



The Community

Boruch Hashem

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Rabbi's Article

When a Mitzva Carries Over

The Torah (-Leviticus 19:20-22), teaches us of a unique case called *Shifcha Charufa* (*Maid Designated* [to a man in marriage]) in which a non-Jewish woman¹ is partly handmaid and partly a free woman (for example a woman who was owned by two partners, and one partner freed her, while the other didn't), is betrothed to a man (a Hebrew slave, who is permitted to marry a gentile maid) who had an carnal relationship with a man. The woman receives *lashes* (-[Link](#)), but *not death*, being that she is not completely free, and hence, her marriage is not fully binding (not a *married woman*), therefore, there is no death penalty. The male in this forbidden relationship, must bring a *Guilt Offering* (-[Link](#)).

Maimonides, in his *Laws of Forbidden Relationships* (-Chapter 13, Law 17) rules, "When a youth nine years old (an age in which the youth is: (i) a minor, and (ii) capable of having a carnal relationship) *engages in relations with a shifchah charufah, she is given lashes, and he is required to bring a sacrifice... For (by a shifcha charufa) the man is not liable to bring a sacrifice until she is liable for lashes, as [implied by] the verse: '(If) there shall be an inquiry (and she receives lashes) ... (only then) And he shall bring his guilt offering*."

Rabbi Avrohom ben Dovid, known as the RAaVa"D (-[Link](#)) states on this, "This is a mistake, for we do not find that a minor is subject to punishment, and this sacrifice is of the punishment for this [sin]." The RAaVa"D goes on to rule, "And she too is acquitted, for they (the maid and the male) are likened one to another (hence, being that the male is acquitted --being a minor-- from punishment, so is the maid), and so it is brought in (Talmud, Tractate) *Krisus* (-11a)."

Note: Maimonides' understanding of the "likened" between the maid ("There shall be an inquiry") and the minor male ("And he shall bring his guilt offering") being that he has to bring a *Guilt Offering* because she receives lashes, is in accordance with the *Torat Kohanim* (-[Link](#)). The RAaVa"D's understanding of the "likened" between the maid and the minor being that she is acquitted from *Lashes*, because he is acquitted from the *Guilt Offering* is in accordance with the *Talmud*.

Commentaries, in explaining how Maimonides can have a *minor* obligated to bring a *Guilt Offering* state:

- (i) *Magid Mishna* (-[Link](#)): Maimonides's opinion is, "It all depends upon her, if she be punishable, however, he doesn't need to be 'punishable' (in order to be punished)." --How can, "It all depends upon her," have a *minor* punished?!
- (ii) *RaDBa"Z* (-[Link](#)): Maimonides's opinion is that the *Guilt Offering* is for an atonement, and not a punishment. --Why would it be only by the *Shifcha Charufa* that the minor is obligated to bring an atonement, and not by any other sin?!
- (iii) *Lechem Mishneh* (-[Link](#)): Maimonides's opinion is in accordance with the *Torat Kohanim*. --Why does the *Torat Kohanim* specifically extrapolate only by the *Shifcha Charufa* that a minor is punishable, and not by any other forbidden relationships?!

We will need to explore the minor's obligations in certain mitzvot, as mentioned by Maimonides:

- (i) *Paschal Offering*: If a minor becomes an adult between the *First Passover* and the *Second Passover* (-[Link](#)), he is obligated to bring the *Paschal sacrifice* upon the *Second Passover*. However, "If one slaughtered the first *Paschal sacrifice* for the sake of the minor, the minor is exempt from bringing the second sacrifice." --Question: Being a minor at the *First Passover*, his participation wasn't obligatory, meaning, it wasn't a *mitzva*, hence, how can this exempt him from bringing his obligatory mitzva offering of the *Second Passover*?!

- (ii) *Torah-Study*: "A person who was not instructed by his father is obligated to arrange for his own instruction when he can understand," upon which the *Tzemach Tzedek* (-[Link](#)) points out, "when he can understand," even as a minor, he "is obligated, --maybe also upon the minor there is a biblical obligation!" --Question: How can an obligation be placed upon a minor?!

