

Laws of Shabbat, Chapter 1 (Auto Translated)

English

Auto Translated

Shiur Overview

Summary of Lecture — Laws of Shabbat, Book of Times, Rambam

Introduction to Sefer Zemanim

Practical Relevance of Learning Rambam's Laws of Shabbat

Question: What does one do when the Rambam rules differently than the Shulchan Aruch?

Two Answers:

1. **"The Sharp Answer"**: Until now (in previous books) the learner has been ruling from his own mind — now he will at least know that the Rambam is not always the halacha, and won't make a mistake.

2. **"The Beautiful Answer"**: The Rambam is not made as a practical guide. He gives **principles and meta-principles** — what is Shabbat, which mitzvot, which prohibitions, which punishments, how many levels, what is each of the 39 melachot. For practical questions (how to put away a cholent, blech or crock pot) one must look in Shulchan Aruch and later poskim. **The Rambam's purpose is that one should know all of Torah she'bichtav and Torah she'be'al peh** — not just "halachot that appear in the newspaper." Our life is greater than "cholent up, cholent down."

[Digression: Customs of Learning Rambam]

- **Toldot Aharon Rebbe** (Butash) had a custom to learn Rambam's Laws of Shabbat on Motzaei Shabbat.

- **The Chida** and **mekubalim** bring a custom that **on Shavuot night** one learned Mishneh Torah of the Rambam.

- **The Ramak** (Rabbi Moshe Cordovero) in **Or Neerav** (introduction to Kabbalah) says one must first learn "Mishnah and pesakim" — and he means one fulfills this through learning Rambam's Mishneh Torah, and afterwards one can learn Kabbalah.

Opening of Sefer Zemanim — The Verse

The Rambam begins each book with "B'shem Hashem El Olam" — like B"H, a declaration that he does it with the power of Hashem, with shefa elyon.

The verse for Sefer Zemanim (Psalms 119): "Nachalti edotecha le'olam ki sason libi hemah"

Insights and Nuances on the Verse:

1. **"Edotecha"** — **Connection to Shabbat and Yamim Tovim**: Shabbat is explicitly an **edut** — testimony to Creation, to the renewal of the world, to the Almighty's connection to the Jewish people. All mitzvot are called edut, but Shabbat and Yamim Tovim are **more directly testimonies**. **Rav Rabinowitz** brings from **Ramban** what edut means in relation to mitzvot.

2. **"Le'olam"** — **Connection to Times**: "Le'olam" can mean not only "forever" (eternity), but **his entire life, all times** — every day he observes the mitzvot of that day. This hints at **zemanim** — he places it into time. No difference whether it's Yom Kippur (difficult halachot) or a "green Tuesday" (easy halachot).

3. **"Sason libi"** — **Inner Joy vs. Outer Joy**: The Rambam teaches that **sason** is more internal than **simcha** (as he says in Laws of Yom Tov and end of Laws of Chanukah). **Sason balev** a Jew must have all year; **Yom Tov** brings it out as a "celebration" with public expression. The verse says "sason libi" — not "sason ha'olam" — which teaches that there is an **inner joy** from Shabbat and Yom Tov, not just an external conduct. This is like ma'aseh hamitzvah with chalut hamitzvah — the external party serves so that everyone should have inner sason.

4. **Connection to the End of Sefer Ahavah**: Sefer Ahavah ended with the haftarah of **"Sos asis"** — perhaps therefore Sefer Zemanim begins with **"ki sason libi"**, a continuation of sason.

5. **The Rambam as "Artist"**: People think the Rambam is a "technocrat" — but from these openings we see he is also an artist who brings beautiful verses. **All opening verses speak about mitzvot**, because the Rambam's book is organized according to the order of mitzvot. This is also the concept of **integrating his aggadah with halacha, Torah she'bichtav with Torah she'be'al peh**.

Order of Sefer Zemanim

"The third book, which is Sefer Zemanim. Its laws are ten, and this is their order":

1. Laws of Shabbat
2. Laws of Eruvin
3. Laws of Shevitat Asor (Yom Kippur)
4. Laws of Shevitat Yom Tov
5. Laws of Chametz and Matzah
6. Laws of Shofar, Sukkah and Lulav
- 7–10. Shekalim, Kiddush HaChodesh, Ta'anit, Megillah and Chanukah

Three Principles in the Organization:

Principle 1: From the Stringent to the Lenient — Four Levels of Shevitah:

1. **Shabbat** — even melachah of ochel nefesh is forbidden, punishable by sekilah.
2. **Yom Kippur** — also forbidden melachah like Shabbat, but less severe (no sekilah), plus a mitzvah of fasting.
3. **Yamim Tovim** — one may do ochel nefesh, less stringent.
4. **Weekday Yamim Tovim** (Chanukah, Purim, fasts) — some customs not to do melachah, but no prohibition of melachah.

