



## Machshava of a Katan

A number of weeks ago we discussed the requirement for *machshava* (intention for human consumption) for a *neveilat ohf tahor* (the carcass of a bird from a *kosher* species - Issue 44). As we have learnt, a minor does not have *da'at* (intention) of *halachic* value so it is no wonder that the *Mishnah* ruled that they cannot provide *machshava* (8:6). The *Mishnah* does however rule that their actions can have *halachic* implications. If a child collects a *neveila* bird for the purposes of giving it to a *goi*, then the bird can become (and is) *tameh*. Even though minors do not have *machashava* they do have *ma'aseh*. It appears the requirement of *machshava* is fulfilled through the actions of the minor. Let us analyse how this works.

To better understand our *Mishnah* we shall open with the question posed by the *mefarshim*. The *Mishnah* in *Machshirin* (6:1) teaches that if someone places their produce on their roof in order to remove mites, if dew then fell on it, it is not *huchshar* (susceptible to *tumah*) unless he wanted it to get wet. Recall that produce's contact with dew (or the other six liquids) would need to be pleasing to the owner for it to be *huchshar*. If a minor placed the produce on the roof, even if he wanted it to get wet, it is not *huchshar*. *R' Yochanan* in the *Gemara* (*Chulin* 13a) adds that if the minor turned the produced over so that all sides got wet then it is *huchshar*.<sup>1</sup>

The *Rash* notes that we find from the above *Mishnah* that since it was questionable why the minor was taking the produce to the roof, the action of the minor did not have any weight.<sup>2</sup> It was not until the *minor* was turning the produce that the action was considered. Likewise in our *Mishnah* the minor may have been collecting the bird for purposes other than human consumption; perhaps to feed to a dog. So why in our *Mishnah* are the minor's actions

considered significant? The *Rash* answers that our *Mishnah* must be referring to a case where the *katon* immediately hands the bird to the *goi* so that the intent of the action is clear.

*R' Menachem* (see *Melechet Shlomo*) provides a different solution, explaining that the cases are quite different. In the case of the produce, the general reason why one would place produce on his roof was to remove mites. Consequently, the *katon* would require a further action to demonstrate the intent was for the dew. In our case however, in general the collection of birds is for the purpose of consumption so no further action on the part of the *katon* is required.

The *Mishnah Achrona* however answers that these cases are dissimilar for a completely different reasons. In the case of the produce, the primary intention was to remove mites. Secondary to that was the intention that the dew softens the produce. As this intent is secondary it is considered separate to the action and consequently insignificant for the minor. In our case, the primary intent was to retrieve the bird and hand it to the *goi*. Consequently we have a *ma'aseh* and *machshava* together.

The *Mishnah Achrona* therefore provides a very different understanding of how a *ma'aseh* works with *katon*. According to the earlier understandings, the *ma'aseh* is treated independently. The action is considered important if the action alone appears to communicate intent. According to the *Mishnah Achronah* however, the intent of the *minor* is also considered. However it only gains *halachic* force when combined with an action.<sup>3</sup>

***Yisrael Yitzchak Bankier***

<sup>1</sup> The *Gemara* continues to explain that there are three levels to consider when referring to a *katon*. *Macshava* alone, as we have learnt, does not apply to a *katon*. The second is *machshava* that is understood through the actions. This level is where the intent of the action is understandable but not crystal clear. At this level, the requirement for *machshava* is fulfilled on a rabbinic level. The third level is *machshava* and *maaseh*. The intent of the *ma'aseh* is clearly understood and the requirement for *machshava* is fulfilled on a biblical level. See *Rashi* and *Tosfot* for their differing understandings of the practical definitions of each of these levels.

<sup>2</sup> The *Meiri* explains that if the *katon* at that point articulated that it was taking the produce to the roof to be softened by the dew

then the intent of the action would be considered clear. The *Tosfot* disagree.

