

**MIVTZA HISKASHRUS**

In the lead-up to Gimmel Tammuz, Kollel is publishing daily quotes from the Rebbe's Sichos on the theme of Hiskashrus.

The quotes can be viewed on the Kollel advertising screens and noticeboards and on the Kollel website.

WINTER LEARNING

This week Kollel hosted our annual Queen's birthday winter learning program for men and women.

Each day hosted 2 sessions of shiurim.

Day 1 saw Rabbi Avrohom Jacks outline the conversion process, highlighting the features of a strong giyur program.

Rabbi Johnson followed with an analysis of the halachos of unfair competition and encroachment, with focus on the recent Crown Heights "pizza wars".

On day 2, Rabbi Aryeh Knapp addressed the topic of Moshiach from the living or the dead. Rabbi Yisroel Lebenholz continued with a presentation on the quality of sincerity, drawing on Talmudic and Chassidic sources, peppered with stories and anecdotes.

The final presentation was delivered by Rabbi Yaakov Glasman on the question of whether Yiddishkeit is guilty of gender discrimination.

SHAALOS UTESHUVOS

The Shaalos and Teshuvos shiur will not take place this week. The shiur will resume next Sunday, 9:30-10:15am in Kollel.

A collection of Torah thoughts produced by Kollel Menachem

אין בית המדרש בלא
חידוש Chiddush

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The stick gatherer's lesson

At the end of the Parsha, the Torah relates the episode of the *Mekosheis Eitzim*. This individual was found gathering sticks on Shabbos and was brought before Moshe to determine his punishment. The gathering of sticks constituted a violation of Shabbos either by harvesting or carrying.

Rabbi Akiva identifies this individual as Tzelofchad, whose daughters later come to Moshe demanding that they be entitled to their father's inheritance.

Tosfos in Bava Basra writes that chronologically, this event took place immediately after the incident of the spies. He then writes that Tzelofchad's intentions were *Lesheim Shamayim* (for the sake of Heaven).

It had just been decreed that Bnei Yisroel would not enter into Eretz Canaan but would instead wander and die in the desert for the next 40 years. Bnei Yisroel concluded that this being the case, they were no longer obligated to fulfill the Mitzvos. At this point Tzelofchad went and publicly violated Shabbos so that his subsequent execution may impress upon the people that the Mitzvos still apply in full force as they had prior to the sin of the spies.

This act of martyrdom is perplexing. How can one desecrate Shabbos just to impress upon the people the importance of the Mitzvos?

In his Talmudic commentary, the Maharsha explains that in actuality, Tzelofchad did not desecrate Shabbos at all.

One of the principals of the laws of Shabbos is that only *Melech Machsheves* (calculated work) is biblically forbidden. According to Rabbi Shimon, this entails the requirement that the Melacha be performed for the purpose of the prohibited activity itself - *Melacha Shetzricha Legufa*. Halacha follows Rabbi Shimon.

The classic example is digging a hole that is for-

bidden as the Melacha of Boneh (building). Where the hole is dug to for the use of the soil as opposed to the fashioning of the hole itself, this would not constitute a biblical violation (albeit Rabinically forbidden).

In our case here, Tzelofchad did not carry out the Melacha of gathering the sticks for the forbidden purpose itself, but rather to impress upon the people the severity of disregarding the Mitzvos. Therefore his action was a *Melacha She'eina Tzricha Legufa* and he had not biblically transgressed at all.

The Pnei Dovid explains that this was Moshe's dilemma as to what must be done with him; On one hand his actions appeared to violate Shabbos, yet his intentions meant that no real violation had taken place.

Hashem told Moshe that Tzelofchad must be executed. Here the Torah teaches us how a Beis Din down here (who have been empowered by Hashem to judge their fellows) must operate.

We live in a world of action. The witnesses saw an act of desecration and it was concerning this that they had to give testimony to Moshe. A human being who cannot discern the intention inside of a person's heart must judge the deed as we perceive it. Only Hashem, the true Judge can ultimately judge the intentions as well.

Therefore Tzelofchad did indeed act *Lesheim Shamayim*. He was innocent of desecrating Shabbos in the eyes of Hashem, yet his *seeming* desecration brought about his intention, that the importance and relevance of the Mitzvos would be reinforced.

Having been found innocent by the Heavenly court, Tzelofchad acquired a portion in Olam Habo and left us with the powerful message that intentions are nice and worthy, but down here action is the main thing.

Tree swings on Shabbos

Rabbi Yonason Johnson

On Lempriere Ave right next to the park there is a swing hanging from a tree. Are my kids allowed to swing on it on Shabbos?



On Shabbos one is not allowed to climb trees¹.

This is a Rabbinic restriction to prevent violation of the Biblical Melacha of Kotzer by breaking off part of the tree – fruit, bark, twigs, leaves etc². Whilst the Gemara indicates that the prohibition does not apply to dead trees during the dry season³, the Halocha follows the interpretation of Rif and Rambam who do not distinguish and prohibit climbing all trees irrespective of the season⁴.

Direct use of trees

In addition, Chaza"l also prohibit using tree on Shabbos – משתמש באילן. This includes placing things on a tree e.g. draping a coat over a tree branch, removing something from on a tree (even if it was there before Shabbos), tying an animal to a tree etc⁵. One may not remove a ball or other object that became lodged in a tree⁶.

One may however touch a tree provided that it does not move as a result⁷. Moving the tree by touching is forbidden as Muktzah.

Whether one may lean on a tree on Shabbos or not is disputed by the Poskim. Magen Avraham⁸ cryptically writes that leaning on a tree – “healthy is permitted, weak is forbidden”. The Alter Rebbe⁹ understands the distinction as referring to the tree. If the tree is sturdy so that will not move as a result, one may lean on it. One may not lean on a weak tree which will move as a result.