Principle 2: D'oraita Before D'rabbanan:

Until Laws of Kiddush HaChodesh is entirely d'oraita. Laws of Ta'anit is half d'oraita half d'rabbanan (Tisha B'Av is d'rabbanan). Megillah and Chanukah are entirely d'rabbanan.

Principle 3: From the General to the Specific:

The Rambam first makes the general laws (Shevitah Yom Tov — equal for all Yamim Tovim), and only afterwards the specific mitzvot (Chametz and Matzah, Lulav, Shofar, Sukkah). Therefore there is no "Laws of Pesach" — the shevitah already appears in Laws of Shevitah Yom Tov, and what is specific to Pesach appears in Laws of Chametz and Matzah.

[Digression: Shekalim and Kiddush HaChodesh]

Shekalim and Kiddush HaChodesh don't fit entirely in this order — Shekalim could fit in Laws of Kodashim (money for sacrifices), Kiddush HaChodesh could fit in Laws of Judges/Sanhedrin. But the Rambam places emphasis on aesthetics — he doesn't want very thin or very thick books. This is also the reason why Laws of Eruvin is extracted from Laws of Shabbat as a separate law, even though it's a branch of shevitah — because Laws of Shabbat would have become too long.

[Digression: The Concept "Shevitah"]

The word "shevitah" means to break the regular cycle — something one does normally, and now one stops. "Shevitah asor" means two things: shevitah from melachah **and** shevitah from eating. Like shemitah is called "shabbat" from work in the field.

Laws of Shabbat — The Five Mitzvot (Introduction)

"They include five mitzvot, two positive commandments and three negative commandments."

Simple meaning: Two positive and three negative:

1. **To rest on the seventh day** (positive)
2. **Not to do melachah on it** (negative)
3. **Not to punish on Shabbat** — Beit Din should not punish (negative)
4. **Not to go outside the boundary on Shabbat** — techum Shabbat (negative)
5. **To sanctify the day with remembrance** — Kiddush (positive)

Insights:

1. **Order by Topic, Not by Positive/Negative:** The Rambam doesn't organize by positive commandments first and negative afterwards, but **by topic**: first the positive of shevitah, immediately followed by the corresponding negative (not to do melachah) — because they are two sides of the same thing.
2. **Additions to "Not to Do Melachah":** Mitzvot 3 and 4 (not to punish, techum Shabbat) are **additions** to "not to do melachah" — things that aren't exactly melachah but have an additional prohibition.
3. **Kiddush — A New Mitzvah:** Mitzvah 5 (Kiddush) is a **new mitzvah** that has nothing to do with melachah.
4. **Shabbat in the Torah Appears Much More Than Five Times:** Chazal through Torah she'be'al peh explained which verses say the same thing again (to warn more), and which are an additional mitzvah. For example "not to punish

on Shabbat" — Chazal learned that the verse doesn't mean just to warn again about Shabbat, but a specific mitzvah.

Laws of Shabbat Chapter 1

Halacha 1 — Foundation of Shabbat Rest, Punishments

"Resting on the seventh day from melachah is a positive commandment, as it says 'and on the seventh day you shall rest.' And anyone who does melachah on it has nullified this positive commandment and transgressed a negative commandment, as it says 'you shall not do any melachah.' And what is he liable for doing melachah? If he did it willingly with intent he is liable for karet, and if there were witnesses and warning he is stoned. And if he did it inadvertently he is liable for a fixed sin offering."

Simple meaning: Resting on the seventh day is a positive commandment, doing melachah is nullifying a positive plus a negative. Punishments: with intent — karet; with witnesses and warning — sekilah; inadvertently — fixed chatat.

Insights:

1. **"Resting on the Seventh" Not "Resting on Shabbat":** The Rambam intentionally says "on the seventh" (on the seventh day), because the name "Shabbat" comes only **after** one does shevitah. He wants the verse "and on the seventh day you shall rest" — first there is the seventh day, then one makes shevitah, and then it becomes "Shabbat."
2. **The Rambam's Method in Bringing Verses:** The Rambam always brings the **simplest and shortest** verse, not necessarily the first or the one the Gemara brings. The verse "and on the seventh day you shall rest" is from Exodus 23 (Parshat Mishpatim), even though Shabbat already appears earlier in the Ten Commandments and at Marah. The Rambam holds that all verses are the same mitzvah, just different formulations, and one can take whichever one wants.
3. **"Bircono Bizadon" — Two Conditions:** "Bizadon" means he **knew** it was Shabbat/melachah (not shogeg). "Bircono" means no one **forced** him (not ones). Both conditions must be present for karet.
4. **Karet Without Witnesses:** The Rambam first says "liable for karet" (without mentioning witnesses and warning), and **afterwards** "and if there were witnesses and warning he is stoned." This means: karet is the punishment from Heaven even without witnesses; sekilah is only with witnesses and warning. The Rambam already explained in Sefer HaMada what karet is — that the soul is cut off.
5. **Shogeg:** "Shogeg" means he didn't know it was a melachah, or didn't know it was Shabbat, or didn't know which action he was doing. The punishment is a fixed sin offering (a specific type of animal — not oleh v'yored which changes according to the person's status).
6. **The Rambam's Method in the First Halacha:** As is his way, the Rambam begins with the **definition** of the mitzvah: what is the obligation, which punishments, what is d'oraita and d'rabbanan. The Rambam's Mishneh Torah is essentially an "expanded Sefer HaMitzvot" — organized around the mitzvot, each law begins with how it fits into the 613 mitzvot.
7. **Chapters in Rambam:** The Rambam himself did **not** make any chapters (headings) — other people added them.

