

20 – Kiddushin

2a1 - 40b3

20 – Kiddushin Introduction

The laws of the first stage of marriage Kiddushin or Erusin.

First Chapter deals with related topics:

Modes of acquisitions of:

- A wife
- Hebrew servants
- Canaanite Slaves
- Movable property
- Real estate

Also, discusses commandments incumbent upon women, as well as commandments specific to the land of Israel.

I- Kinyon

In Jewish law, ownership is not transferred from one person to another by words alone. There must be an act. It is the act that usually transfers the ownership from one party to another. Either party can renege at any time before the act of Kinyon has been performed. Each type of category of possession requires a different act of Kinyon to transfer it.

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- A. Commitment - of both parties is required. It can be assumed to exist when two parties execute an act of Kinyon. However, if we can show that one side did not, in fact, have commitment, the validity of the transaction is called into question.

- B. Intention- Transactions can only occur between adults. Minors are not deemed able to understand the consequences of their actions and cannot have the requisite intention.

- C. Acquisitions of Right and Obligations- i.e., leasing property or the guarantor of a debt.

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Marriage is an acquisition attained by a husband in his wife; An ownership of some of her freedoms, i.e., a restriction upon her from marrying or cohabitating with any man, other than her husband.

The husband is the active agent. He initiates it, she accepts it, and thus, indicates her consent to the marriage.

A. The states of Erusin

- Initial acquisition of the wife by the husband.
- Not a mere betrothal, the couple are considered legally married, even though the couple cannot, yet, have relations. (They can't marry anyone else and relations by the woman with another man is considered to be adultery and leads to the death penalty.)
- Dissolved only by death or divorce.

B. Nisuin

A bride formally enters her husband's house or Chupah, or they have relations for the purpose of Nisuin, after being in the state of Erusin.

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Re: Minor girl and her father's rights:

Consent of the woman is required-

1. A minor cannot accept Kiddushin, but her father can accept for her until she is aged 12 years + 6 months (a Naarah). The girl may protest that Kiddushin and nullify it retroactively, until she is a Bogares, which is a Naarah plus 6 more months.

Termination:

- Death of husband – She is free unless there are no children and her late husband has a brother. (Yibum Chalitzah)
- Divorce - Get - Proper form, witnesses, her consent.

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III Slaves

The Hebrew Servant vs

- More like a hired worker
- Fixed term < 6 years= free
- Not to do demeaning tasks
(Lev 25:39)
- Must be provided with food and a place to sleep comparable to the owners'.
- Master cannot sell him.
- Only the master's son can inherit the remainder of his term.
- At end of term, must be given severance gifts.
- He may, however, be given a Canaanite slave girl to produce offspring for the master
(The girl and children remain the property of the master).
- He may buy out the remainder of his term at any time.

Canaanite Slave

- May not abuse him
- If killed – owner could be liable to the death penalty. (Ex 21:20)
- If destroy a limb – slave goes free (Ex 21:26)
If the Hebrew servant wants to stay longer, he has his ear pierced with an **awl**. He then stays until Yovel and is known as a Nirtza

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Three categories

1. One who was sold by the courts for stealing and cannot pay back. (Ex 21:2)
2. Never becomes a Nirtza, does not receive severance gifts and cannot be given a Canaanite slave girl by his master.
3. One who sold himself to a gentile, term extends until Yovel. He may be redeemed by his relatives at anytime.

נְקִיּוֹת בְּכֶסֶף בְּשֵׁטֶר וּבְבִיָּאָה

She is acquired with money.

Money is permitted as a means of acquiring a wife, via a gezerah shovah, that equates Kiddushin with the purchase of land made by Avraham Avinu. Since it is clear that Avraham used coins to purchase the Maaras Hamachpela, it follows that we may use coins for Kiddushin.

The coins in those days had intrinsic value. They were made out of precious metals. Today, our coins, and worse our paper money, only represents value and has no intrinsic value. Can it be used to perform Kiddushin, since he has actually given her nothing?

Chasam Sofer says - “Today’s money is considered money for halachic purposes”.

Chason Ish says - “Today’s money is considered money, because of its buying power”.

Oneg Yomtov disagrees - Items with no inherent value may not be used for Kiddushin or another halachic circumstance where money is needed, such as a Pidyon Haben.

הַאִשָּׁה נִקְנִית בְּשָׁלֹשׁ דְּרָכִים

“A woman may be acquired in three ways” is a cautious statement.

The Gemara could open with the words, “A man acquires a woman in three ways”. But this could imply ‘even against her will’, when it is only valid with her consent.

In the Torah, we read a strong term, “When a man takes a woman in marriage” (Dev 24:1). This does suggest sanctioning marriage without the woman’s consent.

Rabbi Shimon suggests that the Torah speaks of the male initiative, because it is as though he seeks a lost object. Certainly, the one who needs the lost object will initiate the search for it.

וּבֵית הַלֵּל אֹמְרִים בְּפֶרוּטָה וּבְשֵׁנָה פְּרוּטָה

House of Hillel says: With a perutah or half a perutah.

A woman may be acquired in 3 ways.

One method is through money, or even an item of value worth more than the minimum of a perutah or dinar.

How do we know that using an object of value is as good as cash for Kiddushin? (That which is equivalent to the value of money, is like money).

In a case where land is used to pay off damages you caused, you must use your best land. Perhaps when moveable objects are used, you must use only the best movable object, i.e. cash.

The situations are different regarding payback for damages. The court imposes its decision and it requires no agreement between the parties. Here, marriage is an agreement and if the bride is willing to accept an item that has value instead of cash, we accept that arrangement also.

וְקוֹנָה אֶת עֵצְמָהּ בְּגִט וּבְמִיתַת הַבַּעַל

A woman is released from marriage by the death of her husband.

In the eyes of Jewish law, the patient is deemed dead when there is removal of the natural heart. If he then, receives a heart transplant or an artificial heart, he becomes reanimated and would be categorized as a person who has risen from the dead (resurrection).

Was his marriage ended? Does he need a new marriage ceremony in order to be permitted to live together as man and wife?

If he was not buried, but was restored to life, that nullifies the death. Such death was not death in the manner of all men and the original marriage is not nullified. The absence of heart function, i.e., use of a heart-lung machine (which replaces the function of the heart) is not an act of homicide.

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A woman is released from her marriage upon the death of her husband.

They tell a story that Rabbi Akiva Eiger came to Warsaw. The local Rabbi had a problem case. A man had converted from Judaism to another religion, but refused to give his wife a get. The wife and the local Rabbi hoped that with the added pressure from the renowned Rabbi Eiger, the recalcitrant husband might be made to reconsider. The husband was reluctantly brought to the Bais Din, (but only after he was told ‘how better to show your disdain than before such a great Rabbi’) and refused to even consider the divorce.

R Eiger learned that the man had studied Gemara in his youth and asked if he knew the ways a wife could be freed from her marriage. The man laughed, derided and then cursed the tribunal and rushed from the room. Half-way down the stairs, he became weak and fell. He was found at the bottom of the stairs - dead.

וְקוֹנָה אֶת עֵצְמָהּ בְּגֵט וּבְמִיתַת הַבַּעַל

The lost object may be the rib that was taken from Adam.

Since this rib was taken from him while he was asleep, it is as though it was stolen from him. Rabbi Gamliel was challenged by a Roman ruler that our God is the thief and had to be punished. The ruler's own daughter asked permission to answer her father. She asked father, "What is the punishment for a thief who comes into the palace and steals all the silver vessels but replaces them with golden vessels?" The ruler then understood that the exchange of a rib for a wife as a companion, was not an act of thievery.

Searching for that, by a man, is what is understood by the words the Torah uses in stressing the male initiative.

דִּרְפִּיָּה דְאֶתְרוּג כִּיֶּרֶק

That the way an Esrog grows.

The Chofetz Chaim liked to explain symbolism of the Lulov and Esrog.

The four species:

	Taste = Mitzvahs	Aroma = Torah
Palm leaves	-	0
Myrtle leaves	-	+
Willow	-	-
Esrog	+	+

The Esrog represents the Torah Scholar. He has Torah and Mitzvahs. Let him be combined with other Jews, of various strengths, and together they create a great Mitzvah.

דְּבָנֵי בָּנִים קָרִי הֵן כְּבָנִים

Grandchildren are like children.

In regards to saying Kaddish:-There is no obligation for grandchildren to say Kaddish for grandparents.

Honor- There is no obligation to honor a grandparent.

Testify- For or against a grandparent is allowed, he could serve as a witness.

Mitzvahs of a grandchild provide merit for a grandparent.

Kaddish is not an obligation of a grandchild, but if said, is as beneficial as Kaddish recited by a son.

חופּה קוּנָה מִקַּל וְחוּמֵר

Chupah creates acquisition using the logic of a kal v'chomer.

Definition of Chupah:

Rambam- Chupah is defined as the husband bringing his wife into seclusion in his house.

Other definitions:

1. Husband brings wife to his house, even without seclusion.
2. Act of spreading a veil of over the head of the bride while the Brachos Nisuin are recited.
3. The veil the bride wears on her head when she is taken to the wedding.
4. The canopy, held up by the poles, over the heads of the couple.

When are Kiddushin and Nisuin are performed?

Nowadays, these different definitions are incorporated in the marriage ceremony to fulfill the different opinions. The head of the bride is covered with the veil. A canopy is erected under which they stand and they go into seclusion. Since each may be the correct definition of Chupah, the groom should have in mind, at each step, that he is performing the act of acquisition.

דָּבַר תּוֹרָה אֲרוּסָה בֵּת יִשְׂרָאֵל אוֹכֶלֶת גֵּיטִין וְקִידוּשִׁין

An Erusah, who is the daughter of an Israelite, may not yet eat the Terumah of her Kohen husband, _____

- for his second marriage.

Once upon a time, a man with children went through the first stage of marriage, Erusin, with a woman. Later, he divorced her, never having completed the process with Nisuin.

Later, his son wished to marry the same woman. A person is never permitted to marry his father's former wife. Is this woman permitted to the son?

No, she is so much a wife, that she could eat her “husband’s” Terumah and needs a get to separate. She is married, even without ever having relations. Therefore, the son may not marry her in the same way that he may not marry a woman who had also completed Nisuin with his father.

הָכָא בְּמַאי עֲסָקִינָן דְּאָמַר לִי

What is the Halacha where the man did not say, “Li”? (see N30)

Nonconclusive indications are inadequate to be relied upon.

A man says to a woman, “You are betrothed”. The identity of the husband is undetermined.

100% - We assume he means himself, especially if they had been discussing marriage.
Rosh says Kiddushin is valid.

50/50 - The Rishonim are not sure. Therefore, Kiddushin is not valid, plus he must give her a get.

0 - Shmuel - There is no Kiddushin at all and a get is not needed.

כָּל שְׂאִינוּ יוֹדֵעַ בְּטִיב גִּיטוֹן וְקִידוּשִׁין לֹא יִהְיֶה לוֹ עֶסֶק עִמָּהֶם

Anyone who is not knowledgeable about divorce and marriage, should not be involved with these topics.

