



Meilah by way of Shaliach

The sixth *perek* opens by teaching that if one sends a *shaliach* (agent) on a task that violates the prohibition of *meilah*, and the *shaliach* performs that task, then it is the sender (*meshaleach*) that violates the prohibition. The law is novel, since ordinarily we apply the principle of *ein shaliach le'davar aveirah* – there is not agency for sin – and it is the *shalaich* that violates the prohibition. Why is the case of *Meilah* different?

The *Gemara* (18b) explains that this law is learnt from the laws of *terumah* by way of a *gezeirah shava*. Just as with *terumah* we find that if a *shaliach* separates *terumah* as instructed it works, so too we find that the prohibition of *meilah* can be violated through the actions of a *shaliach*.

The *Tosfot* (*Kidushin* 42b) however questions the need for a source for this law. The logic behind *ein shaliach le'davar aveirah* is “*divrei ha'rav ve'divrei ha'talmid, divrei mi shomim*” – “[considering] the words of the master and the words of the student, to whom shall one listen”. In other words, one cannot not act as an agent for another with regards to a sin since the *shaliach* should have been following the instructions of *Hashem* instead, and therefore cannot act as an agent to violate it. The *Tosfot* reasons that since in our case we are dealing with the liability of bringing a *korban*, it must be a case of *shogeg*, where one inadvertently violated the prohibition. Consequently, in cases of *shogeg* we can say there is a *shaliach le'davar aveirah* since the logic of *divrei ha'rav ve'divrei ha'talmid, divrei mi shomim* would not apply. Why then do we need this derivation from *terumah*?

The *Tosfot* answer that the derivation is necessary for the case where the *shaliach* was aware of the prohibition and acted deliberately (*be'meizid*). This scenario is not covered by the general principle of *ein shaliach le'davar aveira*. The *pesukim* therefore teach that as long as the *meshaleach* (the sender) acted *be'shogeg* (inadvertently), the *meshalach* is the one that would be liable to bring the *korban*.

The *Ritva* (*Kidushin* 42b, s.v. *shani*) however disagrees and explains that *ein shaliach le'davar aveira* applies in all cases, whether the *shaliach* acted *be'shogeg* or *be'meizid*. While it is true that the *Gemara* does present the logic cited above, the law is biblical and derived from *pesukim*. Consequently, the derivation is necessary to teach that *meilah* is an exception to that rule.

The *Sefat Emet* cites the *Turei Even* that questions the position of the *Tosfot*. Recall that our law in *meilah* is derived from *terumah*. With respect to *terumah* however, there is also no *shlichut* for a prohibited manner of *hafrasha*. Accordingly, if we maintain that *ein shaliach le'davar aveira* is only in the case of *meizid*, then the derivation would only be effective if the *shaliach* acted *be'shogeg* and not as the *Tosfot* explained. The *Turei Even* therefore explains, like the *Ritva*, that *ein shaliach le'davar aveira* applies in all cases and the derivation from *terumah* is simply to teach that *shlichut* applies in the prohibition of *meilah*.

The *Sefat Emet* defends the *Tosfot* as follows. He questions the *Turei Even* and asks that if *ein shaliach le'davar aveira* applies to *terumah* in all cases, then how can it teach that there is *shelichut* for the prohibition of *meilah*. The *Sefat Emet* continues, that in truth, it is not good question. It would only be a strong question if separating itself was a prohibition like *meilah*. Consequently, the derivation is for the concept of *shelichat* and applies as follows. Just like with *terumah*, that the *shelichut* works irrespective of how the *shaliach* acted, so too in the case of *meilah*, the *shelichut* works whether the *shaliach* acts *be'shogeg* or *be'meizid*. The fact that with *terumah* there are edge cases that might involve a transgression (where the *shlichut* would not work) does not impact the concept of that *shelichut* works for *terumah* in both cases of *shogeg* and *meizid* and consequently for *meilah* as the *Tosfot* explained.

Revision Questions

מעילה ג' ח' – ו' ב'

- What is the law regarding a nest in a *hekdesh* tree? An *asheira* tree? (ח': ג')
- To what "part" of *hekdesh* wood does *meilah* not apply? (ח': ג')
- To what four prohibitions can different sacrifices combine to make the minimum *shiur*? (א': ד')
- Do *kodshei ha'mizbeach* and *kodshei bedek ha'bait* combine together for the prohibition of *meilah*? (א': ד')
- What are the five parts of an *olah* that combine for the prohibition of *meilah*? (ד': ב')
- Regarding the previous question, how many parts are there for a *korban todah* and what are they? (ד': ב')
- Does *trumah* and *challah* combine? (ב': ד')
- Does *trumah ma'aser* and *bikurim* combine? (ב': ד')
- What general rule does *R' Yehoshua* provide for which types of *tumah* combine together and why is it important? (ד': ג')
- Do *pigul* and *notar* combine? (ד': ד')
- Do two *tameh* objects that are on different levels of *tumah* combine? Explain. (ד': ד')
- For what fives laws do "all food combine"? (ד': ה')
- For what two laws do "all drinks combine"? (ד': ה')
- Explain the debate regarding whether *orlah* and *kilei kerem* combine. (ו': ד')
- Which fabrics combine and for what law is it important? (ו': ד')
- When is the prohibition of *meilah* violated? (Which case is debated?) (א': ה')
- Regarding the previous question, do the two categories according to the opinion of the *Chachamim* combine? (ה': ב')
- For what items does *meilah* apply after *meilah*? Explain. (Provide both opinions.) (ה': ג')
- If the *gizbar* hands a *hekdesh* beam to another person when have each of them violated the prohibition of *meilah*? (ה': ד')
- How can the actions of two people combine for one prohibition of *meilah*? Provide some examples. (ה': ה')
- If someone inadvertently gave *hekdesh* money to a *shaliach* to purchase something, give an example when the sender has transgressed the prohibition of *meilah*. (ו': א')
- Give an example when the *shaliach* transgresses the prohibition of *meilah*. (ו': א')
- Give an example where the host, waiter and guests all violate the prohibition. (ו': א')
- What is the law if the *shaliach* was a minor? (ב': ו')
- What can the sender do if he realises that the money he gave to the *shaliach* was *hekdesh* after the *shaliach* already left to purchase the goods? (ב': ו')

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Melbourne, Australia

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Shiur in English

Sunday -Thursday
Rabbi Mordechai Scharf
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Rabbi Chaim Brown
www.shemayisrael.com/mishna/

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
28 June ו' תמוז	29 June ז' תמוז	30 June ח' תמוז	1 July ט' תמוז	2 July י' תמוז	3 July יא' תמוז	4 July יב' תמוז
Meilah 6:3-4	Meilah 6:5-6	Tamid 1:1-2	Tamid 1:3-4	Tamid 2:1-2	Tamid 2:3-4	Tamid 2:5-3:1