Halacha 1 (Continued) — The "Code" of Terminology: Chayav, Patur, Mutar

"Wherever it says regarding Shabbat that it is forbidden to do this thing 'chayav' — liable for karet, and if there were witnesses and warning liable for sekilah, and if done inadvertently liable for chatat. And wherever it says 'patur' — exempt from karet and from sekilah and from the offering, but it is forbidden to do that thing on Shabbat, and if he does it he receives makkot mardut. And similarly wherever it says 'one does not do thus' or 'it is forbidden to do thus' — one who does it intentionally receives makkot mardut. And wherever it says 'it is permitted to do thus' — permitted ab initio. And wherever it says 'he is not liable for anything' or 'exempt from anything' — they do not lash him at all."

Simple meaning: The Rambam establishes a systematic language — a "code" — for all Laws of Shabbat, so he won't have to write out the full punishment each time. Laws of Shabbat is lengthy, and the code makes it practical.

Insights:

1. **Three Levels of Shabbat Prohibition:** (a) **Chayav** = d'oraita with karet/sekilah/chatat; (b) **Patur** = exempt from d'oraita punishments, but forbidden d'rabbanan with makkot mardut; (c) **Mutar** = permitted ab initio, even d'rabbanan.

2. **"Patur" Doesn't Mean "Mutar":** In Laws of Shabbat, when it says "patur" it means **patur but forbidden** — he is exempt from d'oraita punishments but it's still forbidden d'rabbanan. This is not so in all of Torah — in other laws "patur" can mean "patur and mutar." But here in Shabbat "patur" always means it's still forbidden, because if it were permitted it would say "mutar."

3. **Makkot Mardut — A New Punishment Concept:** Here one is introduced to the concept **makkot mardut** as the punishment of the Sages for rabbinic prohibitions. In Sefer HaMada one could have **nidui** as the punishment of the Sages; here one learns a second tool — makkot mardut. The Rambam holds that makkot mardut is **actually a punishment** (rabbinic lashes), not just coercion (forcing to stop). This is a distinction — other opinions hold that for d'rabbanan there is only coercion (like "we force him until he says I want"), but the Rambam teaches that makkot mardut is an actual lashing-punishment according to the rules of the Sages.

4. **The Rambam's Systematization with "Makkot Mardut":** In the Gemara it sometimes says simply "liable for lashes" and means makkot mardut (d'rabbanan). The Rambam **systematized** this — when it's forbidden d'rabbanan he consistently writes "they lash him makkot mardut," to show it's not d'oraita lashes.

5. **The Language "One Does Not Do" / "It Is Forbidden to Do":** When the Rambam uses such language he means **forbidden d'rabbanan** (not d'oraita), because if it were d'oraita it would say "chayav."

6. **The Language "He Is Not Liable for Anything" / "Exempt from Anything":** The word **"anything"** is the key — it means he is exempt even from makkot mardut, not just from d'oraita punishments. Without the word "anything,"

"patur" would only mean exempt from d'oraita but still liable for makkot mardut.

7. **[Digression: Does "He Is Not Liable for Anything" Mean Completely Permitted or Still Forbidden Without Punishment?]** A discussion is held whether "he is not liable for anything" means **completely permitted** (even d'rabbanan), or perhaps still forbidden d'rabbanan just without makkot mardut. If "mutar" already means permitted ab initio, why do we need another language "he is not liable for anything"? The answer: There can be laws where it's **forbidden d'rabbanan but without makkot mardut** — a stringency without punishment — and for this fits the language "he is not liable for anything." But the **Kesef Mishneh** holds that "he is not liable for anything" simply means **permitted**, and the different formulations are nothing more than stylistic variations for the same thing.

Halacha 2 — Davar She'eino Mitkavein (Melachah Without Intent)

"Things that are permitted to do on Shabbat, and in doing them it's possible that a melachah will be done because of them and it's possible it won't be done — if he didn't intend that melachah it is permitted. How so? A person drags a bed and chair and bench and the like on Shabbat, provided he doesn't intend to make a furrow in the ground while dragging. Therefore if he dug he need not be concerned, since he didn't intend to plow. And similarly a person walks on grass on Shabbat provided he doesn't intend to uproot them, therefore if they were uprooted he need not be concerned. And he washes his hands with fruit dust and the like... a narrow breach... permitted to enter on Shabbat, even if [stones] fall... And similarly anything where he doesn't intend like this."