- Refers to officials, i.e., Rabbis or judges.
- May also refer to the average man on the street, cautioning him not to speak to a woman about such matters. Since he may utter a formula which causes marriage, i.e., a valid betrothal and not be fully aware of it.
- Could even refer to a woman, who hears words or performs actions, and may not interpret them properly. For example, a man mumbles a few words and put a gift in her hands. They may require a formal get after such an interchange.

Be careful regarding these topics. No joking about them and always refer to an expert.

כָּל שְׂאִינוּ יוֹדֵעַ בְּטִיב גִּיטִין וְקִידוּשִׁין לֹא יֵהָא לוֹ עֶסֶק עִמָּהֶם

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Why does it say, “He who is not an expert in Gittin and Kiddushin”. Usually, Kiddushin comes first?

Because, supervising a first wedding is a much less complex job than supervising a divorce, is one proposed answer. However, this is not always true. Even if it is true, it is still complex to officiate at a wedding. The Rabbi judge must make sure the ancestors (mother's mother of bride or groom) on both sides are Jewish, there are no prior marriages of bride and groom or their parents,. i.e. no momzerus and each understands the commitment involved.

It is not an easy, light task. Therefore, the Gemara says whoever is not an expert, should not even involve himself in these matters, at all.

הָכָא בְּאָדָם חָשׁוּב עֵסְקִינָן

Here we are concerned with the prominent person.

When a prominent person accepts a gift, it is considered that the giver also receive a benefit. Therefore , if you give mishloach manos to a prominent person, does the prominent person also receive a mishloach manos mitzvah by giving you money? No, because mishloach manos should include food. Since the benefit is derived from food, it is considered a gift derived from food and is not a mitzvah for the prominent person. However, mishloach manos requires two gifts and therefore, he would need to add a second gift of food.

What is the rule regarding a woman who gives a gift to a prominent person and he says, “With the benefit you get from giving me a gift, we are married”.

Is this the really the case? No.

הָכָא בְּאָדָם חָשׁוּב עֵסְקִינָן

Here we are concerned with the prominent person

On today's daf we learn that even in ancient times, the sages covered their heads.

A rabbi explained that to cover one's head was only a 'midas chassidus', 'a pious stringency' and is not obligatory. This is a mistake.

Certainly, all poskim agree, that one is forbidden to walk 4 amos outside without a head covering. There may be greater latitude inside.

וְרָצָה אַחַר מֵהֵן לְחַזוֹר

One of them wishes to back out.

A patient agreed to pay the doctor a specified fee. When the time came to pay, the patient pointed out that the doctor was obligated to treat the patient by virtue of the mitzvah incumbent upon him and could only be compensated for his time and trouble.

This is the case in Yevamos 106a, where a ferryman quotes an exorbitant fee to an escaping convict. Even though he agreed to pay, once he gets to the other side, he refuses. “Since you are required to save my life to escape any pursuers and you get a mitzvah for that, all I need to pay you for is your time and labor”.

Rambam disagrees in part. The ferryman may be the only one who can save the man. The doctor may be the only specialist who treats the patient. In that case, the Mitzvah is their obligation and they can only charge for time and effort. But, if the mitzvah is incumbent upon the whole world, i.e., all or several doctors then this one can enter into a legally binding contract for payment of his professional services.

מִנִּין לְבַעַל חוֹב שְׁקוּנָה מִשְׁכוּן

How do we know that a lender acquires the collateral as his own property?

Because it says, “He will sleep in his apartment and bless you.”

Here's the scenario (as I understand it).

A lends B money, B gives A his cloak as collateral.

A allows B to use the cloak at night and B blesses A for doing so.

If B owned the coat and A allows him to use it at night and B blesses A for doing so, that would be considered interest.

But, if A owns the coat that B put up as collateral and A lets him use it, B’s thank you is for A allowing him to use his property. Therefore, it is not interest. Ideally, it is best not to say thank you, nor to bless the lender, but merely say, “You will be blessed for the mitzvah you perform”.

וְהִלְבַּתָּא שִׁירָאֵי לֹא צְרִיכֵי שׁוּמָא

And silk does not have to be appraised.

Traditional wedding customs derived from our Gemara.

- A man made Kiddushin with garments said to be worth a certain value. The woman agreed, but no one made an actual assessment of the actual value. If it turned out to be less than she thought, did she really agree? Some say no.
- If it was an items whose general value is known, no appraisal is needed. But if, for example, it was a gem, than only an expert would know. Therefore:
1. The ring given for Kiddushin traditionally has no gems.
 2. The bride wears a veil so she won't stare at the ring and speculate about its value.
 3. The Mesader Kiddushin shows the ring and the two witnesses and loudly asked them if it's worth at least a perutah (The minimum value necessary to affect Kiddushin). The bride hears this and even if it is worth only that amount, this eliminates the danger of speculation as to its value and about the validity of her consent.

הן הן הדברים הנקנים באמירה

These are the things that are made legally binding by speech alone, i.e., no Kinyon is needed. _____

Verbal statements alone are binding, even without a formal transaction. (The transaction is by words, not by other actions).

The financial agreements made between the fathers of the Chasan/Kallah, declare how much each will contribute to the couple's new home.

Rashbam – However, this is only binding if the statements and Kiddushin are agreed upon at the same meeting; “They include and declare”.

Ritva - The verbal statements are binding whenever the discussion results in Kiddushin. Even if it is not all done at the same meeting. However, if Kiddushin is agreed-upon first, then the financial agreement must be concluded with a Kinyon.

Rabeinu Tam - A verbal commitment is binding only if, this is the first Kiddushin for the woman or the man, where each father is so grateful, that he pledges support. A pledge can be made by mother or brother for a first wedding, but needs a Kinyon before Kiddushin.

מִשְׁבַּחַת לָהּ בְּגוֹן בְּדַרְבָּה

Intercourse, which is not by its regular method, i.e., non-vaginal.

It is still considered intercourse and has the legal implications of creating Kiddushin. This is discussed in the context of a betrothed woman who commits adultery while she is still a virgin. She and the paramour must die by stoning.

If she is not a virgin, she is punished with the standard punishment of an adulterous, married woman: Strangulation.

What is the rule if the betrothed woman had intercourse with 10 men, but was still a virgin!?. How could this be? By unnatural intercourse. The first man is considered to have cohabitated with a virgin and he is executed by stoning. The other nine cohabitated with a non-virgin and they die by strangulation.

הָאָב זֹמְאֵי בִּבְתוֹ בְּקִדּוּשִׁיהָ בְּכֶסֶף בְּשֵׁטֶר וּבְבִיאוֹהָ

A father may arrange Kiddushin for his daughter with money, contract or intercourse.

The first two cause her to be betrothed, i.e., Kiddushin.

Does the third choice also only create betrothal, or does it create a full marriage?

Why is this important?

If fully married, the husband:

- Inherits from her.
- Can go to her funeral (if he is a Kohen).
- Can nullify her vows, without compensation of her father.

The above Mishnah (Kesuvos 46b) is clear. It only creates Kiddushin and full marriage (Nisuin) must follow.

The first two choices are reversible, the third choice is not. Therefore, no further intercourse is allowed for the time between the first intercourse, that created Kiddushin, and the Nisuin ceremony.

לְסָטִים מְזוּיָיִן אֹו נִבְתָּב לְמַלְכוּת

An armed robber, or someone whom the government sentenced to death.

A person buys a slave and later learns that the slave is sentenced to death.

Rashi -He cannot ask for a refund.

Tosofos -He can.

Bava Basra (92b)-He can return him and get a refund.

How to reconcile the two opinions.

Rashi is speaking about a slave known in the community, and it is known that he has the above problem. Tosofos is speaking about a slave from out of town and the defects were not known.

Also, if the slave was not yet paid for fully, it suggests that full research had not yet been done. Now that the purchaser knows, he does not wish to proceed.

Also, if he bought the slave at a discount or bargain price, that may suggest he knew he was purchasing damaged goods and accepts the consequences.

אָמַר לִיּוֹחַ פְּשֻׁטָה יָדָה וְקִבְּלָהּ לֹא קֶאֱמִינָא

I am not speaking about a woman who extends her hand and accepts less than a dinar for Kiddushin.

A woman can be acquired for money. How much?

Bais Hillel - a perutah.

Bais Shammai - a dinar.

Is there no standard price? What happens if a woman is willing to accept less or demands more, is the Kiddushin valid?

The minimum amount applies in cases such as:

- An agent is authorized to accept Kiddushin money and is not told how much is acceptable. He may accept the standard amount.
- A woman accepted Kiddushin money at night and could not see how much was given to her. If it was the standard amount her Kiddushin is valid.

On the other hand, a woman may, with knowledge, accept less or demand more and that is the price. Kiddushin is only valid if her price is met.

נְגִידָה פָּרַב

Lashes for the recalcitrant.

A man gave a branch of a bush for the purpose of Kiddushin to a woman in public. What is the law?

1. It is not worth even a perutah. Therefore, Kiddushin is not valid.
2. However, it might be worth a perutah somewhere on earth, and therefore, Kiddushin may have been affected. So she needs a get.
3. He gets lashes, because presenting a woman with Kiddushin in a public forum is insensitive and immodest. So the rabbis enacted this punishment.

בְּנִסִּי סֵלַע זֹו בְּפִקְדוֹן

Accept this sela as a deposit.

A man paid his bill in a bar. He asked the waitress how much he owed her and gave her the amount plus \$10 more. As he put the money in her hand, he said the above formula (Harei At, etc). She took the money and left. What is the law?

In our Gemara, if a man says to a woman, “Hold this money for me as a deposit and after giving it into her hands, says, “Marry me with this money”. If she wishes, she is married. If not – not. If she makes no response, she will need a get, since we are not sure if she accepted the proposal or not.

Here, he preceded his proposal with the question, “What do I owe you?” (One witness says he said it, another witness says he did not. A single witnesses is given no credence, if the other person disputes him). Therefore, there is no doubt she took the money as payment and for a tip, not for Kiddushin.

הָתָם בְּדָשְׁדִיךְ

There, they previously agreed to marry.

During Shavuos in 1955, a few teenagers were having a good time. One boy approached the girl and took a ring from his finger. When he **replaced** it, he uttered the marriage formula. “You know,” he said, “you have just become my lawfully wedded wife.” She screamed at him. An observer remarked, “Of course, you are not married. You can't get married on Yom Tov!”

The fact is, you should not get married on Yom Tov, but if you do, you are married.

R Moshe A. Feinstein is quoted our Gemara. “If one robbed or grabbed money from a woman and proposed with it, they are only married if there was a prior Shidduch arrangement. Otherwise, all realize it is a joke. There is no marriage, and she does not need a get.”

כָּל שְׂאִינוּ יוֹדֵעַ בְּטִיב גִּיטִין וְקִדּוּשִׁין לֹא יֵהָא לוֹ עֶסֶק עִמָּהֶן

Those who are not expert in the laws of divorce and marriage, should not be involved with them.

Why mention divorce before marriage, when the chronological order of them is the reverse?

To follow the order of the Talmud tractates, Gittin is studied before Kiddushin.

More importantly, the laws of marriage are much simpler. The ramifications of a single woman being made permissible to a man, is relatively not so complex.

