

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

OVERVIEW

The גמרא explained the reason the ברייתא taught us that בשוגג חייב הטאת and he is במזיד he is to inform us that מלאכת הוצאה is not the one which מלאכה was referring to, when he stated that for one מלאכה there is no חיוב if one transgresses it.¹ It is not clear however what איסי meant that for one מלאכה there is no חיוב. Does it mean that if he did this מלאכה he is not בחיוב, or does it mean that if he did this מלאכה he is not סקילה (or perhaps even both)? תוספות discusses this issue.

מכאן מדקדק רבינו יצחק דלא קתני איסי אינו חייב על אחת מהן אלא אסקילה –
The ר"י derives from this here, that when איסי taught he is not חייב on one of them, he was referring only to the סקילה; that for one מלאכה there is no חיוב if it was done במזיד -

אבל חטאת חייב על כולם –
However, concerning bringing a קרבן חטאת; if someone transgressed this same מלאכה בשוגג, then even איסי will agree that **he is חייב** to bring a קרבן **on any** of the מלאכות that he did בשוגג, including the מלאכה that he is מסקילה if he did it במזיד.

תוספות explains how the ר"י came to this conclusion:

דאי קאי אחטאת –
For if we assume that איסי's ruling **refers to a חטאת**; that for a certain מלאכה there will be no חיוב חטאת if it was done בשוגג according to איסי -

אם כן כי פריך בשוגג חייב חטאת פשיטא –
If the above were true, then 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 he is punishable by סקילה), the גמרא –

הוי ליה לשנויי הא קא משמע לן כרב –
should have immediately answered (the final answer) that the ברייתא comes **to teach us like רב**, that מלאכת הוצאה is not the מלאכה that איסי was referring to when

¹ If one transgresses בשוגג he is חייב חטאת and במזיד there is a חיוב סקילה.

he said that on one of them you are not חייב a שוגג.² Since the גמרא did not give this answer, that proves that איסי was not discussing שוגג and קרבן, only מזיד and סקילה, because שוגג there is always a חטאת, therefore the גמרא could not have given this answer.³

responds to an anticipated refutation of this proof. 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 –

דהא דמשני במזיד ענוש כרת וסקילה איצטריכא ליה לא משני מידי –

For the answer which the גמרא actually gives (initially); that the ברייתא wishes to tell us that if it was done במזיד it is punishable by כרת וסקילה, this is no answer at all⁴, 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, this proves that איסי was not referring to שוגג, only to מזיד.

responds to an anticipated difficulty with his assumption that איסי was not referring to חטאת בשוגג:

ומעיקרא ודאי לא הוה ידע דמיירי בסקילה מדפריך מרבי יוחנן דמיירי בחטאת –

Originally, when the גמרא first quotes איסי (concedes תוספות), then the גמרא **certainly did not know that איסי is referring to סקילה,** since the גמרא contradicts the statement of איסי with the statement of ר' יוחנן⁵, **who is discussing a חטאת קרבן,** therefore at that point in our discussion the גמרא is assuming that איסי is referring to a שוגג.⁶

To resolve this apparent contradiction תוספות continues:

² We are now assuming that the ruling of איסי is regarding (the lack of) a חטאת by שוגג.

³ See footnote # 7 and 'Thinking it over' # 3.

⁴ 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.

⁵ (בהעלם אחד מלאכות שבת thirty-nine) teaches that there is a חטאת for all (even if they were done אחד).

⁶ 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 כר כמ"ל, as noted above. [When תוספות states here ודאי לא ידע וכו', he (is not referring to the הגמרא, but rather תוספות) is referring to the one who asked וכו'. See footnote # 7.]

והיינו משום דאינו חייב אלא אחת לא מצי לאוקמי בסקילה –

For that assumption that איסי is referring to חטאת was valid **when** we read the text of איסי stating: **“he is חייב 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 –

דאטו בתרי קטלי קטלינן ליה –

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

אבל כי מפרש דאינו חייב על אחת מהן קאמר איסי –

However after the גמרא resolves the contradiction with ר' יוחנן, **by clarifying** that the text reads: **that (only) “on one of them he is not חייב”**; **this is what איסי said –**

אז ידע שפיר דלא איירי איסי אלא בסקילה דלא פליג אמתניתין דכלל גדול (לקמן עג,א) –
Then⁷ the גמרא **rightfully knew that איסי is discussing only סקילה, for איסי does not argue⁸ on our משנה in כלל גדול –**

דקתני מניינא למימר דחייב על כל אחת ואחת –

which mentions the number⁹ of the מלאכות to teach us that he is חייב מלאכה בשוגג **for every** קרבן חטאת.