Simple meaning: When someone does a permitted action on Shabbat, and it's possible that incidentally a melachah will happen (but it's not certain — "it's possible it will be done and it's possible it won't be done"), if he didn't intend the melachah but rather the permitted thing — it is permitted.

Insights:

1. **"Intent" Doesn't Mean Thought Alone:** "Intended" doesn't mean he's pushing with closed eyes thinking intentions — it means that **he means to do** the permitted action, not the melachah. The focus is on what is his goal in the action.

2. **Two Conditions for the Leniency of Davar She'eino Mitkavein:** (a) The person doesn't intend (in his intent) the melachah — he drags the bed because he needs the bed, not to make a hole; (b) The result is not inevitable — it happens sometimes yes, sometimes no. Both conditions together make it permitted.

3. **Must One Investigate the Specific Case?** If a person sees that his bed is very heavy, must he check whether it will make a hole? The conclusion: One need not go into details — because the category of dragging furniture is generally not a category that always makes a hole. The person need not stand and make experiments beforehand.

4. **Four Examples:** (1) Dragging a bed/bench/closet — can make a furrow in the floor (choresh); (2) Walking on grass — can uproot grass (kotzer); (3) Washing hands with fruit dust — can pull out hair (gozez); (4) Going through a narrow breach —

can break out stones (boneh/soter). In all cases, because the person doesn't intend the melachah, he doesn't stumble even when it happens.

5. Dispute of Rabbi Yehuda and Rabbi Shimon: The entire topic of *davar she'eino mitkavein* is a dispute in the Gemara — Rabbi Yehuda says liable, Rabbi Shimon exempts. The Rambam rules like Rabbi Shimon.

Halacha 2 (Continued) — Pesik Reisha V'lo Yamut

"He did an action and a melachah was done because of it that will certainly result from that action, even though he didn't intend it — liable, since it's known that it's impossible that melachah won't be done. If he needed a bird's head to grind for a child, he cuts off its head on Shabbat — even though his ultimate intent is not to kill the bird but only to cut off its head — liable, since it's known it's impossible to cut off the head of a living thing and it won't die. And similarly anything like this."

Simple meaning: If a person does an action that inevitably (certainly) brings a melachah as a result, even if he didn't have in mind the melachah, he is liable. This is the law of "pesik reisha v'lo yamut" — one cannot cut off the head of a living bird and say "I didn't mean to kill."

Insights:

1. Category vs. Specific Case — The Main Innovation: Pesik reisha is not determined by the specific case, but by the **category** of the action. Cutting off the head of a living animal is a category that is **always** connected with killing — that is pesik reisha. But dragging furniture is a category that is **not always** connected with plowing — that remains *davar she'eino mitkavein*, even if in this specific case the bed is very heavy.

2. They Are Not Two Equal Conditions: The two conditions (no intent + not inevitable) are not two separate equal conditions. The main category is "*davar she'eino mitkavein*." But the Rambam says that when an action is so closely connected with the melachah that one cannot do one without the other, then it's also called "mitkavein" — because he has done two things here: slaughtered a chicken and given the child a toy. The two things are so closely connected that one cannot say "I only did one."

3. The Rambam Brings Specifically the Clearest Case: He brings the clearest case of pesik reisha (cutting off a head), not a borderline case. He doesn't say "but if he will break through a very narrow breach" — this shows that pesik reisha is only when it's absolutely clear that the result must come, not when it's just very likely.

4. "But It's Still a Doubt": Theoretically everything is a doubt — even cutting off a head, because there has occurred in the world a case like a chicken living without a head. But "in the natural way" there is no such thing, and that's what the Gemara speaks about — according to the natural way, not according to miracles.

5. "Rabbi Shimon Agrees in Pesik Reisha V'lo Yamut": Even Rabbi Shimon, who exempts in *davar she'eino mitkavein*, agrees that when it's inevitable, one is liable.

6. [Note: Pesik Reisha D'lo Nicha Lei]: The Aruch holds that pesik reisha is not always liable, but only when he has

benefit from it. There is a concept of **pesik reisha d'lo ichpat lei** (or d'lo nicha lei) which is a leniency. In both laws (pesik reisha and melachah she'einah tzricha l'gufa) there are opinions of Rishonim that are more lenient than the Rambam.

Halacha 3 — Melachah She'einah Tzricha L'gufa

"Anyone who does a melachah on Shabbat, even though he doesn't need the melachah itself, is liable for it. How so? One who extinguishes the lamp because he needs the oil so it won't be lost, or so the house won't be smoky, or so a paper wick won't burn — he is liable. And similarly one who carries a thorn four cubits in the public domain so the public won't be harmed by it — he is liable, and similarly anything like this."