However, the laws of Gittin are complex and intricate. Writing and delivering a valid divorce document and the ramifications of remarriage of a woman, who may be still legally married, is serious, because intercourse is forbidden with a married woman

To stress that greater caution is required regarding divorce, it is mentioned first.

אֵלֶּמָּא קְסָבֵר שִׁיעְבוּדָא לֹא דְאוּרִייתָא

Is a lien on one's property, a Torah principal?

A woman gave birth and owed a Chatas offering (a bird) and (a sheep) as an Olah. But, before she could do it, she died.

Are the heirs required to fulfill her obligations?

If she designated which animals should be given-Yes.

If she did not designate-No, the heirs are not obligated to give of their inheritance, to cover her obligations.

The same principle would apply if she had debts. If the debt was recorded, or there was a specific lien placed upon land to guarantee the loan, such a lien is recognized as Torah binding.

This is true regarding a loan. Otherwise, lenders would not lend if the loan was canceled by death.

However, this is not the case concerning other obligations, i.e., such as giving an offering to the Temple, or other obligations.

מגילת

Where do we learn this?

How do we know that a Yevamah is permitted to remarry, upon the death of the Yavam?

A woman married and had several children, then her husband died. She remarried had no more children, and after 10 – 15 years, her second husband died. By then she was up in years and not looking for another marriage. She was approached by her sister-in-law, who told her, “My brother, your second husband, died without children. We have another brother in a distant town to whom you are attached via Yibum. Even though you don't wish to marry again, you need to proceed with a Yibum/Chalitzah ceremony.” Is this so? Yes. Chalitzah is a Torah Mitzvah and should be fulfilled by the remaining brother. The wife gets rewarded for helping him fulfill his Mitzvah (Makkos 5).

עֶבֶד עִבְרִי נִקְנָה בְּכֶסֶף וּבִשְׂטֵר

Selling oneself as a slave.

A Hebrew servant can be acquired by money or contract.

There are two ways by which a person can be sold as a Jewish slave one.

1. He stole money and can't pay it back (Shemos 21:2 and 22:2).
2. If your brother becomes impoverished... and is sold to you (Vayikra 25:39).
 - Only to raise money to buy food.
 - Not to raise money -to buy merchandise.
 - to pay back a loan.
 - to put money in a bank.
 - to be able to pay for a mitzvah,. i.e., to marry off a daughter, or to get married yourself.

(Bava Basra 13b) A man was ½ slave and ½ free. He can't marry a Jewish woman since he is ½ slave, nor get a maidservant since he is ½ free. Can he sell the ½ that is free to be a full slave, and thereby, get a maidservant? No. (Vayikra 25:42 “You are my slaves”.)

מִנֵּיִן לְרִצְיָעָה שֶׁהִיא בְּאֵזֶן יְמִנִית

Where do we learn that the act of piercing must be in his right ear?

Which ear is pierced?

What is the rule if the person is a left-handed? Still pierced using the right ear.

What is the rule regarding Tefillin, if a man is born with situs inversus, where the heart is on the right side? We explained that the Tefillin is put on the weaker arm, opposite the heart, yet a left-handed person puts the Tefillin on his right arm, not next to the heart.

Why is this the case?

The Tefillin is put on the weaker arm. The Gemara (in Menachos 37a) simply describes where, on the arm, the Tefillin should go and where it should face. Namely, at the level of and in the direction of the heart, but still on the weaker arm.

אָמַר קָרָא: אִיזְהוּ דְבַר שְׁנוּהַג בְּאִישׁ וְאֵין נוֹהַג בְּאִשָּׁה

The Torah says, “What is the situation that applies to a man and does not apply to a woman?”

Three verses which teach the law of a slave going free at Yovel.

Vayikra 25:40- “Until the Yovel year, he shall work for you” speaks about a person who sold himself as a slave.

Vayikra 25:41- “And he shall return to his family” speaks about a person who was sold by the court, due to theft that he could not repay.

Vayikra 25:10- “And you shall return, each man to his inheritance” deals with one who has had his ear pierced.

How do we know it refers to a slave who had his ears pierced? Because, it uses the word ‘eish’ twice, in that sentence. Once to teach us that women are not sold via the court, but could become a slave if sold by her father when she was young, **but piercing the ear is limited to men, indicated by the second use of the word ‘eish’**.

אֵלָא שִׁיחָרוּר שְׁטָר לְמָה

A document of freedom.

The Baraisa's mention of a document, refers to a document of emancipation.

Why do we need a document, let the master merely free him by stating so before two witnesses or before a court!?

This is not good enough. A master of a Jewish slave, purchases the fruits of the slave's labor, plus he owns the body of the slave for the duration of servitude. The master has both the monetary application of the slave, and the slave grants the master partial ownership of his body. The master could forgo the monetary income, but not relinquish his rights to his body. A Canaanite slave can be fully freed by a document, so a document could surely serve to free a Jewish slave.

מְתִיב רַב עֲמֶרָם וְאֵלּוּ מֵעֲנִיקִים לָהֶם הַיּוֹצֵא בְּשָׁנִים

Rav Amram challenged: These are the servants upon whom we bestow severance gifts:
Those who go out with years, with Yovel, or with death of the master.

There is a financial stipend due when a Jewish slave goes free, whether the slave is freed upon his six-year term, with Yovel (if he stayed longer and had his ear pierced), or with the death of the master. In the case where the master dies, the obligation to pay the severance pay to the freed slave, becomes the son's obligation from the fathers estate.

But we learned that (13b) a payment obligation is not from the Torah. Therefore, the son should not inherit this debt. How then, can we obligate them?

1. We could say that at the moment of their father's death, the sons inherit the Jewish slave and he is immediately freed. Therefore, they transferred the debt owed to themselves.
2. A debt does transfer if it has been recorded, and the obligation to pay was established in the father's lifetime. It then continues, and applies to his estate. But this debt to pay severance pay, does not begin until the father dies. So how could we say it was established before hand?
3. Indeed, this is the case. The obligation to pay does not begin when the slave is released, since, in any form of his release, payment is due him. As soon as the Jewish slave began working the debt was established (only the amount was not known). Since it was established, it passes as an obligation to the sons, to be paid from the estate.

יְכוּל אֶפִּילוּ חָלָה

Sick leave: I might have thought that if he becomes sick, he must make up the time.

A teacher was hired for a three-year contract. He fell sick and was not able to work for two of the three years. He requested his full payment for the three years.

He argued before Bais Din:

‘A Jewish slave, who is obligated to work for six years: If he gets sick, he does not have to work longer to make up the time he could not work. He is a slave because he did something wrong, i.e., can’t pay money back or sold himself, and he gets this consideration. I did nothing wrong and should get at least the same consideration’.

The slave is owned by the master for those six years. He is obligated to work as much as he is able and has no obligation to make up for lost time.

The teacher is contracted to perform a specific service. If he does not do so, he gets no pay for services not performed, (unless the contract provides for that).

גַּר יְכוּל לֹאמַר לְעוֹבֵד בּוֹכָבִים טוֹל אֶתְּהָ עֲבוֹדַת בּוֹכָבִים וְאֲנִי מְעוֹת

RE: Inheriting prohibited property.

The convert can say to his brother, “You take the idols and the wine and I will take the money.

Once a person converts, he is considered newborn, i.e., he has no relationship to his gentile family. If his biological, non-Jewish father dies, he does not inherit from him.

However, the rabbis do allow it. How does it work? (See BT D’mai 6:10 Mishneh)

The convert can say to the other inheritors, “You take the idols and wine used for idolatry and I will take the items equivalent in value, etc”.

However, this permits the convert to benefit from the idols. It would be more proper to exclude the idol-connected items from the valuation of the estate and divide that with the other heirs.

1. There should be no inheritance at all, since no connection.
2. Divide estate by value and get your full share of value.
3. Exclude prohibited items and divide estate value on that basis.

שְׂמָא יִתְּזוּר לְסוּרוֹ

That he not revert to his former ways.

A convert to Judaism decided to distance herself from her biological parents, for fear they would influence her adversely, regarding her new commitment and cause a problem for her children. Twenty years later, she receives a call that her mother is dying and wishes to meet the grandchildren she never saw. She had stayed away from her parents, so as not to be influenced to return to her old life.

The question eventually came to R Moshe Feinstein.

- A convert is prohibited from cursing or embarrassing her natural parents.
- People must not be able to say her origins were holier than her destination.
- There is no prohibition in honoring the biological parents, though there may be no mitzvah to honor them.
- We do owe our biological parents goodwill.
- She should show appreciation for all that her parents had done for her.
- She may definitely bring her children for a visit during her mother's final days.

שְׂמָא יִתְחַזֵּר לְסוּרָו

A convert is as though he/she is a newborn child, with no prior relatives, all links severed.

What about other concerns?

Can they-

1. Marry a close, non-Jewish relative, without violating the laws of incest?
2. Testify against their non-Jewish relatives?
3. Displace a firstborn son, by a son born after conversion?
4. Marry his brother's wife, after his conversion?
5. Fulfill his obligation to be fruitful and multiply through children born to him prior to his conversion?
6. Inherit from his non-Jewish father.

Use the principle, “It should not be said that they came from a higher degree of sanctity, to a lesser degree of sanctity”.

1. No
2. No
3. No (The truth of the matter is, is that he did have a firstborn son.)
4. No
5. Yes (For indeed he had children.)
6. Yes

שְׁמָא יִתְחַזֵּר לְסוּרָו

A convert is as though he/she is a newborn child, with no prior relatives, all links severed.

A convert to Judaism must declare that they accept the Yoke of God in Heaven and the Yoke of Mitzvahs, unconditional acceptance of the valid authority of Jewish law, and a rejection of none of its specifics.

This general acceptance is not invalidated by subsequent laxity in the observance of a specific commandment. They are still Jewish.

The reference to the convert returning to his prior disposition, does not mean he becomes, again, a non-Jew, for in fact, conversion to Judaism is irrevocable (N 36). But, he might have a mistaken notion that he could do so, to gain a share in his father's estate.

„בְּגִנְבָתוֹ וְלֹא בְזִמְמוֹ“

For his theft, not as a fine for being a false witness.

A person stole and does not have money to pay back, he may be sold as a slave.

A person falsely swore, as a witness, that A owes B money. When he was found out, he is fined the amount that he wished the other (A) to lose. However, he does not have the money, he is not sold as a slave to obtain it.

Two people swear and A was sold as a Jewish slave. When it is found out that they swore falsely, they should be punished with the fate they attempted to apply to their victim, i.e., be sold as a Jewish slave. But due to this exclusion, they are not, and receive lashes instead.

אֵין יְעוּד אֶלָּא בְּגְדוּל אֵין יְעוּד אֶלָּא מִדַּעַת תְּרִיתִי

Yiud can only be performed by an adult. Yiud can only be done with intent.
Are these really two laws?

We learn that intelligence and maturity are coexistent. A child does not have ‘halachic daas’ as a general rule, but there are exceptions.

Once upon a time in a town named Pentshov, a non-Jewish butcher accused the Jewish spice merchant, who had the shop next-door, of stealing the contents of his week's earnings, that he kept in the cupboard. He got two people, as false witnesses, to claim they saw the spice merchant in the butcher shop after hours. The whole town was taken aback about this case, and no one knew how to exonerate the innocent spice merchant.

