kohen to take a sheep as a redemption for a firstborn donkey, and the kohen was unaware that the sheep was being stolen, the thief is responsible for the theft perpetrated by the kohen (Bava Kamma 79a).

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By Mr. and Mrs. Joey Stern
In memory of their father
ר' חיים משה בן ר' אברהם הלוי ע"ה

HALACHAH Highlight

Adding candles on Shabbos

שמע מינה מוסיף על שליחותו הוי שליח

Deduce from here that an agent who adds to his agency is still an agent

The Mishnah teaches that if someone sends an agent to commit the transgression of me'ilah and the agent follows the principal's instructions the principal violated the prohibition of me'ilah. If the agent deviated from what he was instructed to do he has violated the prohibition of me'ilah. The Mishnah then addresses the case of a person who told his agent to instruct his guests to eat a single piece of hekdesch food and the agent instructed them to eat two pieces. The Mishnah rules that both the principal as well as the agent violate the prohibition of me'ilah in this case. The Gemara records a dispute regarding this last case. Initially the Gemara attempts to deduce from this case that when an agent adds to the instructions he was given he remains an agent of the principal and for this reason the principal has also violated the prohibition of me'ilah. The Gemara rejects this conclusion since the Mishnah may refer to where the agent told the guests explicitly that the homeowner instructed them to eat one piece and he is instructing them to eat another piece but if he told them that the owner instructed them to eat two pieces perhaps the homeowner would not have transgressed the me'ilah prohibition.

Teshuvos Doveiv Meisharim¹ points to our Gemara to clarify a discussion the Poskim have regarding the number of lights to kindle for Shabbos. Rema² writes that even though the pri-

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Why, then, asks Tosafos, does our Gemara require a gezeirah shavah in order to conclude that the messenger is not responsible when he acts without intent? The halacha is that the messenger is always exempt when he is unaware of the consequences of his act.

Tosafos answers that the verses are necessary to teach about a case where the sender was unaware of the me'ilah, but the messenger was fully aware of the circumstances of the me'ilah. The posuk teaches us that this is an exception to the rule, and the sender is responsible for the me'ilah. ■

mary mitzvah is to kindle two lights on Shabbos one who wants to light more than that may do so. Machatzis HaShekel³ writes that the source for Rema's ruling is the Rosh who explains that adding onto a designated number is not considered a deviation from that designated number. For example, Chazal enacted the reading of seven aliyos on Shabbos but it is particular to have only seventy-two words in Kiddush Shabbos niacceptable to add additional aliyos. On the other hand⁴ those who are ght and therefore skip the words **כִּי הוּא יוֹם תַּחֲלָה** maintain that it is preferable to keep to the designated number of words and adding additional words would not fulfill that requirement. Teshuvos Doveiv Meisharim notes that these two approaches represent the two approaches recorded in our Gemara and the matter is unresolved. ■

1. שו"ת דובב מישרים הנדמ"ח ח"ד סי' שכ"א אות כ"ד.
2. רמ"א או"ח סי' רס"ג סעי' א'.
3. מחצית השקל שם.
4. מחצית השקל סי' רע"א ס"ק כ"ב. ■

STORIES Off the Daf

For the Sake of Heaven

השליח שעושה שליחותו

The author of B'shem Mordechai, zt"l, explains why it is essential for public servants to act without personal agenda, for the sake of heaven. "In Avos we find: 'All who toil with the community for the sake of heaven are assisted by the merit of their fathers.' This can be understood in the context of a statement in Me'ilah 20. There we find that if one sends an emissary to do something—including mei'lah—the responsibility for the act falls squarely on the shoulders of the initiator. But if the messenger does not do exactly what he was told, he is culpable for his autonomy.

"Similarly, if our leaders act for the sake of heaven, we are acting as our forefathers before us. In essence, we are their messengers and their vast merit protects us. But if those in charge act in a self-serving manner, they are like one who acts of his own volition and are responsible to make the right decisions. Such leaders who act without a thought of Heaven, so unlike our forefathers, are responsible for their own selves. They do not have the merit of the forefathers to protect them, since like the messenger who deviates from what he is told, they are responsible for acting out of tune with God's will.

"This is especially important today, since we find that the merit of the forefathers has ceased in a certain way. But if we focus our hearts to heaven as they did,

we are afforded boundless heavenly assistance. Since going in their ways makes us their representatives and we are doing as they would, everything works out for the best, just as it would if they were acting instead of us!"¹ ■

1. בשם מרדכי, דרשות. ■

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accordance with R' Akiva as well.

The Gemara identifies the Tanna who disagrees with R' Akiva about this point.

Tanna Kamma's opinion in the Be-raisa is clarified.

5) Doing more than instructed

The Gemara infers from the Mishnah that an agent who adds to his instructions remains an agent.

R' Sheishes rejects this proof. ■