Simple meaning: Even when someone does a melachah not for the purpose for which the melachah is usually used, he is liable.

Insights:

1. Definition of Melachah She'einah Tzricha L'gufa — Through Extinguishing: The **normal extinguishing** — the standard purpose of extinguishing — is when someone extinguishes a fire **to make a coal** (a coal that ignites easily). That is "tzricha l'gufa" — he needs the very act of extinguishing, because through the extinguishing a coal is created. **However** when someone extinguishes to save the oil, or so the house won't be smoky, or so the wick won't burn — here he is **not** seeking to create a coal, he's not seeking the product of extinguishing. He uses the act of extinguishing for a **different reason**. That is melachah she'einah tzricha l'gufa — he does indeed do the melachah, but not for the standard result.

2. The Sharp Distinction Between Melachah She'einah Tzricha L'gufa and Davar She'eino Mitkavein: **Melachah she'einah tzricha l'gufa has very little to do with davar she'eino mitkavein**, even though both deal with intent:

- **Davar she'eino mitkavein** = I mean to do **one thing** (not a melachah), and **a second thing** (a melachah) also happens. There are **two actions** — for example, I drag a bench (not a melachah) and a furrow is made (a melachah). I am not engaged in plowing at all.

- **Melachah she'einah tzricha l'gufa** = I do **one thing** (a melachah) and **that's also what happens** — there aren't two things. But I do the melachah **for a different reason** than the standard purpose. I am indeed engaged in extinguishing, just not for the normal result of extinguishing.

3. The Example of Carrying the Thorn: In carrying a **thorn four cubits in the public domain** the distinction becomes even clearer. The standard purpose of hotza'ah is: **I want the thing to be in the second place** — I bring it from here to there. But with the thorn — **he removes it**, he is engaged in **removal of damage**, not in carrying. "Removing is not the same as carrying, that's called removing." But still, he has done **the same melachah** (hotza'ah four cubits in the public domain) for a **different intent** — and according to the Rambam he is liable.

4. The Rambam's Ruling vs. Ra'avad and Shulchan Aruch: The Rambam rules in *davar she'eino mitkavein* like **Rabbi Shimon** (exempt), but in *melachah she'einah*

tzricha l'gufa he rules like **Rabbi Yehuda** (liable). This is a **great stringency** of the Rambam. The **Ra'avad** and **most poskim**, including the **Shulchan Aruch**, rule that **also melachah she'einah tzricha l'gufa is exempt** according to Rabbi Shimon — they learn that Rabbi Shimon is lenient in both: both **davar she'eino mitkavein** and **melachah she'einah tzricha l'gufa**.

Halacha 4 — Melachet Machshevet: Intended One Melachah and a Different Melachah Was Done

"Anyone who intends to do a melachah and a different melachah was done that he didn't intend — exempt for it, since his thought was not fulfilled. How so? He threw a stone or arrow at his fellow or at his animal to kill them, and it went and tore a tree in its path and didn't kill — he is exempt. **Kal vachomer** if he intended a light prohibition and a severe prohibition was done, such as he intended to throw in a karmelit and it passed into the public domain — he is exempt."

Simple meaning: When someone had in mind to do a melachah and an entirely different melachah happened that he didn't plan — he is exempt, because "melachet machshevet asrah Torah" — only a melachah that comes with thought (plan) is forbidden from the Torah.

Insights:

1. A Third Category of Intent — Melachet Machshevet: This is different from **davar she'eino mitkavein** (a side result) and **melachah she'einah tzricha l'gufa** (the same action with a different purpose). Here we speak of a **plan that didn't happen** — he planned to do one way and it **happened a different way**. The foundation is **melachet machshevet asrah Torah** (Rabbi Yitzchak's principle in the Gemara) — only a melachah that matches the person's thought is liable.

2. The Example of Throwing a Stone: He shot a stone at a person or animal to kill (a melachah), and instead the stone **tore a tree** (kotzer — also a melachah). **Both are avot melachot**, both are the same severity, but because his plan didn't happen — he is exempt.

3. The Kal Vachomer — Intended a Light Prohibition and a Severe Prohibition Was Done: When he intended to throw in a **karmelit** (only a rabbinic prohibition) and it fell into **the public domain** (a Torah prohibition) — he is also exempt, **kal vachomer**. This is an interesting case: it's not a different type of melachah, it's **the same melachah** (hotza'ah/throwing), but it fell **in a slightly different place** — but it's a **different category** (karmelit vs. public domain). The person "is not happy" — he didn't want this, his stone didn't arrive where he wanted.

Halacha 4 (Continued) — Intended a Permitted Thing and a Melachah Was Done

"He intended to do a permitted thing and a melachah was done — exempt. Such as he intended to cut the detached and cut the attached — he is exempt, and similarly anything like this."