A child suggested, “Let the coins be placed in boiling water. If they belong to the butcher fat will rise up. If no fat floats, it is clear the butcher lied.” So it was written and so it was done.

”אִם-בְּגִפּוֹ יָבֵא בְּגִפּוֹ יֵצֵא”

If with his body he comes, with his body he goes out.

(Exodus 21:3)

“If a Jewish male servant comes with his body, he shall leave with his body”.

He must leave servitude with his body intact:

1. If he comes alone, not married, he leaves alone.
2. A Canaanite slave would be paid and set free if the master damages him.
The Israelite slave would be paid, but not set free. He would be paid and therefore, made whole, and would not be emancipated by injury.
3. Comes with wife and children, goes out with his prior wife and children.
He may be given a Canaanite female, but must leave her and her children when he goes free.

מִכַּאֲן אָמְרוּ כָּל הַקּוֹנֶה עֶבֶד עִבְרִי בְּקוֹנֶה אָרוֹן לְעַצְמוֹ

Whoever buys a Jewish slave, it is as though he bought himself a master.

Which means that a master must treat his Jewish slave, even better than he treats himself.

Tosophos asks, “Is it not sufficient that he treat the slave as good as he treats himself.
Why does the slave get to be treated better?”

Consider the situation: There is only one pillow. If the master keeps it for himself, he violates, “It shall be good for him, with you.” If he decides not to use the pillow, but also not to give it to the slave, this is selfish and is prohibited. So he has no choice but to give the pillow to his slave, and in that situation the slave is being treated better than the master.

מִכַּאֲן אָמְרוּ כֹּל הַקּוֹנֶה עֶבֶד עִבְרִי בְּקוֹנֶה אָדוֹן לְעַצְמוֹ

One who purchases a Jewish slave is buying himself a master.

“For it is good for him (the slave) to be with you” (Dev 15:16). This is interpreted as a direction to the master, that the Jewish slave must enjoy the same quality of food, drink and sleeping accommodations as his master. He must get equal to the owner. Why do we say, “the owner has purchased a master”?

Consider this scenario:

The master has only one good mattress. If he keeps it for himself, he violates the rule of the quality. If he withholds it from both of them, he is viewed as behaving like a Sodomite and spitefully. The only course he has is to give it to his slave, which in a sense makes the slave his master, rather than being his slave.

מִכַּאֲן אָמְרוּ כֹּל הַקּוֹנֶה עֶבֶד עִבְרִי בְּקוֹנֶה אֲרוֹן לְעַצְמוֹ

One who purchases a Jewish slave, is buying himself a master.

There is a famous opinion by Rabbi Akiva, about two people stranded in the desert and only one has a flask of water with which to survive. He must keep it for himself, as the verse says, “Your brother shall live with you”. Which is interpreted to mean, ‘your life takes precedence over the life of others’. Similarly, we should understand the verse here, which uses the same terminology. This teaches us that one should support his slave, but the comfort of the master should come first.

However, the cases are not similar.

In the case of one flask of water, each person has the same responsibility to the other. If A would give the water to B, then B would have to give the water back to A. This would repeat itself endlessly. In our case, the master has the obligation to care for his slave and should give him the pillow. The slave has no obligation to provide for the master. Therefore, he does not have to return the pillow to the master.

בְּשֶׁהֵן רוֹצְעִים אֵין רוֹצְעִים אֵלָא בְּמִילָתָא

When they pierce the ear, they only pierce the earlobe.

Where is the hole in the ear bored?

-lobe

-upper part of ear

It can be as small or as large as a bean.

A bean sized hole is considered a blemish and if the slave is a Kohen, he would be blemished, due to this wound. If the hole made is in the lobe, a bean sized piercing will not disqualify a Kohen (Bechoros 37a).

Rambam (Hilchos Avadim 3:8) states that the hole is to be in the upper part of the ear and even a small hole is adequate. However, due to the possibility of an error, a large hole might result, so no slave who is a Kohen, is subjected to a hole being drilled into his earlobe.

בְּשֶׁהֵן רוֹצְעִים אֵין רוֹצְעִים אֱלָא בְּמִילְתָּא

When they pierce the ear, they only pierce the earlobe.

At all times Jews should remember that we are created in the image of God.

Body piercing is accepted by the Torah

- The ear of the Jewish slave.
- “I put the ring on her nose...” (Gen 24:47).
- Aaron said, “Take the rings that are on the ears of your wives...” (Ex 32:2)

However, modesty, as to where such piercings are done, should guide the Jewish person. Our bodies should be viewed as a precious gift, on loan from God, and not our personal property.

Tattooing is specifically prohibited, “You shall not incise any marks on yourself, I am the Lord” (Lev 19:28)

- Any lasting and permanent mark. This was a pagan custom.
- Prohibited, if done voluntarily.
- Not blameworthy if done, for example, by the Nazi’s or for cancer treatment.

אי מיעט מיעט סם

What is excluded? The posuk excludes the use of a cream (any corrosive liquid).

Can we perform a Bris Milah on a child who has a bleeding condition, with a laser?

It is preferable to use a metal knife. The Shulchan Aruch writes that a Bris could be performed with any material which cuts, and the laser also cuts.

Rav Avraham David Horowitz says- It is permissible.

The Minchas Yitzchak says -A laser is not permitted, since it is an innovation.

He prefers that the person remain uncircumcised than to have his circumcision done by a laser.

Could it be done with a chemical, i.e., a cream?

Note: Our Gemara teaches that piercing the ear cannot be done with a cream. The chemical (cream) is not similar to the use of an anvil. The cream (acid) makes a whole by itself.

אי מיעט מיעט סם

An observant man, in the Army, was ordered to present himself clean shaven every day, even on Shabbos. Which method is best, use of a depilatory or have a non-Jew shave him?

We learn from our Gemara, that piercing a slave's ear with a caustic chemical is not permitted, since the piercing was not done by human agency. Perhaps the same applies here, (concerning shaving on Shabbos) since a caustic material acts without human agency. It should be permissible to shave with it on Shabbos, since it is only a secondary effect. No. The use of the depilatory was a common way of removing hair and is, therefore, a 'malachah machsheves' and would violate Shabbos. It is better to have a non-Jew shave you.

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מָה נִשְׁתַּמָּה אֵזֶן מִכָּל אֲבָרִים שֶׁבְּגוּף

How is the ear different than all the other parts of the body?

(Shemos 20:13) “Do not steal”. He heard this, yet he stole and can't pay back.

-If a person becomes destitute, he may sell himself as a slave.

(Vayikra 25:55)- It says, “Bnei Yisroel are slaves to me”.

-Rashi teaches that this relates not to stealing money, but to kidnapping. (Rashi-Shemos 20:6)

This is directed to the master telling him that the Jewish people are servants of HaShem and therefore, don't treat the slave harshly.

Answer: The Torah does allow a person to sell himself to another Jew, as a slave. The master is warned to treat him (the slave) with respect and the slave must be released at the end of six years. And the slave must be released with a financial endowment, to start his life anew.

All is well to this point.

However, at the moment the slave chooses to remain a slave until Yovel, it is then that he violates the Torah's guidelines. The slave has paid for the act of stealing, and only now, does he freely choose to be a slave. He kidnaps his own soul. Now, he is in violation of the Torah's guidelines, “Do not steal”.

Now, he undermines the concept, that we should be servants to HaShem alone.

אֵזְרָא שִׁמְעָה קוֹלִי עַל הַר סִינַי בְּשָׁעָה שֶׁאָמַרְתִּי „כִּי-לִי בְנֵי-יִשְׂרָאֵל עֲבָדִים”

The ear, that heard my voice on Mount Sinai, at the time I said, “Because for me, the children of Israel are slaves.”

Even a Jew, who stole money (or kidnapped a person) and cannot pay the fine, and had to sell himself into slavery, is considered a special and unique Jewish soul. He is, obviously, from the lowest level of society. He is held responsible to feel the difference from being a slave to HaShem, versus being a slave to a slave. Notice, that even the worst Jew, in the midst of a spiritual fall, is not written off, but continues to possess his Jewish responsibilities and special benefits.

הַנִּי פֹהֲנִי שְׁלוּחֵי דְרַחֲמָנָא נִינְהוּ דְאִי סִלְקָא דְעֵתָךְ שְׁלוּחֵי דִידָן נִינְהוּ

Is the Kohen, the messenger of :The Jewish people or HaShem?

An agent cannot do that which the person he represents, is not permitted to do. Since the regular Jew cannot officiate or serve in the Bais Hamikdash, beyond the slaughter of the animal, it must be, that the Kohen accepts the offering from the non-Kohen on God's behalf. Therefore, his role is as Hashem's messenger.

This distinction is important in a case where a certain non-Kohen declared that a particular Kohen cannot provide him with any benefit. When this person comes to the Bais Hamikdash, can this Kohen officiate for him?

If he is the messenger of the people, he cannot. If he is the agent of HaShem, he may, since he provides no personal benefit to the Jew, since he is not his messenger. He is God's messenger.

מִי אִיכָא מִיּוֹדֵי דְאֵינֵן לֹא מְצִינֵן עֲבָדִינָן וְאִינְהוּ מְצִי עֲבָדֵי

Is there something that we cannot do for ourselves, that an agent may do for us, even though we can't do it?

A man had his right arm and hand in a cast/or a person had a stroke, and can't move his right arm. He cannot apply his own Tefillin. Can he appoint an agent to do something that he can't do? If he can't do it, our principle is that he can't appoint someone else to do it for him. (Recall the argument that helps us understand that the Kohen is a messenger of God, not ours.)

Maharan Shik and Rav Vosner point out that regarding our discussion of a Kohen as an agent, he was to perform an optional task, i.e., a non-Kohen offering a Korban, (where the person is obligated and for some reason, is unable to perform it), he may appoint an agent to act on his behalf.

יוצא בשן ועין וראשי אברים שאינן חוזרים

The slave goes free if the master injures his tooth, or eye, or a limb that will not grow back.

Just as suffering can free a slave, it also has the power to free us from punishment for our sins. After recovering from suffering, we are less self absorbed and more open to Torah and Kedushah.

הַמְּבַעִית אֶת חֲבִירוֹ פְּטוֹר מִדִּינֵי אָדָם וְחַיִּיב בְּדִינֵי שָׁמַיִם

An indirect injury is not punished here on earth, but is punished by the heavenly court.

If a man hits his slave and the slave loses his hearing, or an ear, or sight from an eye. This slave is released and goes free. However, if the owner makes a loud noise and the slave loses his hearing, or loses sight, by some act of the owner, he does not go free. Indirect acts are not liable to compensatory damages and neither does the slave go free. However, we do imply some negligence on the part of the owner, and therefore, consider that he will be punished by the judgment of heaven.

מְקוֹם הַרְאוּי לָבוֹא בּוֹ מֵיִם בְּעֵינָן

We do require a place where the water could enter.

Are contact lenses considered an interposition between a person and mikvah waters? Yes, since they can be removed and are removed each night when she goes to sleep.

Mishnah Halachos says the immersion is invalid.

