

אי דמצי לאהדורי ניהדרה – If he can disgorge it, let him disgorge it

OVERVIEW

The גמרא is attempting to find a situation where the חיוב מיתה for eating a דבר האסור and the חיוב גניבה for stealing this דבר האסור are simultaneous. The גמרא suggested a case where another person stuck this דבר האסור into the בית הבליעה (the throat) of the one who eventually swallowed it. However the גמרא is not satisfied; if he can still spew it out, he should spew it out and not eat the דבר האסור. Our תוספות explains what the גמרא meant with this question.¹

וכי לא מיהדר חייב דמיתה לא פטרה ליה דלא אתיא עד דבלע לגמרי²:

So if he does not spew it out, he is liable for stealing (if he swallowed it and ate it), for the חיוב מיתה for eating it, will not exempt him from paying, since the חיוב מיתה does not take effect until he swallows it completely. Therefore in this case the חיוב מיתה and חיוב ממון are not simultaneous.

SUMMARY

There seems to be three stages; מצי לאהדורי (where there is no חיוב ממון yet), לא מצי (where there is a חיוב ממון), and בלע לגמרי (at which point there is חיוב מיתה).

THINKING IT OVER

When does the חיוב תשלומין become effective in a case of לאהדורי; does it become effective when he is יכול לאהדורי, or does it become effective when it is already לאיננו יכול לאהדורי?³

¹ Indeed he should spew it out, but in actuality he did not spew it out so therefore it is אחד באין תשלומין. Our תוספות negates this thought.

² The חיוב ממון is effective from the last moment where he is יכול לאהדורי and did not (meaning it came already to a point where he is לא יכול לאהדורי, however even then he was not לגמרי בלע); the חיוב מיתה is later, when he is לגמרי בלע.

³ See ד"ה אי דמצי.