In contrast, Mishna Berura¹⁰ understands the distinction between weak and healthy as referring to the person leaning. A healthy person may lean on a (sturdy¹¹) tree because he does not lean his full weight on the tree¹². Therefore it is not considered “using” the tree. A weak person leans their weight on the tree and is therefore considered “use” and is forbidden¹³.

Indirect use of trees

Chaza"l also forbade using things that are attached to or touching a tree – צדדי אילן (literally sides of the tree)¹⁴. For example, if

the tree has a hook attached to it, one may not use the hook on Shabbos. Another example would be climbing a ladder which was resting up against a tree from before Shabbos. Moving the ladder from the tree on Shabbos would also be forbidden¹⁵.

A children's tree house is also considered צדדי אילן and forbidden. For the same reason, one may not hang or remove clothing from a clothesline that is attached to a tree.

Whilst using אילן צדדי is forbidden, using צדי אילן (lit. sides of sides of the tree) is permitted. Because צדי אילן is one step further removed from using the tree itself, it was not included in the Gezeira.

An example of this would be hanging a jacket on a coat hanger which is hanging on a peg or hook that is attached to the tree. Another example brought in the Poskim is placing things in (or removing things from) a basket that is hanging on a hook that is attached to the tree. One may likewise wipe their hands on a towel which was hanging on a hook or hanging on a clothesline which is tied to a tree.

Whilst one may use the basket or towel which is hanging on a peg, one may not remove the basket or towel¹⁶ as this is considered using the אילן צדדי i.e. the hook itself. Even when using the צדי אילן, if doing so will cause the tree to move as a result, it remains forbidden¹⁷.

The status of swings

In a swing or hammock, the seat of the swing or the hammock fabric, is attached to the rope. This rope is tied to or around the tree. Even though it would seem like the rope would be defined as אילן צדדי, making the swing seat or hammock fabric צדי אילן, this is not the case, and use of the swing remains forbidden.

This is because the entire swing (the seat together with the rope/chain) and the entire hammock (fabric and rope) are considered as one unit.

Therefore the entire swing is considered as צדדי אילן and may not be used on Shabbos¹⁸.

Poskim bring proof for this from the case of a ladder that is leaning against a tree. Even though only part of the ladder is resting against the tree, the entire ladder may not be used on Shabbos.

Proof is also brought from a similar Halocha about use of animals on Shabbos. Like trees, one may not use anything attached to an animal either. One may not go into a wagon that is attached to an animal¹⁹. This applies to the entire wagon even though only the poles of the wagon touch the animal. Even the platform attached to the back of the wagon cannot be used since the

wagon and everything attached to it is like one²⁰.

Placing a towel over the seat does not change the status as the towel is subservient (טפול) to the swing²¹.

Use of these swings remains forbidden even if only one rope is attached to a tree and the other attached to another structure.

A swing that was hung from a pole or beam that is independently attached to the tree may be used as this is considered צדי אילן. The same would apply to a ladder which is leaned against a piece of timber that it attached to the tree.

Where separate eye-bolts or hooks were first attached to the tree and the swing was subsequently tied or hooked to them, the swing can be considered צדי אילן and may be used on Shabbos²².

Even in the cases where the swing is permitted to be used, this is only true if the tree branch does not move as a result. If the branch would move, it is forbidden to use such a swing²³.

Since the ropes on the Lempriere Ave swing are roped directly over the tree branch, it should not be used on Shabbos.

1. Beitza 36b. Shulchan Aruch 336:1
2. Shulchan Aruch Harav 336:1. On a timely note, the end of Parshas Shelach describes the incident of the stick gatherer on Shabbos. According to one opinion in the Gemara, the Melacha violated was Kotzer.
3. Eiruvim 100b – the rational is that detaching from dead trees does not entail a Biblical prohibition. Even then it is only permissible in the dry season. In winter, when all trees lose their leaves it is difficult to distinguish between dead and living trees. The Rosh follows this opinion (ibid 10:11).
4. See Beis Yosef 336. Shulchan Aruch ibid
5. Shulchan Aruch Harav 336:1. Mishna Berura 336:3
6. Nishmas Shabbos 336 Siman 159. Poskim are lenient where the article is dislodged not using one's hand (or an object e.g. pole in one's hands). For example one could throw up another object to try and dislodge it (Be'er Moshe).
7. Shulchan Aruch Harav 336:22
8. 336:15 quoting Yam Shel Shlomo
9. 336:21. This is also the Psak of Chayei Adam 12:6 and Aruch Hashulchan and Harav Shlomo Zalman Auerbach (Shulchan Shlomo)
10. 336:63. Following the interpretation of Machatzis Hashekel
11. Even the Mishna Berura requires that the tree not move as a result of leaning
12. See Ketzos Hashulchan 142:10. The measure of the type of leaning which is permissible is whether one would fall if the tree was removed or not.
13. Kaf Hachaim 336:90 recommends adopting the stringencies of both opinions
14. Shabbos 155a
15. Ra"n 67a
16. Shulchan Aruch Harav 336:20
17. Shulchan Aruch Harav 336:20 based on Shabbos 155a
18. Shemiras Shabbos Kehilchasa 26:16. Nishmas Shabbos 336 Siman 163
19. Ram"o OC 305
20. Shulchan Aruch Harav 305:23, Mishna Berura 305:67
21. Shemiras Shabbos Kehilchasa ibid in footnote
22. If the connection is a firm and permanent connection, some Poskim maintain that this too becomes like one unit and would render the swing forbidden from use. According to this view, it makes no difference that the hooks were separate pieces.
23. See Magen Avraham 336:15 and Mishna Berura. The Alter Rebbe explains that this would then be considered use of the tree itself.