R Moshe A Feinstein rules that a person is obligated to remove contact lenses before immersion. However, if it was forgotten to remove, re-immersion is not necessary. Since the lenses are not attached to the place where they rest, it is not called an interposition.

כְּלוּ שֶׁל לֹקַח בְּרִשּׁוֹת מוֹכֵר קָנָה לֹקַח

When the vessels of the buyer are in the domain of the seller, does the buyer gain possession?

If you go to a hotel for Pesach and there is a refrigerator full of Chometz (i.e., drinks, liquor, chocolates, etc.) for purchase in your room, before Bedikas Chometz, the refrigerator and/or all the Chometz must be removed.

If you put Chometz in the trash can in your alley, is it still in your possession?

The garbage cans are owned by the municipality, but are like vessels of the buyer on the seller's property (Kiddushin 25b). Whatever is in the receptacle, remains the property of the owner of the premises. Therefore, he must declare the place where the receptacle rests, as 'hefker', i.e., 'it belongs to no one'. Minchas Yitzchak says, "If Chometz is in municipal receptacles, it has left the ownership of the Baal Habayis.

בְּחִבְלֵי זְמוּרוֹת

(Lifting an elephant) by placing bundles of vines.

To create a ‘kinyon’, ‘possession of a movable object’, you should:

Pull the object toward you-.’Meshichah’.

Schmuel –Pull an animal, or call it to you, or hit it with a stick and make it run before you.

Rabbi Shimon- Lift the item in the air.

Rabbi Yosef asks, “How is this possible if it is a large animal?” How do you lift an elephant?

Answer: (1) Use bundles of vines. Set them before the animal. He will walk on them and be lifted from the ground. It requires three ‘Tefachim’, handbreaths, i.e., 30 cm and the elephant is no longer considered to be on the ground and kinyon has been made.

(2) Place the bundles of vines above his head. He will have to jump up to eat them and this is considered as having lifted the elephant to finalize the transaction.

To acquire a slave: You must pull him towards you. It is not sufficient to call to him to come. It might be the voluntary, intelligent decision of the slave and therefore, does not signify ownership that would qualify as a kinyon

רָשָׁע יוֹרֵד עִמּוֹ לַחַיִּיו

Calling another an evil person. He may be punished, even to his livelihood.

The person so-called, can pursue that individual even to his very life, (means his livelihood). He is to be subjected to scorn for his verbal abuse and the victim can even compete against him in his trade.

This is the rule if the insult was launched unprovoked. However, if the belittling remarks are spoken as part of an argument, it is less serious. The one who said those words was himself hurt and his poor choice of words, under those circumstances, should not be treated with such contempt. The Chofetz Chaim cautions against exacting revenge, as it violates a biblical injunction.

הָאָב חַיִּיב בְּבְנוֹ לְמוּלוֹ וְלִפְדוּתוֹ

A father is obligated to teach his son a trade.

Is it proper to invest money for the future, to worry how the children will make a living, to buy insurance?

Should we not demonstrate our true faith in God, that he will provide and we should not have to worry for the future. Only those with the highest degree of trust in God can afford those usual preparations for the future.

R Moshe A Feinstein said that it was appropriate to buy life insurance and that this did not indicate a lack of faith in HaShem.

מִיִּחְיִיב אִיהוּ לְמִימְהֵל בְּפִשְׂיָהּ

When neither the father, nor Bais Din, had the child circumcised the responsibility falls on the individual.

A person who was circumcised inappropriately, i.e., as a purely medical procedure, or by a Gentile.

Should he undergo the ceremony of drawing blood, when he is of age and realizes the above?

Rambam- says 'No'. There is no need for a second circumcision, if the first Bris was done for the purpose of a Mitzvah.

For example: There is no one in that town, other than a non-Jewish urologist, who could do the Bris. A non-Jew is not authorized to do a Bris, but if the urologist preforms the circumcision and the father authorized him in the name of the 'Mitzvah of Bris', it is considered acceptable. Today, circumcision is done without any thought of a holy ceremony or Mitzvah. Even Rambam would agree that a certain second circumcision is needed. It will also have a strong psychological, positive affect.

דְּכַתִּיב: ,,בְּאִשֶּׁר צָנָה אֶתּוֹ אֱלֹהִים׃ אֹתוֹ וְלֹא אֹתָהּ

The Torah states he was commanded. He, not her.

We learn from this posuk, the father and not the mother, has the obligation to have a Bris for their son. But a Bris Milah is a positive commandment, which is time oriented and therefore, women are exempt. Why, do we need a posuk to teach us what is so obvious?

A Bris is not a standard, time-oriented mitzvah. True, it can't be done until eight days has passed, but it can be done anytime afterwards. Time is no longer a consideration. It is not closed by a time constraint. After a certain time is reached, it is open ended.

כָּל שֶׁמְצוּוֹה לְלַמֵּד מְצוּוֹה לְלַמֵּד

Whoever is commanded to study, he is commanded to teach.

“Every teacher in Israel is both leader and led.” A teacher teaches the student, later, the student serves as teacher. Only if the teacher sees himself as the continuation of his own teacher, as the participant in a relay race, will it be good for Israel.

“When the teacher’s lips are closed, you will take up the word. When the pen has slipped from my hand, you will pick it up and go on writing” (Deathbed statement of the Chasam Sofer).

הוא ללמוד ובנו ללמוד

Should he study, or should his son study?

The Gemara asks - If the father does not have sufficient funds to hire a tutor for himself and for his son, should priority be given to father or to son?

The Gemara answers - The son's study takes priority, if he is a more proficient student.

We learn from this that the father's obligations to learn Torah and his obligation to teach his son, are part of the same Mitzvah. We are obligated to perform a Mitzvah in the most enhanced manner possible. If the son is a better student, learning Torah is better done by him.

If they were two separate Mitzvahs, it would not be a cogent question. Who should be taught? Every son must be taught, whether bright or dull. Here we learn that obligation for the father and for the son to study Torah is one Mitzvah. The better student should get the support he needs.

בְּנֵי אִם פָּגַע בְּךָ מִנְּוֹל זֶה מְשַׁכְּהוּ לְבֵית הַמְּדָרָשׁ

If that repulsive wrench (the Yetzer Harah) meets you, lead him to the house of study.

The Torah is an antidote against evil inclination. If you are tempted to sin, defend yourself by studying Torah.

The house of study is not a place for the evil impulse. He does not belong there and he stubbornly refuses to go there . So the house of study is a refuge for you.

הַשְׁוָה הַכְּתוּב כְּבוֹד אָב וְאִם לְכְבוֹד הַמָּקוֹם

The Torah equates the honor due parents, to that of God.

You shall fear everyman, his mother and his father (Lev 19:3).

You shall fear the Lord your God (Deut 6:13).

Tosophos (Kid 31a) cites the Yerushalmi- That God is more stringent regarding honor to parents, then even to Himself.

How so?

One is obligated to provide for parents, whether he has money or not, even if he must go door-to-door to beg food for his parents (Pene Yehoshuah).

אָמַר לָהֶם צְאוּ וּרְאוּ מָה עָשָׂה עוֹבֵד כּוֹכְבִּים אֶחָד לְאָבִיו בְּאַשְׁקֵלוֹן

He said to them, “Go and see what occurred to a non-Jewish person from Ashkelon”.

Sages came to buy jewels from a non-Jewish person, for the priestly garments and breastplate. He refused to sell to them, because the keys to the shop were under his father's head and his father was sleeping.

The respect that he showed his father, by not disturbing his sleep, was noted by all the sages.

Next year, a red heifer was born among his cattle and the sages paid him handsomely for it. Clearly, Bnei Yisroel did not hesitate to pay a greater amount to fulfill the law of the red heifer (Bamidbar 19:21).

אָמַר לָהֶם צְאוּ וּרְאוּ מָה עָשָׂה עוֹבַד כּוֹכָבִים אַחַד לְאָבִיו בְּאַשְׁקֶלוֹן

He said to them, “Go and see what occurred to a non-Jewish person from Ashkelon”.

The commandment of the red heifer, the Porah Adumah, is a ‘chok’, ‘a commandment with no apparent reason behind it’. Yet, our rabbis explain that the commandment of the red heifer serves to atone for the sin of the golden calf.

Why does Chazal try to explain the commandment that is called a ‘chok’, because it has no rationale to it?

It is precisely because it has no logical rationale, that it atones for the golden calf.

It shows that Bnei Yisroel now are as willing to follow God's commandments that they cannot understand. They are willing to pour out their wealth to fulfill His orders, as they were previously willing to donate their wealth to construct a golden calf.

גָּדוֹל מִצְוָה וְעוֹשָׂה מִמִּי שְׁאִינוּ מִצְוָה וְעוֹשָׂה

Greater is he, who is commanded and fulfills, then he who is fulfilled and is not commanded.

Why?

One, who is commanded, always has the Mitzvah in mind that he needs to fulfill.

He is constantly fighting the evil impulse, who is enticing him with reasons or situations, so as not to fulfill it.

One who is not committed, ‘commanded’ has no such concerns.

One who is not commanded, bases his actions on his own desires, rather than those of The Almighty.

In addition, there is a category of Mitzvahs, of which you are exempt, yet you perform them, but they cause you to violate another Mitzvah. Such a person is called a ‘hedyot’, ‘a common person’. For example, sitting in the succah is not a Mitzvah if it rains, and whoever makes a stringency and sees for himself and sits there, is abolishing the Mitzvah of simchas Yom Tov, replacing rejoicing on the festival. However, to be stringent on yourself, where no harm comes to you, is permissible.

מֵרִישׁ הָיָה אֲמִינָא

At first, I use to say.

Explains the reason for a Bar Mitzvah party:

Rabbi Yosef made a feast for Torah scholars. At first it was thought that a person, who performed Mitzvahs that he is exempt from, earns a higher reward. As a blind person, Rabbi Yosef thought that he was exempt from Mitzvahs and since he did them, he would gain a great reward.

Then, he learned that Rabbi Chanina held the opinion that those, who do Mitzvahs that they are obligated to do, gain the greater reward. He decided to throw a party in honor of learning. He, though blind, was obligated.

So the reason for having a Bar Mitzvah party is to honor becoming obligated to perform Mitzvahs, and for gaining greater rewards for fulfilling them.

20 – Kiddushin 31a2 line 45 B38
Daf Digest

גָּדוֹל מִצְוָה וְעוֹשֶׂה יוֹתֵר

One who performs a Mitzvah, that he is commanded to perform, is greater.

Whenever God commands something, the evil inclination steps in and urges the person not to obey. Therefore, our sages, said, "One who was commanded and performs that commandment, is greater than one who was not commanded and performs it". This is because he was not assaulted by the evil inclination, to as great an extent.

(Torah Gems II:252)

וְלֹא הִכְלִימָהּ

And he did not shame her.

A mother came to her son, who was dressed beautifully, and was sitting with the nobles of Rome. His mother hit him on the head, ripped off his cloak and spat in his face. Yet he did not shame her. In fact, he put back on her slipper, which had fallen off her foot.

In approving the son's action, the Talmud is not sanctioning public degradation of children. Just the opposite. The Talmud only makes its point, if the reader assumes that normally parents do not publicly humiliate their children.

