

**This is what he teaches us, like רב etc. – הא קא משמע לן כרב וכולי**

### Overview

Our גמרא concludes that מלאכת שבת איסי בן יהודה maintains that there is one שבת that if someone transgressed it, he is not חייב. It is not clear however what is meant that he is not חייב. Does it mean that if he did this בשוגג he is not חייב, or does it mean that if he did this במזיד he is not חייב (or perhaps even both)? The ר"י maintains that איסי was referring only to the פטור מקרבן חטאת בשוגג but even איסי will agree that he is חייב חטאת. The ר"י will explain how he came to this conclusion from the wording in our גמרא, and will also explain how the גמרא came to this conclusion, of how to interpret the ruling of איסי בן יהודה.

גמרא, **The ר"י derives from this** – מכאן מדקדק רבינו יצחק, **that איסי did not intend to state** – דלא קתני איסי אינו חייב על אחת מהן חייב; that **on one** of the מלאכות **one is not חייב**, to include all types of חייבים; **only** pertaining to the punishment of סקילה, that alone is what איסי was referring to when he said that on one of the מלאכות you are not חייב. On one of the מלאכות if one did it ובהתראה במזיד he will not be חייב סקילה. **however** concerning bringing a חטאת if someone transgressed this בשוגג, מלאכה בשוגג, then even איסי will agree that **he is חייב** to bring a חטאת **on any** of the מלאכות that he did בשוגג, including the מלאכה that is פטור מסקילה, when he did it במזיד.

סוגיא How did the ר"י derive this from our

קרבן חטאת איסי's ruling **refers to a חטאת** – דאי קאי אחטאת, that if you did it בשוגג פטור מקרבן חטאת, איסי maintains that you are פטור if you did it בשוגג. **if the above were true**, we will have a problem in the גמרא – **אם כן** **when** the גמרא asks: “why does the ברייתא need to say that if he did the הוצאה בשוגג **he is חייב a חטאת**? **It is obvious!**” At this point (instead of the גמרא answering that the ברייתא wants to reach us that במזיד he is punishable by וסקילה – **the גמרא should have answered** (the final answer) that the ברייתא comes **to teach us like רב**, that מלאכת הוצאה is not the קרבן a חייב that איסי was referring to when he said that on one of them you are not חייב. Since the גמרא did not give this answer, that proves that איסי was not discussing שוגג and קרבן, only מזיד and סקילה, because בשוגג there is always a חטאת, therefore the גמרא could not have given this answer.

One may attempt to refute this proof, by arguing that the reason the גמרא did not give this suggested answer, is not because איסי is not referring to שוגג; it could well be that איסי is

referring to שוגג, however the גמרא did not give this answer, because the גמרא felt it had a better answer, namely; במזיד ענוש כרת וסקילה איצריכא ליה. To this תוספות responds that we cannot say that this is a better answer, on the contrary –

**For the answer which the גמרא actually gives; that the גמרא wishes to tell us that if it was done במזיד it is punishable by כרת וסקילה**

**this is no answer at all<sup>1</sup>**, because this too is obvious, as the גמרא is quick to point out, therefore we cannot say that the גמרא had a better answer. We conclude therefore, since the גמרא did not give the suggested answer, that proves that איסי was not referring to שוגג, only to מזיד.

is going to forewarn a possible difficulty with his assumption that איסי was not referring to שוגג.

**Originally**, when the גמרא first quotes איסי **certainly did not know that איסי is referring to סקילה**. How do we know this –

**since** the גמרא contradicts the statement of קרבן חטאת **ר' יוחנן**, who is discussing about a חטאת, therefore at that point in our discussion the גמרא is assuming that איסי is referring to a שוגג. The question being posed here is that we have two opposite assumptions; either a) that איסי is discussing שוגג, which we must assume to understand the contradiction with **ר' יוחנן**, or b) assumption that איסי is referring only to מזיד וסקילה, which we need to assume in order to explain why the גמרא did not answer immediately **הא קמ"ל כרב**, as noted above.