<sup>3</sup> This distinction could perhaps be behind the debate between *Rashi* and *Tosfot* in *Chulin*. According to *Tosfot* the three categories (see footnote 1) are defined by the clarity of the action alone. This opinion appears to align with the earlier ones cited. *Rashi* (with which the *Mishnah Achrona* aligns himself) however explains that the highest level is where the *katon* also articulates its intent. Perhaps the speech equates to the *katon's* *machshava* that is required to combine with the action. The *Meiri* however understand that the articulation only serves to clarify the action (see previous footnote).

## Revision Questions

טהרות ח' ג' – ט' י'

- What is the general rule regarding when an item that is lost then found is considered *tameh*? (ח' ג' – ט' י')
- What is the law regarding clothes that are laid out in *reshut ha'rabin*? (ט' י')
- How does the law change if the clothes were in *reshut ha'yachid*? (ח' ג' – ט' י')
- What is the law regarding one's bucket that fell in the well on the property of an *am ha'aretz* and was left unattended while the *chaver* went to get rope to retrieve it? (ח' ג' – ט' י')
- Explain the debate regarding a case where one left their house then returned finding it unlocked. (ח' ד' – ט' י')
- In which cases similar to the previous one, is there no debate? (ח' י' – ט' י')
- What is the law regarding a *chaver*'s house if an *am ha'aretz* entered to collect their child? (ח' ה' – ט' י')
- In what state does food become susceptible to *tumah*? (ח' י' – ט' י')
- When does animal food become susceptible to *tumah*? (ח' י' – ט' י')
- To what can the back of *keilim* that became *tameh* can transfer *tumah*? (ט' י' – ט' י')
- What are the opinions regarding whether parts of *tameh* dough can combine to make the minimum *shiur* in order to make the liquid in which they sat *tameh*? (ח' ח' – ט' י')
- What are the opinions regarding the previous question if the trough is slanted? (ח' ח' – ט' י')
- What are the three cases where liquids do not combine to transfer *tumah*? (ח' ט' – ט' י')
- For what else do they not combine? (ח' ט' – ט' י')
- When do olives become susceptible to *tumah*? (ט' א' – ט' י')
- Can olives become susceptible to *tumah* if the owner did not complete collecting olive for some reason out of his control? (ט' ב' – ט' י')
- What is the law regarding freshly picked olives onto which *tameh* liquid fell? (ט' ב' – ט' י')
- Is the law in the previous question different if all work in collecting the olives was complete? (ט' ג' – ט' י')
- Explain the debate regarding the moisture the leaves such olives? (ט' ג' – ט' י')
- What is R' Shimon's version of the debate? (ט' ג' – ט' י')
- What are the three opinions regarding how an *am ha'aretz* should complete picking his olives in order to separate *trumah*? (ט' ד' – ט' י')
- What is the law regarding olives that were left in a basket to soften? (Provide both cases.) (ט' ח' – ט' י')
- What is the law regarding olives that were placed on the roof for drying? (ט' י' – ט' י')
- What is the law regarding such olives that were stored in the house in order to soften them prior to placing them on the roof? (ט' י' – ט' י')
- Does the law change if they were in the house only while making space on the roof? (ט' י' – ט' י')

## Local Shiurim

### Sunday -Thursday

15 minutes before *mincha*  
Mizrachi Shul

### Friday & Shabbat

10 minutes before *mincha*  
Beit Ha'Roeh

## Next Week's Mishnayot...

שבת קודש	Friday	Thursday	Wednesday	Tuesday	Monday	Sunday
ח' שבת 30 <sup>th</sup> January	ט' שבת 29 <sup>th</sup> January	ו' שבת 28 <sup>th</sup> January	ה' שבת 27 <sup>th</sup> January	ד' שבת 26 <sup>th</sup> January	ג' שבת 25 <sup>th</sup> January	ב' שבת 24 <sup>th</sup> January
Mikvaot 1:3-4	Mikvaot 1:1-2	Taharot 10:7-8	Taharot 10:5-6	Taharot 10:3-4	Taharot 10:1-2	Taharot 9:8-9