Abuse may endanger a life and a parent who abuses may need psychiatric or custodial care. Honor does not extend to accepting abuse indefinitely, under all circumstances.

20 – Kiddushin 31b3 line 45 B4
Response a 1990 – 2000 p786

אִיזָהוּ מוֹרָא וְאִיזָהוּ בְּיָבוֹד

What is honor and respect?

Respect-The child must not stand, or sit in his father's place, contradict his words, nor tip the scales against him in argument with others.

Honor-The child must give his father drink, food, cover him, dress him and lead him in and out.

וְדַלְמָא רְתַח וְקַעְבֵּר אַּ, לְפָנַי עוֹר לֹא תִתֵּן מִבְּשָׁל

But, perhaps, he would become angry and violate the prohibition of, “Do not place a stumbling block in front of a blind man”.

In other words, if you know you will cause a person to have a non-Halachic reaction, you should avoid it. In our Gemara, Rav Huna ripped some garments in front of his son, Rabbah, to see what reaction he would have.

Rav Huna waived his fatherly honor, so that if anger was expressed, at least Rabbah would not violate that Mitzvah. But is it permitted to cause another person to become angry? Is this not a transgression in itself? No, not if it is done for a proper purpose, i.e., teaching or a necessary conversation; then you may have such a confrontation.

אָבִי כִּי כְּתוּב בַּתּוֹרָה

“Father, thus it is written in the Torah”.

If a son sees his father doing something wrong, he must say to him (without humiliating him), “Father, the Torah states thus and thus.”

He merely quotes the Torah, and does not relate the activity of his father to that quote. As a result, he allows his father to make the deduction himself.

הָרַב שֶׁמָּחַל עַל כְּבוֹדוֹ אֵין כְּבוֹדוֹ מְחוּל

A Torah scholar may waive his honor, but his honor is not renounced.

But a king may not waive his honor. “You must set the king upon yourself” (Deut. 17:15). He must remain an authority figure. Why the difference? A king is chosen to hold a position of authority and honor. If he gives it up, even briefly, he does not possess it at that moment.

A Torah scholar earns the respect of the nation due to his amassed knowledge. This honor, due to knowledge, is not diminished, even if he agrees to forgo outward expressions of deference by others

„מִפְּנֵי שִׁיבָה תִּקּוּם” יָכוֹל אֶפִּילוֹ מִפְּנֵי זָקֵן אֲשֶׁמְאִי

“Before an old man you shall rise and shall honor a zakayn”, even an evil zakayn?

Should you rise and honor a sinful old man? No, it means a sage who is elderly.

Should you rise and honor a young scholar? Yes, you should rise and honor anyone who acquired wisdom and knowledge.

“Rise and honor”, means you only rise where honor is, thereby, expressed.

When you see a scholar at a distance of 4 amos (apprx: 6 ft.) you should rise to honor him. But, if one's primary teacher is coming towards him, he should rise and honor him, as soon as he comes into sight.

רַבִּי יוֹסֵי הַגְּלִילִי סָבַר אֶפְילוּ יְנִיק וְחַכְמִים

Rabbi Yose Hagglili holds the opinion that (you should rise) even for a young sage.

You are obligated to rise out of respect even for a young scholar, if you have a teacher/student relationship with him. Your main teacher must see even greater respect.

The community Rabbi should be on a high pedestal. For example, like a large clock on a high tower. People are not permitted to adjust it "and make it more accurate" according to their ideas. The clock has the correct community time. The Rabbi has the correct community standard. If the community standard can be changed by the people, there is little reason to have a Rav.

אֵלָא יָכוֹל יַעֲצוּם עֵינָיו מִקָּמִי דְלִימְטִיה זְמַן חַיּוּבָא

I might have thought that one may close his eyes before the obligation takes effect.

We are obligated to rise for a Torah scholar. But if we close our eyes and can't see him, are we still obligated? “Before an old man you shall rise. Fear your God” .

Therefore, who knows you are employing a ruse to avoid your obligation.

Rashi - A person, who is inebriated, is exempt from Mitzvahs and exonerated from liability. It is forbidden to purposely create a state in which you are exempt from fulfilling commandments, unless there is no intention to transgress.

So, if a person gets drunk with no intention to use that as his excuse, or closes his eyes with no intention to avoid his responsibility to rise, he may do so. Otherwise, he has transgressed.

אִין תְּלַמִּיד חָכֶם רָשָׁאֵי לְעִמּוּד מִפְּנֵי רַבּוֹ

A Torah scholar is not permitted to stand before his teacher.

Except, once in the morning and once in the evening. Because the honor afforded a teacher, must not exceed the honor afforded to God.

Some say the word ‘rashai’ does not come from the word ‘permit’, but comes from the word ‘obligated’, implying if wishes to stand, he may do so.

בְּנוֹ וְהוּא רַבּוֹ מֵהוּ לְעִמּוּד מִפְּנֵי אָבִיו

What is the law in respect to standing before his father, if the son is the father's teacher?

The son has the obligation to stand in respect for his father.

The father has the obligation to stand in respect for his teacher, who happens to be his son.

Who's obligation overrides the other?

The son should rise for the father.

Perhaps both should stand each for the other?

The son stands to honor his father, as his father and also, because of the father's righteous deeds

מֵהוּ לְעִמּוּד מִפְּנֵי סֵפֶר תּוֹרָה

What is the law regarding standing before a Torah scroll?

A person is obligated to stand up, out of respect for Torah scholars, in the Torah. But nowhere does it command us to stand up in honor of a Sefer Torah. Is one obligated to stand up in honor of a Sefer Torah? If one stands for those who study the Torah, how much more so for the Torah itself!

Such a Kal Vachomer - That the Torah is more important than the Torah scholars, may not be warranted. The Torah scholars may be more important because, without their interpretation the true rules in the Torah, may not be properly understood. The Torah states that a person may be punished with 40 lashes. The sages interpret this to mean 39 lashes. This is a life saving decision, derived at by their interpretation. Torah is important, are Torah scholars more or less deserving of honor?

אִיזוֹהֵי מִצְוֹת עֲשֵׂה שֶׁהִזְמַן גְּרָמָא

Which of the mitzvahs are time related?

Men are obligated to fulfill a mitzvah which is determined by time, i.e., to put on Tefillin and women are exempt. However, men and women are equally obligated to fulfill a mitzvah which is not determined by time, i.e., returning a lost article to its rightful owner;.

There is a vast difference between 'not obligated' and 'being prohibited'. Women are exempt, not prohibited.

Exemptions: Eating matzahs on the first night of Passover is time bound, yet women are obligated. Women are exempt from reciting the Shema on time, but are obligated to say it. Women are obligated to say grace after meals, which is a time bound Mitzvah.

וְאֵיזוֹהֵי מִצְוֹת עֲשֵׂה שְׁלֹא הַזְּמַן גֶּרְמָא

And which are the mitzvahs that are not time bound?

Discussion of which mitzvahs women are obligated to follow:

(+) commandments that time does not dictate

- mezuzah
- a fence around one's roof
- send away the mother hen, when you take her eggs

Time bound (+) commandments that women must follow:

- matzah

Non-time bound commandments that women are exempt from:

- study
- propagating
- redemption of first born

ובכלל הוא

But it is a general rule (that women are exempt....)

Women are exempt from most positive Mitzvahs that are time bound.

However, there are time-bound, positive commandments which women are obligated to do, i.e., eating matzoh at the Seder (BT Kid 34a) and non-time-based positive Mitzvahs from which they are halachically exempt, i.e., study of Torah (BT Kid 29b and 34a).

What is the rule if women wish to perform a Mitzvah, from which they are exempt?

1. May they do so?
2. May they make the bracha?
3. May they later stop doing the mitzvah, they self-imposed or has it now become obligatory on them?

A. Ravad (b. 1125- d.1198) -

1. No, however, they may handle the object, i.e., lulav, but not for the sake of a mitzvah.

B. Rambam

1. Yes, they may do so but without a bracha and Rashi (b. 1035 – d. 1104) agrees

C. Rabbeinu Tam (b.1100-d. 1171).

1. Yes

2. Yes - The putting on of Tefillin by Michal bas Shaul is precedent. However, if she put Tefillin on and she also said the blessings, how can she say, ‘V’tzivanu’, “We are commanded”, if women are exempt? Women can say it, because they are included in the general class of Bnei Yisroel, ‘children’ of Israel, not merely “sons” of Israel.

1. Is a person who voluntarily accepts an obligation, to be considered the same as a person who is commanded to perform?
2. Can that person be counted in a zimun or minyon?
3. If she fails to perform her self-imposed Mitzvah, i.e., davening, is she a sinner as would be a man who did not daven?
4. May a woman, who obligates herself to daven three times per day, serve as a shaliach tzibur? Or to act as an agent?
5. Since an agent must be legally permitted, is her voluntary assumption of the obligation, sufficient for her to be considered obligated enough to serve as an agent of others?

Answers:

1. No. It is more laudable to perform a Mitzvah, which you are obligated to perform, than for a person who performs a Mitzvah, that are not obligated to perform
2. Others, who cannot be counted to act as an agent (deaf mute, imbecile or minor), cannot serve as an agent, even if they voluntarily perform a Mitzvah, i.e., davening three times per day. So neither would be a woman! (However, Note: a woman is not specifically mentioned, as not being able to be an agent, so perhaps she could.)
3. No. Her failure is keeping an obligation which she made upon herself: a man fails to keep an obligation which was placed upon him.

Women then, have four choices:

1. Observe that which you are obligated and no more.
2. Number #1 (above), plus sporadic observance of Mitzvahs, to which you are not obligated, and never consider yourself obligated to do them.
3. Number #1 (above), plus do some Mitzvahs, that you are not required to do, but obligate yourself to do them without failure. They'll have your own self-imposed obligation. If you fail, it is not a sin.
4. Number #1 (above), plus all the Mitzvahs that a man is obligated to do and consider the failure to fulfill those obligations, a sin, just as would a man.

Category #4 might be considered sufficient to permit such a woman to be counted in a minyan.

But, also, do not forget there are opinions that resulted that reciting a bracha, which you are not obligated to make, is biblically prohibited (BT Brachos 33a)

Rambam prohibits women from making brachas where they are not obligated.

Yet, Rav Yosef, who was blind, was exempt from all Mitzvahs. (Kid 31a) Yet, is given credit, albeit less, than had he been commanded to perform those Mitzvahs. So saying a bracha, for non-obligatory Mitzvahs, is not biblically prohibited.

וְנִקִּישׁ מְזוּזָה לְתַלְמוּד תּוֹרָה לֹא סֵלְקָא דְעֵתָךְ „לְמַעַן יִרְבוּ יְמֵיכֶם”

Let us analogize the Mitzvah of mezuzah, to the Mitzvah of Torah study. Don't let this enter your mind. For it is written, “In order to lengthen your days”.

Also, don't women wish to live long lives?

The Mitzvah of mezuzah leads to a long life and women are not exempt from the Mitzvah of mezuzah.

The Mitzvah of Torah learning also leads to a long life, yet women seem to be exempt from that Mitzvah.

Not really. They are obligated in those mitzvahs that relate to them. They also get credit for learning Torah, by facilitating the learning of their husbands and children. This is a substitute for their own personal learning. If they did not perform the Mitzvah of mezuzah, there is no substitute for it.