To resolve this apparent contradiction תוספות continues:

**when** we read the text of איסי stating: **“he is only for one”**

**then** it is obvious that איסי is not referring to סקילה, he could not be saying that you are not חייב more than one סקילה

**For is it at all possible to kill him with two deaths!** Therefore as long as the text read אינו חייב אלא אחת we are forced to assume that he is referring to שוגג, and therefore there is the contradiction with **ר' יוחנן**

**however** after the גמרא resolves the contradiction with **ר' יוחנן**, by clarifying that the texts reads:

**that (only) “on one of them he is not חייב”, and this is what איסי said;**

**then<sup>2</sup>** the גמרא **rightly knew that איסי is discussing only סקילה**

<sup>1</sup> When תוספות says לא משני מידי, he means that by itself it is no answer. It is an answer if it comes to tell us כדבר. However if we say כדבר, we should have said it right away by שוגג if it were applicable.

<sup>2</sup> Even though תוספות derives his own assumption from the text in the גמרא prior to this resolution; we will need to say that the entire text beginning with "דאמר רב" until "אחת מהן" is to be read as if it is bracketed in

in משנה <sup>3</sup> – **for he does not argue** **on our** **דלא פליג אמתניתין דכלל גדול** (לקמן עג,א) **פרק כלל גדול**

<sup>4</sup> – **which mentions the number** **דקתני מניינא למימר דחייב על כל אחת ואחת** **מלאכה בשוגג** **for every** **קרבת חטאת חייב** **to teach us that he is** **אבות מלאכות**

**and according to this, it will be well understood,** **that which we find in the beginning of פרק כלל גדול**

**ר' – comments concerning this statement of** **קאמר ארבי יוחנן דאמר** **יוחנן, in which he says**

**– that if he transgressed by doing all the** **שאם עשאן כולם בהעלם אחת חייב כו'** **in one state of ignorance,** (that he did not realize that he is desecrating the שבת during the entire time that he did all the מלאכות שבת, nevertheless **he is חייב a** **קרבת** **for each** **מלאכה** **The גמרא asks:**

**– in what respect did he realize that it is שבת.** We know that to bring a קרבן בשוגג שבת it is either one of two ways; either a) one knows that it is שבת, but does not realize that this particular מלאכה is אסור, in which case, as many מלאכות as you do בשוגג, that is the amount of קרבנות you have to bring, or b) one forgot that today is שבת, in which case you bring only one קרבן, regardless of how many מלאכות you did. Since ר' יוחנן says that או"א כל חייב על כל או"א, he must be talking about option 'a' above, a case that he knew it was שבת, but he did not know even one מלאכה which is אסור, the question is what do we mean that he knew it was שבת, since he does not know even one מלאכה that is forbidden?

**the גמרא there explains that he knew the איסור of going beyond a שבת, and we are discussing according to ר"ע** **who maintains that תחומין מן התורה**, but it is not one of the ל"ט, therefore there is the possibility to bring 39 קרבנות חטאת because he did not know any of the מלאכות, but he knew that today is שבת in the sense that it is אסור to wander outside the תחום.

**the גמרא could not have said that he knew** **– ולא מצי למימר דידע לן בדאיסי** **that it is שבת, because he knew this one מלאכה that איסי claims that he is not חייב if he transgresses it<sup>5</sup>.** Why did not the גמרא give this answer?

**– because as תוספות has been pointing out all along,** **דהא אכולהו חייב חטאת** **because** **as תוספות has been pointing out all along,** **מלאכה, it is only concerning איסי maintains that you are חייב a חטאת on all** **מלאכות, that** **איסי maintains that there is one מלאכה which is exempt from this punishment.**

parenthesis. The גמרא knew of the ultimate conclusion, that the text of איסי reads "אינו חייב על אחת מהן" and therefore could not and did not answer immediately by שוגג, הא קמ"ל כדרב.

<sup>3</sup> The גמרא, as stated above in himself derived that איסי is not referring to תוספות. Here תוספות is teaching us how the גמרא came to this same assumption.

<sup>4</sup> See the following ד"ה ואמר ר"י.

<sup>5</sup> Even though he would not be חייב 39 קרבנות, only 38, since we are excluding איסי's, nevertheless this would not contradict the משנה, since he is חייב on all the מלאכות that it is possible to be חייב for their transgression.

חיוב **and also interprets<sup>6</sup> רש"י** – **וכן פירש בקונטרס** חיוב חטאת and מיתה.

**and later in the גמרא in the beginning of פרק הזורק** (דף צ"ב) **מיייתי לדאיסי לענין סקילה** **quotes the ruling of איסי in regards to חיוב** **סקילה**;

**and we do not find anywhere that we quote** the ruling of איסי concerning **חטאת**. This supports the view of the **חטאת** that ר"י said his ruling in regards to סקילה, but not for חטאת.