חיוב adds, according to the above-mentioned; that איסי maintains that there is a חיוב: גמרא for all the מלאכות, לט מלאכות, this will clarify another חטאת:

ואתני שפיר הא דבריש פרק כלל גדול (שם סט,א) קאמר ארבי יוחנן דאמר –

And according to this, **it will be well understood**, that which we find **in the beginning of פרק כלל גדול** where the גמרא **comments concerning this statement of ר' יוחנן, in which he says –**

שאם עשאן כולם בהעלם אחת חייב כולי –

That if he transgressed by doing all the מלאכות שבת in one state of

⁷ Even though תוספות derives his own assumption (that איסי is referring to סקילה only) from the text in the גמרא prior to this resolution (as soon as the גמרא answers 'וכי' [see footnote # 3]); 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 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 that כדבר.

⁸ The ר"י himself derived that איסי is not referring to שוגג, from the text of the גמרא, as stated above in תוספות. Here תוספות is teaching us how the גמרא came to this same conclusion. See "Thinking it over # 1.

⁹ See the following תוס' ד"ה ואמר ר"י.

ignorance, (that he did not realize that he is desecrating the שבת during the entire time that he did all the מלאכות (ל"ט מלאכות), nevertheless **he is חייב** a קרבן for each מלאכה, **etc.** The גמרא asks:

דידע לה לשבת במאי¹⁰ –

In what respect did he realize that it is שבת.

ומפרש דידע לה בתחומין ואליבא דרבי עקיבא –

The גמרא there explains that he knew the איסור of going beyond a תחום איסור תחומין מן ר"ע who maintains that שבת, and we are discussing according to ר"ע who maintains that שבת, but it is not one of the מלאכות (ל"ט מלאכות), therefore there is the possibility to bring thirty-nine 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.

ולא מצי למימר דידע לן בדאיסי דהא אכולהו חייב חטאת –

And the גמרא could not have said that he knew that it is שבת, in the sense that he knew this one מלאכה that איסי claims that he is not חייב if he transgresses it¹¹. The reason the גמרא did not give this answer is **because** as תוספות has been pointing out all along, איסי maintains **that you are חייב a חטאת on all** the מלאכות. It is only concerning מזיד וסקילה, that איסי maintains that there is one מלאכה which is exempt from this punishment.

סקילה brings additional proof to support his contention that איסי is referencing only

וכן פירש בקונטרס¹² –

And חייב חטאת also interprets the דין of איסי that it refers to חייב מיתה and not חייב חטאת.

ולקמן בריש הזורק (דף צו,ב) מיייתי לדאיסי לענין סקילה¹³ –

¹⁰ One brings a קרבן for שבת בשוגג in 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 א"א על כל או"א, he must be discussing 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 we mean that he knew it was שבת, since he does not know even one מלאכה that is forbidden.

¹¹ Even though he would not be חייב thirty-nine קרבנות, only thirty-eight, 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. [See שפ"א that תוספות proof is ע"ד a נפשך; if we assume that מניינא means all thirty nine are חייב חטאת and איסי does not argue on the משנה, that proves that איסי maintains א"א אכל או"א, and if מניינא can mean thirty eight, then why did not the גמרא answer בדאיסי? See 'Thinking it over' # 5.]

¹² רש"י ד"ה אינו חייב על וכו', וז"ל "אחת יש בהן שאינו חייב עליה מיתה וכו'".

¹³ The גמרא there cites various opinions as to what מלאכה the מקושש did which warranted his סקילה. According to each opinion this מלאכה (which brought a חייב סקילה) is not the מלאכה which איסי excluded. From this we derive that איסי is discussing סקילה.

