

ספק גררוהו ההיא שעתא –

There is a possibility that they dragged it at that time

OVERVIEW

In the case of **מציק** של **שפחתו** (where they were **מטהר** the **כהן**), a **נפל** was placed in the pit. It is doubtful whether the **חולדה** dragged him out of the pit at the time the **כהן** glanced into the pit, and nevertheless the **כהן** is **טהור**. This seemingly proves that a **נפל** (which was placed in the pit) is **מוציא** from a **ודאי** (whether **גררוהו** or not). The **גמרא** responds that there is no proof concerning **מוציא מידי ודאי** for the **שפחה** placed a **נפל** in the pit. It is therefore a **ספק** which is **מוציא מידי ספק**. The issue at hand, however, is the status of the **בור**; is it a **רה"ר** (where **ספיקו טהור** [and the initial proof is not understood]) or is it a **רה"י** (where even a **ספק ספיקא** [and the refutation of the proof is not understood]).



Tosfos asks:

ואם תאמר האי בור היכא קאי אי ברשות הרבים אפילו בספיקא אחת טהור –

And if you will say: where was this pit situated? If it was in a רה"ר, then even if there is only one ספק, whether גררוהו or not, he is טהור¹, for the rule by ספק טומאה is that – ספק טומאה ברה"ר ספיקו טהור

ואי ברשות היחיד מאי משני שהטילה כמין נפל לבור –

And if the בור was situated in a רה"י, what does the גמרא answer later that she placed a seemingly stillborn in the בור and therefore it is a ספק ספיקא (one ספק whether it was a נפל altogether, and even if it was a נפל there is a second ספק that maybe the גררוהו) and that is why the כהן is טהור –

והתנן (טהרות פ"ו מ"ד) כל ספיקות וספיקי דספיקות שאתה יכול להרבות –

But we have learnt in a משנה, all ספיקות and ספיקי that you can add on, if the ספק is –

ברשות היחיד טמא –

in a רה"י, it is טמא, regardless of all the ספיקות. Therefore it cannot be that the בור was in a רה"ר for then the כהן would be טמא (regardless of how many ספיקות), and it cannot be in a רה"ר for what is the question of ודאי מוציא מידי ודאי, the rule is that ברה"ר ספק טומאה ברה"ר טהור!

Tosfos answers:

ויש לומר דגרירת חולדה וברדלס הוי ספק הרגיל כדפירישית לעיל² –

¹ Indeed by ספק טומאה ברה"ר ספק ספק מוציא מידי ודאי. That is the meaning of טהור ברה"ר. It is however no proof concerning other איסורים, such as חמץ, etc. See (however) 'Thinking it over' # 2.

And one can say that indeed the בור was ברה"י, and the reason why by a ס"ס it is טהור that is because **the dragging** of the corpse by a חולדה וברדלס is a 'common' ספק **as I explained previously**. By a ספק הרגיל (which is קרוב לודאי), when it is a ס"ס (even if it is ברה"י, nevertheless) it is טהור.

כהן elaborates on the טהרה of this:

אומר רבינו יצחק דצריך לומר דרגלי כהן היו ברשות הרבים –

The כהן maintains that it is necessary to say that the feet of the כהן were in the רה"ר (even though the בור was in the רה"י as previously explained). The reason for this is -

דעל כרחק בחורייהו ליכא פותח טפח –

For you must assume there is no opening of a טפח in the burrows of the חולדה. The opening of their burrows (into the בור) is less than a טפח in diameter. The reason we must assume so is -

דאי איכא פותח טפח (מפני) מה מועלת גרירה והא פותח טפח מביא את הטומאה –

For if there is an opening of a טפח, what does the dragging away accomplish; an opening of a טפח brings out the טומאה and allows it to escape from the burrow into the pit, where the כהן is standing over it³. Now that we have ascertained that the חור is not a פותח, it is understood why the feet of the כהן must be in a רה"ר (where ספיקו טהור) -

