

אלא למונבו שגגה במאי –

However, according to מונבו, what was done inadvertently

OVERVIEW

מונבו stated previously that there is a חיוב חטאת בשוגג even if there was awareness that he is transgressing at the time of this שגגה. The גמרא ponders if there was awareness, in which way was it a שגגה?!¹ תוספות discusses and rejects alternate ways of explaining what the שגגה consists of.

תוספות responds to the anticipated difficulties:²

לא מצי למימר ששגג בלאו והיזיד בקרבן³ –

The גמרא **could not have answered that he was unaware** that there is a **prohibition** (which carries with it a חיוב מלקות), **but was aware that** for this עבירה there is a חיוב קרבן.⁴ This answer is inappropriate -

דאין סברא לחייב בהיזיד בקרבן דלא שב מידיעתו הוא⁵ –

For it is not logical to obligate him to bring a קרבן, since he is not consciously retracting from his sinful action.

תוספות rejects an additional solution:

וליכא נמי למימר שגג בלאו וקרבן –

¹ The גמרא replies that he was a שוגג regarding the קרבן; he was unaware that there is a חיוב קרבן for this transgression. This classifies him as a שוגג and he is required to bring a חטאת (even though he was aware the entire time that this מעשה is forbidden and carries with it a חיוב כרת).

² The suggestions תוספות will be making are attempting to minimize the novelty of מונבו, that there is a חיוב קרבן even if he is a מזיד. Instead of ruling that there is a חיוב קרבן even if he was aware of all aspects of the עבירה; he was just unaware that there is a חיוב קרבן (which is a great חידוש), perhaps מונבו meant that if there is (only) a minimal awareness, then there is a חיוב קרבן, but not if there is a maximum awareness. תוספות negates this suggestion.

³ See (שפ"א and מהר"ם) who interprets this to mean that he was only שגג בלאו (he may have assumed that there is only a מצות עשה [to rest on שבת, for instance] see של מי); however he knew about כרת (and קרבן). This explains why תוספות did not use the same answer he gives shortly (on שגג בלאו וקרבן) that אפילו (שגג בלאו וקרבן) that מזיד בכל דבר וכו' יש לנו לחייבו. See (however) 'Thinking it over' # 3. The שפ"א maintains that if it would be as well, then it would be considered שב מידיעתו (even if he was בקרבן).

⁴ (presumably) maintains that it is more logical to consider him a שוגג if he is unaware that there is a חיוב קרבן (וכרת) than to consider him a שוגג if he is aware that there is a חיוב קרבן and he is just not aware of the חיוב קרבן.

⁵ שב מידיעתו means that had he known the (severity of the) prohibition he would not have transgressed it. Now that he is aware he brings a קרבן to atone. However if he was aware that there is a חיוב קרבן for transgressing this עבירה and nevertheless it did not prevent him; he is in the same rebellious state and it would be most unfitting for him to bring a קרבן for an atonement. However if he was unaware that there is a חיוב קרבן for this transgression, we may argue that had he known he would not have transgressed, and now that he is aware he may bring the קרבן as an atonement. See later in this תוספות. See אריאל.

And we also cannot say that he was unaware of the לאו⁶ and the קרבן, but was aware of the (כרת)⁷; איסור however if he would be aware of the לאו (and/or the קרבן) he would not be considered a שוגג –

תוספות rejects this as well:

דסברא הוא דכיון דמקיש למזיד –

For it is logical, that since we are comparing מזיד to שוגג, this means that -
אפילו מזיד בכל דבר ושוגג רק בדבר אחד דהיינו בקרבן יש לנו לחייבו⁸ –
Even if he is a מזיד in all aspects (he is aware of the לאו and the כרת), **and was a שוגג only in one aspect, namely that there is a קרבן**, nevertheless, **we obligate him** to bring a קרבן.⁹

תוספות qualifies his previous סברא that he is חייב even if he is aware of all aspects (except the קרבן):

ומיהו היכא דאיכא סקילה בעינן שיהא שוגג גם¹⁰ בסקילה –

However in a sin where there is a סקילה, it is necessary that he be **unaware** (besides of the קרבן, but) **also of the סקילה**. תוספות explains -
דאי הוה מזיד בסקילה אין לחייבו בקרבן –

For if he was a מזיד also regarding סקילה, we cannot obligate him to **bring a קרבן** -

דכיון דאינו שב מסקילה¹¹ פשיטא שאפילו היה יודע שחייב גם קרבן שלא היה שב –

For since he is not holding back on account of the סקילה (he knows there is a סקילה and nevertheless he transgresses), **it is obvious that even if he would know that he is also liable for a קרבן**, that he would not stop from transgressing, therefore -

ולא שב מידיעתו הוא –

⁶ See "ר"י that even the חכמים maintain (according to "ר"י) that it is the כרת that requires שגגה; not the לאו.

⁷ This case is (presumably) more fitting to be called שוגג, than if he was only שוגג בקרבן (and לאו). Why is it necessary to assume that מונבז maintains even where he is also חייב בקרבן?

⁸ תוספות agrees that in the aforementioned case of שגג בלאו ובקרבן he will be מחויב קרבן. Nevertheless it cannot preclude that even by שגג בקרבן alone, מונבז also maintains that he is חייב סקילה.