And later in the גמרא in the beginning of פרק הזורק, the גמרא quotes the ruling of איסי in regards to חייב סקילה (only) -

– ולא מישתמיט בשום מקום לאתויי לענין חטאת¹⁴ –

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

anticipates and responds to a difficulty:

– והא דאמרינן לקמן בריש פרק בתרא (דף קנ"א) לרמי בר חמא¹⁵ –

And that which the גמרא say further in the beginning of the last פרק; 'according to חמא בר רמי who maintains that for מחמר (שבת 101b) (driving an animal on שבת), one is חייב סקילה for מזיד, but for שוגג he is פטור מקרבן, that -

דילמא הכי קאמר כל שחייבין על שגגתו חטאת חייבים על זדונו סקילה –

Perhaps this is what the aforementioned ברייתא was saying; 'any מלאכה for which one is חייב סקילה במזיד must be חטאת בשוגג, then one must be חייב סקילה במזיד' but it is also possible that one is not חייב חטאת בשוגג and nevertheless is חייב סקילה במזיד, which agrees with the ruling of חמא בר רמי. Regarding this answer -

– אומר רבינו יצחק בן אשר דאליבא דרמי בר חמא ההיא ברייתא דלא כאיסי –

The ברייתא says that according to חמא בר רמי, who interpreted that ברייתא in the aforementioned manner, namely that anyone who is חייב חטאת בשוגג must be חייב סקילה במזיד; then we must say that ברייתא does not conform to the ruling of איסי -

דלאיסי איכא דוכתא דחייב חטאת ולא סקילה:

For according to איסי there is a situation where one is חייב חטאת בשוגג 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 חטאת בשוגג and not חייב סקילה במזיד in contradiction to חמא בר רמי interpretation of the ברייתא.

SUMMARY

מלאכות maintains that the ruling of איסי, which says that on one of the

¹⁴ From this we derive that איסי is not discussing חטאת.

¹⁵ The גמרא there asks on the ruling of רב"ה, we learnt (in a ברייתא) that whoever desecrates the שבת through an act which one is חייב קרבן בשוגג, then חייב סקילה במזיד, which seems to indicate, that if one is not חייב קרבן בשוגג, then one is not חייב סקילה במזיד, which contradicts the ruling of חמא בר רמי concerning מחמר. To which the גמרא replies as continued in text. [See 'Thinking it over' # 4.]

you are not חייב, this is referring to סקילה במזיד; by a however שוגג איסי agrees that you are חייב בקרבן חטאת for transgressing any of the מלאכות. Otherwise, the גמרא should have answered immediately, כדבר, קמ"ל. In addition, איסי will not argue with the משנה in כלל גדול.¹⁶

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 חייב", then obviously איסי is referring to חטאת בקרבן. If the גירסא is as the גמרא concludes; "ואינו חייב על אחת מהן", then איסי is referring only to סקילה.

THINKING IT OVER

1. and the גמרא have different reasons how and why they assume that איסי is referring to סקילה and not חטאת.¹⁷ Why does not תוספות rely solely on the גמרא's reason? And why does not the גמרא rely on תוספות reason?

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

3. Can we refute תוספות's proof¹⁸ by saying that the reason the גמרא did not say immediately by שוגג, that קמ"ל כדבר, is because at this time we were גורס in the text of איסי that "ואינו חייב אלא אחת"?¹⁹

4. Would איסי (according to תוספות) have any difficulty with the ברייתא which states: "המחלל את השבת בדבר שחייבין על שגגתו חטאת חייבין על זדונו סקילה"?²⁰ Why does this differ than the interpretation of רמי בר חמא?²¹

5. explains that the גמרא did not answer בדאיסי since איסי maintains that he is חייב חטאת on all מלאכות.²² Why should the גמרא answer בדאיסי rather than "דידע לה בתחומין ואליבא דר"ע"?

¹⁶ See מהרש"א as to why we do not derive this from איסי himself who also mentions the number thirty-nine. See the following תוס' ד"ה ואמר ר"י (footnote # 8).

¹⁷ See footnote # 8.

¹⁸ See footnote # 3.

¹⁹ See אברהם פני.

²⁰ See footnote # 15.

²¹ See מהר"ם.

²² See footnote # 11.