Simple meaning: When someone intended to do a permitted thing (cutting something detached) and by mistake he cut something attached (kotzer) — he is exempt, because his thought was not on any melachah at all.

Insight:

This is an even weaker case than the previous one — there he at least intended a melachah (just a different one), here he intended **no prohibition at all** — he meant to cut something detached which is completely permitted.

Halacha 4 (Continued) — Intended to Pick Black Figs and Picked White / Reverse Order

"He intended to pick black figs and picked white, or intended to pick grapes and then figs and picked figs first and then grapes — exempt, even though he picked all he thought, he didn't pick in the order he thought, since the Torah only forbade melachet machshevet."

Simple meaning: If someone planned to pick black figs and by mistake picked white, or planned a certain order (grapes first, then figs) and it happened in reverse — he is exempt, because melachet machshevet is lacking.

Insights:

1. How to Understand the Case of Reverse Order: A strong question — if he ultimately picked both (grapes and figs), just in reverse order, why should he be exempt? He did everything he wanted! The answer: One must divide each action separately — at the moment he picks the figs, he didn't mean to pick figs now (he meant grapes), and at the moment he picks grapes, he didn't mean grapes now (he meant figs). So each individual action is "lo nitkavein." The "larger plan" that both should be picked is not relevant — one considers each specific action by itself.

2. Practical Understanding — What Does "Lo Nitkavein" Mean by Picking? If someone stands by a tree and cuts off fruit, how can one say he "didn't mean to"? He sees what he's doing! The conclusion: The case must be like "throwing a knife" — he doesn't have full control over what he takes. For example, he sticks in his hand without seeing well, or he throws a knife, and it doesn't hit what he intended. This is compared to the example of going to the fridge — one wants to take out milk, by mistake one takes cheese, because one didn't look well. That is "lo ne'esetah machshavto."

3. Distinction Between Shogeg and Lo Nitkavein: The case is not shogeg (where he doesn't know it's Shabbat), but "lo nitkavein" — he had a specific intent that wasn't carried out. If one wouldn't understand it this way, every shogeg would also be "shelo k'seder machshavto" (he wanted to cut on Sunday, he cut on Shabbat), which is absurd.

4. General Intent vs. Specific Intent: If someone has a general intent (just to cut off figs), he is liable even if he took a different fig. But when he has a specific intent (black, not white), and it wasn't carried out, he is exempt.

Halacha 4 (Continued) — Intended to Pick This Fig and Picked Another Fig (The Same Type)

"He intended to pick this fig and picked another fig, or intended to kill this one and killed that one — the melachah he thought to do was done."

Simple meaning: When both figs (or both people) are of the same category, and there's no substantial difference, he is liable — because the melachah he planned indeed happened.

Insights:

1. What Makes a "Difference" Between Two Things?

With candles — if one is a bit larger and one smaller, is that also a difference? With people — two people are certainly different! The Rambam doesn't give a clear rule for what counts as a "difference." With black and white they are two different types (one for cooking, one for eating, for example), which is a real difference. But with two figs of the same type, or two candles, the difference is not significant.

2. **"Intended to Kill This One and Killed That One" — Difficult to Understand:** With people there is certainly a difference between two individuals. Perhaps we speak of a war situation where it doesn't matter which soldier one kills. But it remains difficult.

3. **[Digression: Practical Relevance]** This entire topic is not really for practical halacha — all cases are "patur but forbidden," and it's only relevant for liability for chatat. The Shulchan Aruch doesn't bring all these laws at all. It's a bit theoretical.

Halacha 4 (Continued) — There Were Before Him Two Candles Lit or Extinguished

"There were before him two candles lit or extinguished, and he intended to extinguish this one and extinguished that one, or to light this one and lit that one — liable, since the melachah he thought to do was done."

Simple meaning: When two candles are the same (there's no difference between them), and he meant to extinguish one and he extinguished the other — he is liable, because there's no "black and white" difference here.

Halacha 4 (Continued) — Intended to Light the First and Extinguish the Second, and It Was Reversed

"He intended to light the first and extinguish the second after it, and it was reversed, and he extinguished the first and then lit the second after it — exempt."

Simple meaning: He planned first to light and then to extinguish, and it happened in reverse — exempt.

Insight:

1. **Distinction Between Order with Candles and Order with Figs:** With figs both actions are the same type of melachah (kotzer). Here with candles, lighting and extinguishing are two **different melachot** (mav'ir and mechabeh). Therefore the distinction is more understandable — he wanted to be mav'ir, and he did mechabeh, which is truly a different melachah.

Halacha 4 (Continued) — Extinguished This One and Lit That One in One Breath

"He extinguished this one and lit that one in one breath — liable."

Simple meaning: If he extinguished one and lit the other at the same time (in one breath), he is liable — because there's no order-problem when both happen simultaneously.