**and that which we say further in the גמרא in the beginning of the last פרק, according to רמי בר חמא** who maintains that for **חמא** (שבת on driving an animal), one is **חייב סקילה** for מזיד, but for שוגג he is **חייב סקילה**. To which the גמרא there asks, that we learnt (in a ברייתא) that whoever desecrates the שבת through an act which one is **חייב קרבן בשוגג**, then **חייב סקילה** in a **חייב קרבן בשוגג**, which seems to indicate, that if one is not **חייב קרבן בשוגג**, the one is not **חייב סקילה**, which contradicts the ruling of רבי בר חמא concerning **חמא**. To which the גמרא replies:

**perhaps this is what the aforementioned ברייתא was saying**

**that any מלאכה for which one is חייב סקילה במזיד** **חייב סקילה במזיד**, **חייב סקילה במזיד**, but it is also possible that one is not **חייב סקילה במזיד** and nevertheless is **חייב סקילה במזיד**, which agrees with the ruling of רבי בר חמא, on which -

**the ריב"א says that according to רמי בר חמא** – **אומר ריב"א דאליבא דרמי בר חמא**, who interpreted that ברייתא in the aforementioned manner, namely that anyone who is **חייב סקילה במזיד** must be **חייב סקילה במזיד**; then we must say –

**איסי does not conform to the ruling of איסי** – **ההיא ברייתא דלא כאיסי** **for according to איסי there is a situation where one is חייב סקילה במזיד** and nevertheless is not **חייב סקילה במזיד**. We are referring to this unknown מלאכה where איסי maintains (according to the ר"י [and ריב"א]) that he is **חייב סקילה במזיד** and not **חייב סקילה במזיד** in contradiction to רמי בר חמא's interpretation of the ברייתא.

### Summary:

maintains that the ruling of איסי, which says that on one of the מלאכות you are not **חייב סקילה במזיד**, by a שוגג however איסי agrees that you are **חייב סקילה במזיד** for transgressing any of the מלאכות. derives this from the fact that the גמרא did not say that שוגג איצטריכא to tell us that מלאכה is not the מלאכה that איסי was referring to. The

<sup>6</sup> See רש"י ד"ה אינו חייב על וכו', וז"ל "אחת יש בהן שאינו חייב עליה מיתה וכו'".

reason why the גמרא did not say this is because איסי is not referring to any מלאכות on all חייב בקרבן, because he maintains that you are חייב on all מלאכות בשוגג.

תוספות continues to explain that the גמרא came to this conclusion, because it is unlikely that איסי argues on the (interpretation of the) משנה, which gives us the number<sup>7</sup> of the amount of מלאכות that one is חייב on שבת, to teach us that you are חייב for every single one.

תוספות also explains that the interpretation as to what איסי was referring to depends on the proper גירסא of what איסי actually said. If the גירסא is "ואינו סקילה", then obviously איסי is referring to קרבן חטאת, because סקילה is obviously only once. If the גירסא is as the גמרא concludes; "ואינו חייב על אחת", then obviously איסי is referring only to סקילה, that there is one מלאכה that is not punishable with סקילה.

### Thinking it over

1. תוספות and the גמרא have different reasons how and why they assume that איסי is referring to סקילה and not חטאת. Why does not תוספות rely solely on the גמרא's reason? And why (tongue in cheek) does not the גמרא rely on תוספות's reason?

2. When the גמרא answered "במזיד וכו' ונסקל איצטריכא ליה", what did the גמרא really mean?

3. Can we refute תוספות's proof by saying that the reason the גמרא did not say immediately by שוגג, that הא קמ"ל כדרב, is because at this time we were גורס in the text of "ואינו חייב על אחת", איסי?<sup>8</sup>

4. Would איסי (according to תוספות) have any difficulty with the ברייתא that states: "המחלל את השבת בדבר שחייבין על שגגתו חטאת חייבין על זדונו סקילה"? Why does this differ than the interpretation of רמי בר חמא?<sup>9</sup>

<sup>7</sup> See תוס' ד"ה ואמר ר"י as to why we do not derive this from איסי himself who also gives the number 39. See the following פני אברהם.

<sup>8</sup> See פני אברהם.

<sup>9</sup> See מרה"ם.