ואי רגליו ברשות היחיד ניחוש שמא גרוהו נגד רגליו וטומאה בוקעת ועולה –

For if his feet were in a רה"י, let us be concerned that perhaps the חולדה dragged this נפל into its burrow exactly below the feet of the כהן, and the rule is if (as is the case here, as we have just proven), **the טומאה bursts** through the covering ground and extends **upwards**⁴; thus making the כהן טמא. Even though it is a ספק (whether the נפל is directly under the feet of the כהן), however ברה"י ספק טומאה ברה"י. Therefore we must assume that the רגלי כהן were in רה"ר and even though there is a possibility that the נפל is immediately under the כהן, but nevertheless since it is only a ספק, the rule is that a ברה"ר ספק טומאה ברה"ר is טהור.

Tosfos offers an alternate solution:

² דף ט,א בד"ה ואת"ל.

³ The גמרא says that even though the כהן was bent over the pit, nevertheless there is a reason for טהרה since there is the possibility that the חולדה dragged the נפל from the בור into their burrow which opens into the pit. If the opening of the burrow into the pit is a טפח in diameter, the rule is that the טומאה that is in the burrow 'escapes' and enters into the pit, and in turn will be מטמא the כהן who is מאהיל over the בור. Therefore we must assume that the opening of the burrow is narrow and does not have a פותח טפח, thus keeping the טומאה in the burrow and prevents it from entering into the pit.

⁴ If the opening is not a פותח טפח, even if inside the burrow itself there is a width of a טפח (which would usually prevent the טומאה from extending upwards [see שחולדה ד"ה]), nevertheless (according to תוספות) since there is no פותח at the opening it is considered a קבר סתום and is בוקעת ועולה. See מהרש"א.

ועוד יש לומר דרגלי כהן ברשות היחיד היו וגררוהו ואכלוהו⁵ הוא ספק הרגיל:

And in addition one can say, that the רגלי כהן were in a רה"י, and the reason he is טהור even though there is a טומאה ספק, is that the ספק that the חולדה וברדלס dragged the נפל and ate it is a common ספק. As mentioned previously, by a ספק הרגיל if there is a ס"ס it is טהור even in a רה"י⁶.

SUMMARY

The בור was a רה"י and nevertheless the כהן is טהור because by a ספק הרגיל (such as ברה"י even ס"ס), we are lenient by a ס"ס even גררוהו [אכלוהו or].

If there is a פותח טפה in a burrow it escapes from its opening to the adjacent area and if there is no פותח טפה it is ועולה ובוקעת ועולה. The רגלי כהן were in the רה"ר, or alternately ברה"י if we assume that ספק אכלוהו is a ספק הרגיל.

THINKING IT OVER

1. The מוציא attempted to prove from the story with the שפחה וכו' that ספק is מוציא מידי ודאי. Seemingly (based on our תוספות) it is not understood what is his proof. Perhaps the בור is in a רה"ר and therefore the כהן is טהור, since ספק טומאה ברה"ר is מוציא מידי ודאי⁷; it does not prove, however that generally a ספק is טהור.

2. The rule of מוציא מידי ודאי אין ספק can be either understood that it remains a ודאי (the ספק היתר does not weaken the ודאי at all), or that the ספק היתר cannot be מותר the איסור, however it weakens it so that it is merely אסור on account of a ספק. Does our תוספות seem to lean either way on this issue?⁸

⁵ According to this answer ספק אכלוהו is also a ספק הרגיל (not only גררוהו).

⁶ It is a ס"ס (even according to the 'ואי בעית אימא' [who maintain that it was a נפל] because there is the ספק הרגיל that חולדה (before it was רגליו) and even if it was not אכלוהו, we are not certain that the burrow of the חולדה was under the כהן.

⁷ See צ"ח.

⁸ See (footnote # 1, and) י' א, סעיף (ט) ו'.