Insight:

He had a plan to do one before the other, but in practice he did both at once. Because there's no order (both are

simultaneous), there's no "shelo k'seder shechashav," and he is liable.

[Halacha — Mitaseik]

Simple meaning: Mitaseik — when someone had nothing at all in mind, for example he waves his hands and something tears off — he is **exempt from punishment**.

Insight:

With Shabbat mitaseik works differently because **there is benefit** (unlike forbidden fats and forbidden relations), so one cannot simply say mitaseik on everything. The lecture doesn't go deeply into this.

Halacha — Yater Al Kavnavo / Chaser Mikavnato

"Anyone who intends to do a melachah, and his melachah was done but not as he wanted — if it was more than his intent, liable. But less than his intent, exempt."

Simple meaning: When someone intended to do a melachah, and the melachah happened but not exactly as he wanted — if it happened **more** than he wanted (yater al kavnavo), he is liable. If it happened **less** (chaser mikavnato), he is exempt.

Insights:

1. Example of Lefanav and Le'achorav:

"He intended to take out a load behind him and took it out in front of him — liable. He intended to take out in front and it came to him behind — exempt."

The distinction is not about **quantity** (how much), but about **quality of the melachah** — specifically, the **quality of guarding** the load:

- **Le'achorav** → **Lefanav** = **liable**: He intended a **inferior guarding** (from behind, where he doesn't see the load), and in practice there resulted an **excellent guarding** (from in front, where he sees it). This is **yater al kavnavo** — the melachah happened **better** than he planned.

- **Lefanav** → **Le'achorav** = **exempt**: He intended an **excellent guarding** (from in front), and in practice there resulted an **inferior guarding** (from behind). This is **chaser mikavnato** — the melachah happened **weaker** than he wanted.

2. **Innovation in the Definition of "Yater" and "Chaser":** The concept "yater al kavnavo" doesn't mean he poured out a larger glass (quantity), but that **the quality of the melachah** became better. "Chaser mikavnato" means the quality of the melachah became weaker. The Ra'avad is precise about this.

3. Exception — Chagur B'sinar:

"If he was girded with an apron and threw the load between his flesh and his garment, whether it came in front or behind — liable, since this is his way to go out."

When someone places a load under his clothing by the body (between flesh and garment), there is **no difference** between lefanav and le'achorav — he is always liable. The reason: with such a manner of carrying it is **darko latzet chozer** — it's natural that the load slides around. Therefore one cannot say "I didn't mean for it to turn around," because it's a foreseeable

thing. The previous halacha (lefanav/le'achorav with exemption) speaks specifically when it's **not darko latzet** — something that doesn't slide so easily.

Halacha — Started a Melachah and Did the Measure

"Anyone who intends to do a melachah on Shabbat and started it and did the measure — liable, even though he didn't complete all the melachah he intended to do. How so? One who wants to write a letter on Shabbat — we don't say he won't be liable until he completes his desire and writes the whole letter, but once he writes two letters he is liable. And similarly a craftsman who intended to weave an entire garment — once he weaves two threads he is liable, even though his intent is to complete."

Simple meaning: When someone had in mind to do a large melachah (write an entire letter, weave an entire garment), and he only started — when he has already done **the measure** (two letters in writing, two threads in weaving), he is already liable, even if he didn't finish his entire plan.

Insights:

1. **The Measure Is a Complete Melachah:** When Chazal say this is the measure of a melachah, it means that **this is already a complete melachah**. Your personal "goal" (to write an entire letter) doesn't matter. He has **planned to do several melachot** (as it were), and he has already **carried out one complete melachah**. One doesn't reckon with your broader intent.

2. **Distinction from Murder:** With **murder** one does reckon with your goal (you want to kill a specific person), but with Shabbat melachot the measure is an absolute standard — **one measure** that defines a complete melachah, independent of your plan.

Halacha — Two Who Did It

"Any melachah that an individual can do alone and two did it in partnership — exempt. Such as this one uprooted the object from this domain and the second placed it in another domain, or two held a quill and wrote, or a loaf and took it out from domain to domain — these are exempt. But if the individual cannot do it alone until his fellow helps him, such as two who held a beam and took it out to the public domain and neither one has the strength to take it out alone — both are liable. One measure for both."

Simple meaning: When a melachah can be done by one person alone, and two did it together — both are exempt, because neither did a complete melachah. But when the melachah **requires** two people (for example a heavy beam that one cannot carry alone), **both are liable**.

Insights:

1. **Two Types of "Partnership"** (as the Beit Yosef explains): (a) **Zeh miktzato v'zeh miktzato** — each does a part: one does uprooting, the other does placing; (b) **Shneihem k'echad mitechilah v'ad sof** — both do together from beginning to end: two people grab a quill and write together, or both grab a bread and carry it out. In **both** cases they are exempt (when an individual can do it alone).