In order to understand this, we must first explore a far greater novelty concerning the general phenomenon of the obligation of mitzvot upon a minor:

Introductions:

- (i) One can only have his performance of a mitzvah count for another, only if he too carries the same obligation. For example, one who is not obligated to make *Kiddush* can not have their *Kiddush* count for one who is obligated to make *Kiddush*.
- (ii) Likewise, one who's obligation is rabbinical, can count only for another person who's obligation is rabbinical, as well, and not for one who's obligation is biblical. For example, a female can have her *Kiddush* count for another female, but not for a male.

1. Upon a non-Jewish being freed, she becomes a full-fledged Jew.

2. Meaning, that when the *Shifcha Charufa* is punishable by lashes ("There shall be an inquiry" about her) then ("And"), "he shall bring his guilt offering."

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This Week...

FRIDAY, APRIL 28, 2023 ★ אייר תשפ"ג

[Shabbat Candle Lighting](#): 7:29 PM · [Kabbalat Shabbat](#): 7:32 PM

SATURDAY, APRIL 29, 2023 ★ אייר תשפ"ג

2nd Day [ROSH CHODESH](#): Recite *Hallel* · Resolve to make this month better in Torah-study, prayer, and charity

TORAH READING: [Acharei](#) (Leviticus 16:1-18:30) & [Kedoshim](#) (Leviticus 19:1-20:27) · HAFTORAH: [Amos](#) (9:7-15)

[Shacharit](#): 9:30 AM · [Mincha](#): 7:15 PM · [Shabbat Ends](#): N. Miami: 8:273 PM

When a Mitzva Carries Over -Cont. from page 1

There is an argument concerning a minor's mitzvot performed because of the father's obligation to educate him:

(i) *Rashi and Nachmanides*: The (rabbinical) obligation of education is not the minor's, but the father's, "for he (minor) is not obligated in mitzvot at all!"

--Hence, a minor's *Grace After Meals* can not account for an adult, even when the adult's obligation for the *Grace After Meals* is but *rabbinical*.

(ii) *Tosfat and Ra"N*: Once the minor reaches the age of education, he is so *rabbinical* obligated.

--Hence, a minor's *Grace After Meals* can account for an adult, when the adult's obligation for the *Grace After Meals* is but *rabbinical*.

Maimonides' ruling is, "A (minor) son makes a blessing for his father." His opinion is that the rabbinical obligation of education is not just upon the father, but also upon the minor.

So too, we find Maimonides' ruling concerning:

(a) *Tzitzit*: "A Rabbinical obligation for every child who knows how to dress himself to wear tzitzit in order to educate him to fulfill mitzvot."

(b) *Grace After Meals*: "Children, however, are obligated to recite grace by virtue of Rabbinic decree, in order to educate them to perform mitzvot."

(c) *Sukkah*: "A minor who does not require his mother's [presence] is obligated [to fulfill the mitzvah] of *sukkah* according to Rabbinic decree, to train him in mitzvot."

(d) *Lulav* (the *Four Kinds*): "A child who knows how to shake [the lulav] is obligated regarding the lulav by Rabbinic law, in order to train him in the performance of mitzvot."

Question: (-Pesachim 116a), "Obligatory --even rabbinical-- for children?!" "He is not intellectually capable!"

The Explanation:

(A) A mitzva doesn't only 'capture' the action, object, or person, doing the actual mitzva *itself*. Rather, it 'captures' the action, object, and person, necessary in making the mitzva possible. Hence: (a) Rabbi Eliezer rules (-Shabbat 130a) concerning a mitzva that overrules Shabbat (i.e. performing a circumcision on Shabbat, on the child's eighth day) that even the necessary preparations for the mitzva overrules Shabbat! (b) Jerusalem Talmud (-Brochot 9:3) rules that one makes a blessing over building the Sukkah, even though the mitzva is to dwell in the Sukkah. So too, concerning the person who can't learn Torah, through funding others to learn Torah, it is considered as he himself learned the Torah. And so too, with the mitzva, "be fruitful and multiply," which is upon the man, and not the woman (the woman's participation in conception is passive), nevertheless, as the woman's participation is necessary, hence, by her making it possible for the husband to fulfill the mitzvah, it now becomes, "her mitzva" to have children! And even a mitzva in which the woman's participation is not necessary, for example, in her helping her son and husband learn Torah (a woman doesn't have an obligation to learn Torah, beyond to know the laws of her obligations of mitzvot), she partakes in the reward of the mitzva (meaning it now is her mitzva, as well, for otherwise, how can she receive a reward for doing a non-mitzvah?). Hence, we see from all of this: *Even though it was not originally a mitzva of this individual, nevertheless, their taking part in making the mitzva possible, has it now becomes their mitzva, as well.*