⁹ The "תו"ר writes here as follows: דהא ודאי ליכא למימר דשגג בכרת דא"כ היינו רבנן ועוד כיון דמקיש שוגג למזיד בכרת. For we certainly cannot say that he was שגג בכרת, for if so מונבז will be agreeing to the רבנן (that שגגת כרת is sufficient [according to "ר"י] and furthermore since the היקש of שוגג to מזיד is regarding כרת (the פסוק of ונהפש [which is מזיד] concludes (ונכרתה), it is appropriate to assume that he has knowledge of כרת during his act, and we also cannot say that he was שוגג בלאו, because שגגת לאו [וקרבן] is not sufficient even according to the רבנן (see "תו"ר for an improved reading of the "תו"ר).

¹⁰ See "Thinking it over" # 1.

¹¹ See "Thinking it over" # 2.

He is not considered a **שב מידיעתו**.

anticipates a difficulty:

ואף על גב דבהזיד בכרת חשיב ליה שב מידיעתו לקרבן –

And even though that if was aware of the חיוב כרת he is considered a שב **regarding a קרבן** (if he was unaware that there is a קרבן). Why do we say by סקילה that he cannot be aware of the חיוב סקילה, for then he is not a שב מידיעתו; however regarding כרת, even if he was a מזיד בכרת he is still considered a שב מידיעתו? What is the difference between סקילה and כרת?

replies:

היינו משום דכרת אפשר בתשובה וקרבן לא אפשר בתשובה –

This is because by כרת it is possible to avoid the punishment by **repenting** (therefore this not so great an impediment to his transgressing, since he feels he will avoid the כרת); however **regarding קרבן it is not possible** to avoid bringing the קרבן **by repenting**. Therefore we can argue that had he known that there is a חיוב קרבן he would not have sinned. This is considered שב מידיעתו. Similarly by סקילה there is also no way that repentance can save him from סקילה.

offers an alternate solution:

ועוד דגבי כרת שייך שפיר למימר אם היה יודע שחייב כרת עם הקרבן היה שב:

And furthermore regarding כרת it is properly acceptable to argue that had he known that he would be liable for כרת in addition to the קרבן, he would have reconsidered.¹²

SUMMARY

The **היקש** of **למזיד שוגג** teaches us (according to **מונבז**) that if he is a שוגג in only one aspect of the sin (such as the חיוב קרבן), he is חטאת חייב. One who is **הזיד בקרבן** cannot bring a קרבן [even if he was שוגג in (all¹³) other aspects].

¹² See **מלא הרועים** that by סקילה since he is aware that he will be put to death immediately, and nevertheless he transgressed the עבירה, it is not logical to assume that if he had known that there was a חיוב קרבן as well, he would have held back and not sinned. Therefore he cannot be considered a שב מידיעתו. However by כרת, where he will not die immediately but rather after the age sixty, that is not such a strong deterrent that would make him refrain from transgressing, but if he would know that in addition there will be an immediate חיוב קרבן, that may restrain him, and therefore he is considered a שב מידיעתו. See **שפ"א** that by סקילה if he would be חייב סקילה, he would not be חייב קרבן, so we cannot say that had he known, etc. since there can be no חיוב קרבן if there is an איסור סקילה. See 'Thinking it over' # 4.

¹³ See **שפ"א** (footnote # 3).

There is no חיוב קרבן if he was הזיד במיתה (as opposed to בכרת).

THINKING IT OVER

1. states that if there is a חיוב סקילה in this sin, it is necessary (even according to מונבז) that he be a שוגג *also* in the חיוב סקילה besides a שוגג in the חיוב קרבן.¹⁴ Seemingly why is not a שוגג alone (even if he is a מזיד for the rest) sufficient to obligate him in a קרבן (just as יוחנן ר' maintains that חיוב קרבן is sufficient (even according to the רבנן)?¹⁵

2. states that regarding סקילה he must be a שוגג; otherwise since he is not שב even though there is a חיוב סקילה then he certainly will not be שב because of a חיוב קרבן.¹⁶ Why cannot we say that even though he was הזיד בסקילה, nevertheless he was sure that he will not be killed since there was no התראה; however if he would have known that there is a חיוב קרבן, which he must bring regardless, then he would have been שב?¹⁷

3. The מהר"ם states that when תוספות said הזיד בקרבן it meant בכרת as well and proves it from the fact that תוספות did not give the answer here as he gave it for the second case of שגג בלאו ובקרבן.¹⁸ Seemingly however this is no proof. The second answer of תוספות tells us that we may maintain that הזיד בכרת ושגג בקרבן is חייב, but it does not preclude that שגג בלאו ובקרבן is also חייב.¹⁹ If תוספות would have given that answer here regarding שגג בלאו ובקרבן, then we would have mistakenly assumed that שגג בלאו ובקרבן is חייב (but it does not preclude that הזיד בכרת ושגג בקרבן is also חייב). תוספות disabuses us from this mistake and teaches that שגג בלאו ובקרבן is פטור since he is not מדיעתו!

4. According to מונבז if one is הזיד בכרת and שגג בקרבן is he חייב a קרבן and שגג בקרבן is he חייב a קרבן?²⁰ What is if he was הזיד בסקילה ושגג בקרבן?

¹⁴ See footnote # 10.

¹⁵ מנחת אריאל אות ב and מלא הרועים.

¹⁶ See footnote # 11.

¹⁷ חי' רע"א (and similarly) (גמ' ד"ה ששגג בקרבן) חת"ס.

¹⁸ See footnote # 3.

¹⁹ See footnote # 8.

²⁰ See שפ"א (and אור החמה).