עַל שְׁנֵיהֶם הוּא אוֹמֵר: „וַיְבָרֶךְ אֹתָם אֱלֹהִים . . . פְּרוּ וּרְבוּ“

On both sides of them, it states, ‘Be fruitful and multiply.’

This is a discussion on whether women are obligated to propagate.

R Yochanon ben Beroka says, “Both Adam and Eve were blessed by, be fruitful and multiply”. No, says the Gemara, it would have had to be written ‘peryah v’rivya’ and women don't wage war and are not ordered to subdue the earth. This word, v’cheebusah’ (in 1:28 Genesis), is not said to women.

הוקשה כל התורה כולה לתפילין

The whole Torah is compared to Tefillin.

This is derived from the verse (Ex 13:9), “And this shall serve you as a sign on your hand and as a reminder between your eyes. In order that the teaching of the Lord be in your mouth.”

Each section of the Tefillin corresponds to one of the five books of the Torah. The four sections of the head Tefillin, corresponds to the first four books and the parchment of the hand Tefillin (which contains the combined writing of the four sections), corresponds to the fifth book. Mishna Torah or Deuteronomy, is a composite of the first four books.

(Sfas Emes)

וְכָל מִצְוֹת לֹא תַעֲשֶׂה וְכוּ'

And every negative commandment

Women's role regarding negative Mitzvahs:

1. Women are not obligated regarding positive commandments. They are time bound.
2. Where do we learn that they are responsible for negative commandments that are time bound?
3. Or negative commandments that are not time bound.

Why do we need a source to learn that women are obligated for negative mitzvah?. We could extrapolate that:

1. Negative mitzvah are more serious and severe.
2. Exemption from positive mitzvahs, that are time bound, is specified, suggesting that all others are included.

Answer: We need a source because many negative commandments are introduced with the phrase, “Bnei Yisroel”. And therefore, we need a source to include, “ Bnos Yisroel” (see N31).

הַשְּׁנֵה הַכְּתוּב אִשָּׁה לְאִישׁ לְכֹל עוֹנָשִׁים שְׁבַתוֹרָה

The Torah equates a woman and a man for all punishments of the Torah.

Are Gentile women obligated to observe the 7 Noachide laws?

- Since there is no verse that suggests that, we could say, no.
- Also, Naomi tells Ruth that if she converts, she will be prohibited from worshiping idols, which as a Gentile, she also has that prohibition, but is not subjected to punishment for violating; as a Jewess, she would be punished.

The Teshuvos Yad Chanoch disagrees and says Gentile women are obligated to follow the seven Noachide laws.

מתפילין

The honor of Tefillin.

A bar mitzvah boy and his family wanted a photograph with the boy wearing Tefillin. But neither the boy, nor his father, knew how to tie them on correctly. May you help them put Tefillin on, for the purpose of a photograph taken at night? Does this do dishonor to the Tefillin?

Answer: No.

Rav Yitzchak Silberstein - "It is permitted. This may be the only time in his life that the boy puts on Tefillin. On the other hand, seeing his picture with Tefillin on, in the future, may arouse an interest and a yearning to put Tefillin on properly. At least, you helped him put the Tefillin on properly, once in his lifetime.

נוהגים באנשים ולא בנשים

Apply to men and NOT to women.

Sanctity of Priests:

	<u>Priests</u>	<u>deformed priests</u>	<u>daughters of Priests</u>
May eat Kodshei Kedoshim and may officiated at the ceremony of Eglah Arufa	+	+	-
Blessing the people	+	+	-
May not defile themselves with the dead	+	+	Not restricted. May contact the dead.
Perform sacrifices	+	-	May marry posula Kohanim
Eat Kodshei kalim	+	+	Yes – if not married 1st glimpse of priestly sanctity that daughter of priests might
Eat Terumah	+	?	apply to. Yes - if not married and if she returns childless, may eat Terumah again

דְּבַר אֶל-בְּנֵי יִשְׂרָאֵל . . . וְסִמַּךְ”

“And speak to the sons of Israel, and he shall lean.”

Further discussion of laws that women are exempt from:

For example: Leaning on the heads of animals to be sacrificed because the Torah states, “Speak to the sons of Israel...” (Lev 1:2– 4), not the daughters, about sacrifices.

Therefore, they applied to men and not to women.

כָּל מִצְוָה שֶׁהִיא תְלוּיָה בְּאֶרֶץ אֵינָה נוֹהֶגֶת אֶלָּא בְּאֶרֶץ

Mishnah

Every commandment that is dependent on the land, applies only in the land of Israel. If not dependent on land, it applies in the land of Israel and also, outside the land of Israel.

Except for ‘Orlah’ and ‘Kilayim’ (Hybrids,) ‘mixing species for planting , plowing, grafting mixing wool and linen’.

Chadash - Must bring Omer before eating fruit of trees, for their first three years.

Gemara-

What is meant by dependent on the land?

What is meant by not dependent on the land?

What is meant by ‘coming’ into the land?

What is meant by ‘involves’ the land or its produce?

חוץ מן הערלה וכלאים

Except for Orlah and Kilayim

Note 3

- Chadash - Must bring the Omer first, before eating from Chadash.
- The crop is forbidden each year, only until the 16th of Nissan. Then, it is automatically permitted. The crop cannot be eaten or cut before the harvest of the Omer. But, you can derive benefit from it, i.e., feed it to animals.

Note 1

- Orlah - The Chadash prohibition can be made short by giving the Omer offering. This applies outside of Israel. This also applies to the fruit of a tree, for the tree's first 3 years. We prohibited against all benefit and there is no way to shorten it.

Note 2

- Kilayim - Product of vineyard prohibited from all benefit – unusable.
'Tukad Aish', 'consumed by fire'. Can't mate, plow, plant, graft, or wear a mixture of certain animals and plants.

וְהָיָה כִּי תֵבֵן אֶת הָאָרֶץ וְכִי תֵבֵן אֶת הָאָרֶץ וְכִי תֵבֵן אֶת הָאָרֶץ

Even though, regarding Tefillin and a first born donkey, our daf quotes the obligation, “When you come to the land”.

We are obligated even in the diaspora. This Mitzvah, like all others (except for actual agricultural mitzvahs), is obligatory everywhere.

Question: A person had enough money to purchase Tefillin or Mezuzahs, but not both. Which should he purchase?

Mezuzah takes precedence since:

- + One is obligated on Shabbos and Yom Tov
- Obligated only when you are living in your house.
- + You must own your Mezuzahs.

Therefore, if he will borrow Tefillin, then he should purchase mezuzahs first.

Tefillin takes precedence since:

- Obligated only during the week.
- + Obligated every day of your life
- + Obligated even when traveling.
- + Obligated even in a place that does not require a Mezuzah.
- Tefillin can be borrowed from someone else.

„אֲבַד תֵּאַבְדּוּן אֶת-כָּל-הַמְּקוֹמוֹת אֲשֶׁר עִבְדוּ-שָׁם וְגוֹי“

And you shall utterly destroy all the places where they worshiped.

Are we allowed to use sacred writings produced by non-Jews?

Rambam (Hilchos Yesodei Hatorah)- A Sefer Torah (or other books) written by a non-Jew was clearly not written with the proper holy intent, and should therefore, be burned, not buried.

Teshuvos Zekan Aharon-Chumashim and Siddurim printed by Christians, may not be used.

Others say only handwritten sacred text are forbidden, but printed text may be used, even if produced by non-Jews.

Because:

1. We have always done so, since printing was developed in 1440.
2. The workers are occupied with their tasks and have no idolatrous thoughts while they are printing the books.

בְּשִׁבְעָה בְּאָדָר מֵת מֹשֶׁה וּפְסַק מִן מַלִּירָד

Manna fell in Moses' zechus and ceased falling upon his death (7 Adar).

The Gemara discusses Manna:

Manna began to fall on Iyar 16 (Exodus 16:1), one month after leaving Egypt. During that month, the Israelites ate the matzos (unleavened bread) that they bought with them from Egypt (Rashi). Manna stopped falling when Moses died, 40 years later, on the 7th of Adar. However, they ate their leftover supply for another 39 days.

The Gemara discusses Moses' birthday and day of death:

How do we know the date of Moses' death?

Deuteronomy 34:5 – “He died there in the land of Moab.”

Deuteronomy 34:8 - “He was mourned for 30 days.”

Joshua 1:11 - “In three days, you will cross the Jordan.”

Joshua 4:19 - “And they entered the land on the 10th day, of the first month, Nissan”.

Therefore, 10 Nissan minus 33 days, equals 7th of Adar.

How do we know the day Moses was born?

Deuteronomy 31:2 - “And Moses said, “I am 120 years old today.”

Today, the Torah did not have to state the word, “Hayom”. However, it did so to tell us that it was exactly and precisely 120 years. That the date Moses was born on, was the same date on which he died.

He died on 7th Adar and therefore, was born on 7th Adar.

בְּשֵׁתֵי שְׁמִיטוֹת הַכְּתוּב מִדְּבַר אַחַת שְׁמִיטַת קֶרֶקַע וְאַחַת שְׁמִיטַת כֶּסֶפִּים

The Torah speaks about two types of Schmittah, land and money.

Rashi- Schmittah applies only in Israel and only while the Bais Hamikdash stands. We continue it now, as a Rabbinic requirement.

Rambam- (Hilchos Schmittah U'Yovaylos 4:25) The rule of Schmittah should continue, whether the Bais Hamikdash stands or is destroyed. How can we reconcile these two opinions?

1. Schmittah, regarding the land, is in effect as a Torah obligation.
2. Schmittah, regarding loans, is in effect in our day only as a Rabbinic requirement. The enactments of a prosbol works, because it is a Rabbinic ordinance.

דָּרַב זָרַע גִּינְתָא דְּבֵי רַב מִשְׁאֲרֵי מִשְׁאֲרֵי

Rav Zaira said, “Rav planted a garden that provided the academy distinct patches”.

This sentence is used to justify the need for the Rosh Yeshiva to be involved in fund raising, in order to earn money to sustain the students.

Rav was the greatest teacher of Torah in his generation. In his merit, Babylon became a center of Torah. Yet, he dealt with the physical, as well as, the spiritual, requirements of his students. We see he planted rows of vegetables to provide food for his students.

Also, remember that in the merit of our teacher, Moshe Rabbeinu, HaShem sent manna to a hungry nation. A student who has physical needs and must worry about them, cannot really concentrate on his learning, the two are interrelated.

כָּל הַעוֹשֶׂה מִצְוָה אַחַת מְטִיבִין לוֹ וּמְאַרְיבִין לוֹ יָמָיו

One who does one mitzvah will be treated kindly and his days will be lengthened.

Rashi - Such a person will be blessed with the good things in this world.

Pnei Yehoshua - He will be blessed with longevity.

Ramban - Blessings for mitzvah observance, is one enjoyed in this world.

Rabbi Yaakov- Our Gemara says such reward is eternal. Therefore, extends to Olam
Habah

Rava - (Moed Katan 28a) One's children's life and sustenance, is a function of luck and he
brings proof that Rabbah only lived until age 40 and Rav Chisda only until age 60.