(B) Higher than this, is the child's mitzva performed in his father's educating him: In all the above cases, the preparatory (building a Sukkah) or necessary participation (a wife's making possible to have a child) isn't the mitzva itself being performed by the other. Hence, the blessing for building a Sukkah ("...to make a Sukkah") is not the blessing for the mitzva of Sukkah ("...To dwell in a Sukkah"). So too, with the funding of Torah-study, and the wife's participation in the conception of a child, we are speaking of an action other than the actual mitzva (studying or birthing), only that this action is necessary for the action of actual mitzva, therefore, it receives the importance and essence of the mitzva, as well. However, in a child's mitzva performed in his father's educating him, the father's mitzva is to educate the son to do this very mitzva (action) that the child is performing. Hence, the son is doing (action of) the precise mitzva (beyond just making it possible for the father's mitzva of educating his son to do this mitzva!) of this very mitzva. Therefore, now becomes the son's obligatory mitzva, as well! In other words: *Even though the original connection of the child to this mitzva was only through his father's obligation to educate him with this mitzva, nevertheless, being that this happens through the child doing this actual mitzva, this now becomes an obligatory (rabbinical) mitzva of the son! To the point that he is capable of performing it on behalf of an adult (if the adult's obligation is rabbinical)!*

(C) Let us take it up a notch, and see how this applies even for a biblical mitzva obligation: Concerning the biblical obligation to be joyous on a holiday (-Rosh Hashanah 6a), "A woman, her husband must make her joyful (meaning that the obligation is not upon the woman, but upon her husband to make her happy), -Rashi: *In Babylon with colored clothing, in Israel with pressed linen clothing.*" Tosfot asks (-[Link](#); ibid, d"h Isha), how can we say that the woman doesn't have the obligation, when we find (-Chagiga 5b-6a), "Who is a minor (exempt from the mitzva of appearance on the holiday in the Temple)? Any child who is unable to ride on his father's shoulders (from Jerusalem to the Temple Mount). Rabbi Zeira objects: Who brought him to here (to Jerusalem)? Abaye said to him: To here, as his mother is obligated in rejoicing on the Festival, his mother brought him (she herself ascended to the capital to partake in her obligatory *Joy Peace-offering* of the holiday, which must be eaten in Jerusalem). From here forward, if he is able to ascend and hold his father's hand from Jerusalem to the Temple Mount, he is obligated, and if not, he is exempt?" Tosfos answers: "Her husband makes her happy because the obligation is on her husband and not on her, and this which (tractate) Chagiga (states) 'his mother is obligated' is because of her husband, and not because of her." Hence, (according to Tosfot): *The husband's biblical obligation to make her happy makes her happiness her biblical mitzva, to the point that Talmud calls it, "his mother is obligated!"*

When a Mitzva Carries Over -Cont. from page 2

With all this, we can return to the cases listed earlier, where Maimonides speaks of a child's obligation:

- (i) *Torah-study*: The only biblical obligation to educate one's son is in Torah-study: (-Deuteronomy 6:7), "*And you shall teach them to your sons.*" Educating one's child with any of the other 612 mitzvot is only a rabbinical obligation. Hence, the Tzemach Tzedek's comment, "*Maybe also upon the minor there is a biblical obligation,*" because (See '(B)' above) the father's biblical obligation is the action that the son should learn Torah, which makes the son's action of learning Torah the son's biblical obligation (See '(C)' above)! Hence, Maimonides rules that even as a minor ("when he can understand"), "*A person who was not instructed by his father is obligated (biblically!) to arrange for his own instruction.*"
- (ii) *Paschal sacrifice*: Rabbi Yosef Kurkus (-[Link](#)) explains, being that the Torah specifies about the Paschal sacrifice being slaughtered for the son, and his being accounted for in the eating of the sacrifice, therefore, Maimonides rules that even if he became an adult after this, before the *Second Passover*, he doesn't bring the offering (as an adult) on the *Second Passover*. Rabbi Yoseph Rosen, the *Rogetchover Genius* (-[Link](#)) explains, that Maimonides' ruling only applies if the father accounted for his young son as an individual member of the group, however, if the father just counted the son as part of (-Exodus 12:3), "*Take a lamb for each parental home,*" being that he did not partake in the offering as himself, but as a member of the father's "parental home," the son did not fulfill his own mitzva of *Paschal sacrifice*, and now has to bring his own Paschal sacrifice on the *Second Passover*. The explanation is, being that the verse (biblical) allows for the father to count his son individually, hence, the father's biblical mitzva of having his son accounted for in the *Paschal sacrifice* constitutes for the son having --as a minor!-- a biblical mitzva of the *Paschal sacrifice* (if the father counts the son as an individual), and hence, the son doesn't bring his own sacrifice --as an adult-- on the *Second Passover*.

Now we understand Maimonides' ruling: A minor (9 years of age and up) who had a forbidden relationship with a *Shifcha Charufa* --being that she is biblically culpable of *Lashes* by this action that he did with her, hence, this action now has biblical repercussion--, the minor biblically needs an atonement (*Guilt Offering*)!

However, why is this so only by the forbidden relationship with a *Shifcha Charufa*, and no other biblical forbidden relationship, in which a minor is completed acquitted?!

Maimonides writes (-Laws of Forbidden Carnal Sins, 3:14): "[The laws regarding] relations with this maidservant are different than all other forbidden relations in the Torah. For (i) she is lashed, as states: '*There shall be an inquiry.*' He is liable to bring a guilt offering, as states, '*And he shall bring his guilt offering.*' Whether he transgresses intentionally or inadvertently with a *shifchah charufah*, he must bring a guilt offering. (ii) When he enters into relations with her many times, whether intentionally or unintentionally, he is required to bring only one sacrifice. She, however, is liable for lashes for every act of relations if she acted intentionally, as is the law with regard to other instances [which are forbidden] by merely a negative commandment." Maimonides is clearly expressing that there is something unique about this forbidden relationship (in which, for her it is, "as... other instances," while not so for him).

Now, let us return to the answer of the *Maggid Mishna* to understand Maimonides' approach to this uniqueness: "*It all depends upon her...*"

The Talmud states (-Krisus 11a): "*In the case that the woman is flogged, the man brings an offering. The woman is not flogged, the man does not bring an offering. From where do we (derive this)? Rava said, 'as it is written, 'And if a man lies carnally with a woman, and she is a maidservant designated for a man, and...'' Since until here, the verse is dealing with a man, let it (first) write, 'He shall bring his guilt offering unto G-d,' and at the end let it write, 'There shall be an inspection (concerning her receiving Lashes).'*' Why did the Merciful One first write, '*There shall be an inspection,*' and at the end write, '*He shall bring his guilt offering unto G-d*'? This is saying: *If there will be an inspection, (meaning that if the woman is to be flogged, then), 'he shall bring his guilt offering unto G-d.*' But if there will not be an inspection, (then) he shall not bring his guilt offering."

According to Maimonides, this is not just a *sign* (of if the male brings a *Guilt Offering*), but rather, the uniqueness of the *Shifcha Charufa* sin! By every other forbidden relationship, it is a separate sin for each involved, the male and the female, with one's sin not dependent upon the other's. However, by the *shifcha charufa*, the Torah defines a uniqueness, in which the male's sin comes into effect only through the female's, and hence, "*It all depends upon her...*"

The outcome of this for the minor male is, in all other forbidden relationship --in which the male's sin is a sin on its own, hence-- a minor has no concept of sin. However, by the *Shifcha Charufa* --being that the minor's action is the biblical sin of the *Shifcha Charufa*, hence, it carries over in-- the minor has a biblical obligation (See '(C)' above) for an atonement (*Guilt Offering*)!

Practical Lesson: From all this we can see the immense importance of the obligation in educating a Jewish child, especially in Torah-study, in which (See '(B)' above) the father's biblical obligation is the action that the son should learn Torah, hence, the action of the son's learning Torah, becomes the son's biblical obligation (See '(C)' above)!