How do we reconcile these positions?

The reward for a “single mitzvah” means, if a person concentrates on one mitzvah or pursues
a special mitzvah, he receives ‘long life’. If not, he still gets credit, but his children and his
sustenance are related to Mazal.

Story: A man came to the great Rabbi Menachem Mendel of Kotzk and challenged him.

“Rabbi, I am rich, have a big family and a good name and I only put on Tefillin, once, in my
life....”

כָּל הַעוֹשֶׂה מִצְוָה אַחַת מְטִיבִין לוֹ וּמֵאֲרִיבִין לוֹ יָמָיו

One who does one Mitzvah will be treated kindly and his days will be lengthened.

The reward for performing Mitzvahs are not bestowed in this world.

This is not to say that no reward is ever forthcoming in this world, but full reward is enjoyed in the world to come. Any recompense received in this world is but a taste of what is to come.

Whoever performs a Mitzvah is rewarded with good.

Rashi- In this world his life is lengthened and he inherits the world to come.

וְנִחַל אֶת הָאָרֶץ

And he inherits the world.

Whoever does not perform one Mitzvah is not good and his life is not lengthened and he does not inherit the world.

The paragraph Eyleh Devorim:

- Honoring father and mother
- Bestowing kindness
- Receiving visitors
- Making peace
- Studying Torah

Study of a person, who at the request of his father, climbs the tree to get a birds eggs. He shoos away the bird, falls and dies. Both Mitzvahs, (1) honoring your father and mother and (2) sending away the bird are Mitzvahs which are to be rewarded with lengthening your days, i. e., live longer, yet he fell and died.

שְׂכָר מִצְוָה בְּהַאי עֲלֵמָא לִיכָא

There is no reward for a Mitzvah in this world.

Since the reward for a Mitzvah has no bounds, the majority of the benefit will come in the next world.

The reward for a Mitzvah is the Mitzvah, itself; The joy of fulfilling the commandment given by our creator.

“The reward for a Mitzvah is a Mitzvah” (Avoth 4:2) You receive Divine assistance in performing another Mitzvah, so that he will be rewarded for both.

מַחְשְׁבָה רָעָה אֵין הַקְדוּשׁ בְּרוּךְ הוּא מְצַרְפָּה לְמַעֲשֵׂה

HaShem does not consider a sinful thought, as though an action was done.

If, during your davening, you have extraneous thoughts, have you interrupted your prayers and need to start again?

What if you are silently saying Shemona Esrei and the congregation is saying Kedushah or Kaddish and you stop out of respect for the congregation? We have a principal, “listening is like answering”. If you actually do answer, you did interrupt, but if you only stopped to listen, is that also as though you interrupted?

No. HaShem gives you credit for positive thoughts, **but** there is no penalty for disruptive thoughts. The principal of ‘thinking equals action’ does not hold.

אֵלָא טוֹב לְשָׁמַיִם וְלִבְרִיּוֹת זֶהוּ צַדִּיק טוֹב

He, who is good to Heaven and to his fellow creatures, is a good and righteous person.

- The truly righteous person fulfills his obligation to God and his obligation to his fellow man.
- There are two types of tsaddikim:
 1. One who served God with all his enthusiasm, but does so alone.
He is not involved with the wicked.
 2. The other serves God, but also influences the wicked to serve him.
Such a person emulates Abraham.

The same for a wicked person. There is one who is a bad, wicked person. He does not sense God and harms his fellow man, i.e., a murderer, thief, kidnapper. And there is a wicked person who does not serve God, i.e., eats forbidden food, has forbidden relations, treats the festivals lightly. He is wicked, but not bad.

מְחַשְׁבָּה טוֹבָה מְצַרְפָּה לְמַעֲשֵׂה

A good intention is considered a good deed.

If one thinks (and plans) to perform a good deed, but is prevented. He is considered as though he performed it.

In Musaf on Rosh Hashana and Yom Kippur, we recite “b’ain melitz yosher”, when we have no advocate (angel) to defend us. Only God knows our good but thwarted intentions. And He can add our good thoughts, to our good deeds and rule in our favor.

מְחַשְׁבֵּה טוֹבָה מְצַרְפָּה לְמַעֲשֵׂה

A good intention is considered a good deed.

Can the Gemara really be telling us that merely thinking about doing a Mitzvah, but never actually doing it, gives a person full credit, as though he had succeeded in performing it? Is thinking, as good as doing??

- Ben Yehoyada - Yes
- Aitz Yoseph - Yes, but must also have a practical plan on how to perform the Mitzvah.
- Meshach Chochmah - Really decides to do it definitely and has resolved how it will be done, even if the circumstances prevent him.
- Once a person plans, follows through and succeeds, HaShem will reward him for his efforts in planning, and also, for his efforts at action. He is rewarded as though he did the Mitzvah twice.

The reward for the planning stage is added to the reward of actually doing the Mitzvah.

אָמַר רַב אֲסִי אֶפִּילוּ וְנִאָּנַס וְלֹא עָשָׂהּ

Rav Asi said, “A person thought of doing a Mitzvah, but was prevented”.

Is it better to plan to do a Mitzvah, but be prevented from doing it, rather than succeed in doing it?!

Once upon a time, a great Rabbi was invited to be the Sandek at a bris. However, a big snowstorm made him so late, they had to do the bris without him. He arrived at the time of the Mitzvah and was so lively and happy, that he raised the level of happiness of all who were present. He was asked, “Rebbe, you seem even more happy than if you had actually attended the bris. Why?” He answered, “The custom is to ask a truly great person to be Sandek and a person, so chosen, must fight back thoughts of arrogance. That detracts from his joy. Here, I planned to do the Mitzvah, but I was prevented. I get full credit, and I don’t have to limit my joy, to fight back arrogance. So I am doubly happy and joyous.”

מַחְשְׁבָה רָעָה אֵין הַקָּדוֹשׁ בְּרוּךְ הוּא מְצַרְפָּה לְמַעֲשֵׂה

HaShem does not consider a bad thought, as a bad deed.

The Holy one does not equate evil intentions, with deeds.

The sinful thought is pardoned, as long as it does not result in an evil deed. But when it does result in an evil deed, the sinner is punished, both for the forbidden deed and the sinful thought.

מחשבה רעה אין הקדוש ברוך הוא מצרפה למעשה

HaShem does not consider a bad thought, as a bad deed.

Discussion Re:

- Is a good thought regarded, as a good deed
- Is a bad thought (contemplation of sin)
a sin and punishable?

Quote “Once a person commits a sin and repeats it, it becomes permitted to him”.

אם רואה אדם שיצרו מתגבר עליו

It is better that a man commit a transgression secretly, so as not to profane the name of God publically.

The Yetzer Hara is a formidable foe.

So is a person permitted to do a sin?!

Chazal understood that what is forbidden, is attractive. So they make it ‘not forbidden’. But you have to take the precautions to perform it in secret, i.e., travel outside your town, or disguise yourself in other clothes. This is a series of activities, which, by the time the person does them, the lust has diminished. The act is not totally forbidden and therefore, less attractive. The Yetzer Hara is, hopefully, defeated.

עֲשֵׂה מִצְוָה אַחַת אֲשֶׁר יוֹשְׁבֵי אֶרֶץ כְּנָעַן עָצְמוּ וְאֵת כָּל הָעוֹלָם לָכֶף זְכוּת

If a person does even a single mitzvah, he is fortunate, for he has tipped the balance for himself and the entire world.

The sages teach that each individual has it in his power to affect the entire world for good or evil.

(Stone Chumash p.999)

עֲשֵׂה מִצְוָה אַחַת אֲשֶׁר יוֹשְׁבֵי הָאָרֶץ יַעֲשׂוּ וְאֵת כָּל הָעוֹלָם לִכְף זְכוּת

If a person fulfills even a single good deed, he tilts the balance scale toward the good for the entire world and all the people in it.

If any man brings (singular) an offering to the Lord... you (plural) will bring ...
(See Vayikra, Lev 1:2).

If one person brings an offering, the many will benefit.

(Torah Gems II 243)

כָּל שֵׁשֶׁנוּ בְּמִקְרָא וּבְמִשְׁנָה וּבְדֶרֶךְ אֶרֶץ לֹא בְּמַהֲרָה הוּא חוֹטֵא

Anyone engaged in the study of Torah, Mishnah and ethical behavior, will not readily sin.

Anyone not engaged in the study of Torah, Mishnah and ethical behavior will more readily sin, and is not a member of society.

He contributes nothing to civilization and society would be better off without him.

תְּלִמוּד גְּדוֹל אוּ מַעֲשֵׂה גְּדוֹל

What is greater study, or good deeds?

Study is greater, for study leads to deeds.

1. Is study greater or is practice greater? Study is greater. (R Akiva)
2. Torah study or Mitzvah performance?
3. The good of wisdom is repentance and good deeds (Berachot 17a)
4. Not study, but practice is the chief thing (Pirkei Avot 1:17)

How to resolve? There are two levels of Torah Study:

At first he toils in the Torah of HaShem, learning the laws and modifying his behavior. Later, a person cleaves to the Torah. It becomes his whole life. Then study is more important than the mitzvahs #1, 2 and 2 (above)

The result of Torah study is that, ultimately, a person will have the benefit of both.

At first, a person should study to learn the mitzvahs and how to do them properly. Then, he should put them into practice and continue to go back and forth.

הָאוֹכֵל בַּשּׁוּק הֵרִי זֶה דוֹמָה לְכֶלֶב

Those, who eat in the market place, are like dogs.

And some say are disqualified from giving testimony.

This is due to the fact that he lacks self respect, a sense of shame and personal dignity that are natural defenses against perjury. He lacks these and therefore, can't testify. If a person has no concern for his reputation, he can take liberties (for which he will be chastised), but he does not care. Such a person is unreliable.

The self abused are disqualified to testify. They will not hesitate to give false witness.
(Mishnah Torah- Hil Eduth 11:P15)

רָגֵזוֹן לֹא עֹלֶתָהּ בְּיָדוֹ אֶלֶּא רָגִזְנוֹתָא

A hot tempered person: Nothing ascends from his hand (nothing is accomplished), but his anger.

Irate - Means the person thinks he is special- “I rate”.

There are no benefits to becoming angry.

Anger causes nothing but harm to one’s health.

Vilna Gaon: If one cannot control his anger, or his desires, he should withdraw from humanity.

BT Berachot 29b: Be not angry and you will not sin.

רַגְזוֹן לֹא עֹלְתָהּ בְּיָדוֹ אֶלָּא רַגְזוֹנוֹתָא

Nothing comes from an angry person, but anger.

One who gets angry, only damages himself

The Gedolim were very vigilant to avoid anger. The Chofetz Chaim would lower his voice as a strategy to avoid anger.

Once upon a time there was a Mashgiach who told one of the great Rabbis, “After instructing a student several times, I become angry if he disregards my advice. What can I do to avoid this failing of mine?”

The Rabbi responded, “Just ask yourself, Do I always rectify my weakness after noticing my failings, or having others point it out? If you are honest with yourself, will realize the answer is no. So, if you, a mature person, do not correct yourself after several promptings, how can you have a double standard and be angry with your student?”