2. **Shiur Echad Lishnayim:** When two people are liable (because one cannot do it alone), the **measure** is not twice as much — it remains **one measure** for both together. The foundation: **The measure of hotza'ah (minimum measure for a melachah) is not on the person, but on the melachah**. One measures whether a "significant melachah" was done — a meaningful melachah — not whether the individual person did enough. When the melachah is divided between two people in a manner that this is the natural way to do the melachah, one measure is enough.

Halacha — One Can and One Cannot

"If one of them has the strength to take out the beam alone and the second cannot take it out, and they took it out both together — the one who can take it out is liable. A helper is not liable for anything."

Simple meaning: When a strong person and a weak person carry together a beam, and the strong one could have done it alone — the strong one is liable and the weak one is a mere "helper" who does nothing halachically.

Insights:

1. **Who Is Called "Helper"?** One might have thought that the helper is the one who was called to help (the neighbor who was asked). But no — **one doesn't look at who asked whom, but who can do it alone**. The one who cannot do it alone is the helper, even if he practically put in most of the strength.

2. **A Difficult Question:** Why is the strong one liable? He practically did the melachah with a second person — this should be "shnayim she'asuha" and he should be exempt (because he can do it alone, and he did it in a "partnership way" with two)! The answer: **Because the second one cannot do anything alone, he is viewed as if he doesn't exist** — therefore it's not "shnayim she'asuha" for the first one, but he alone did it.

3. **Comparison to Shinui / K'le'achar Yad:** The foundation is similar to k'darko/shelo k'darko. Something that one person cannot do alone — that is the "way" to do it with two, and each one does "k'le'achar yad" (not a full melachah). But when one can do it alone — from his side he did it alone, and the second is nothing.

4. **A Paradoxical Result:** When **two people who each can do it alone** do it together — both are exempt (shnayim she'asuha). But here, because the second **cannot** do it alone, he becomes a "helper" who does nothing, and therefore the first becomes **liable**. This means, the second one's weakness makes the first more liable.

5. **An Open Question:** What is when the "weak one" practically did most of the work? He truly cannot do it alone, but he put in more strength. And what is when two such "weak" people could have done it? The Rambam doesn't clearly give such a case.

Halacha — Mekalkel Patur

"Anyone who destroys is exempt. How so? If he injured his fellow or an animal in a destructive manner — exempt. And similarly one who tears, and one who burns, in a destructive manner — he is

exempt. One who digs a pit and only needs its earth — exempt."

Simple meaning: A melachah that is not productive — but rather destructive — is not a significant melachah and one is exempt.

Insights:

1. **Chovel** can be liable (like makiz dam — bloodletting an animal for a purpose), but **in a destructive manner** is exempt because it's not productive.

2. **Guma L'afrah:** The innovation is that **the pit itself is a destruction** — an ugly hole in the ground that doesn't belong there. Even though he obtains something (sand), **the digging itself is a destruction in the ground.** A "digging" is only when one wants a pit — to plant, to build — that is a repair in the ground (choresh or boneh). Here he is only "borer" sand, but destroys the ground.

Halacha — Mekalkel Al Menat Letaken — Chayav

"Anyone who destroys in order to repair — liable. How so? One who wants to demolish in order to build in its place, or erases in order to write in the place he erases, or digs a pit in order to build foundations in it — he is liable. His measure is like the measure of the repairer."

Simple meaning: When the destruction is a preparation for repair, he is liable for the melachah of destruction (soter, mochek, chofer).

Insights:

1. **What Is the Melachah?** Why isn't this simply "boneh" (because the entire purpose is to build)? The answer: **The melachah is soter** (or mochek etc.), but one is only liable for soter when it's "al menat letaken." This means: **He is essentially a builder, but the melachah he does now is called soter** — and one is liable for soter only when it's for the sake of building.

2. **Shiuro K'shiur Hametaken:** The measure of soter is the same as the measure of boneh. One measures the destruction according to the repair it will bring.

3. **Why Do We Need a Separate Melachah of Soter?** This remains an open question: "We will see later, perhaps we will discover the secret of this."

Halacha — Half Inadvertently and Half Intentionally

"Anyone who does a melachah on Shabbat, part of it inadvertently and part intentionally — whether he acted intentionally and at the end inadvertently, or inadvertently and at the end intentionally — exempt. Until he does the measure of the entire melachah from beginning to end intentionally, and then he will be liable for karet and sekilah. Or he did it all inadvertently from beginning to end — liable for a fixed sin offering."

Simple meaning: A melachah must be entirely in one category — either entirely intentional (liable for karet/sekilah) or entirely inadvertent (liable for chatat). A mixture is exempt from punishment.

Insights:

1. **What Does "Shogeg" Mean Here?** Not that he stopped thinking about what he's doing (that would be an intent-problem, not shogeg). **Shogeg means he forgot it was Shabbat, or he didn't know this was a melachah/forbidden.** For example, in the middle of building someone reminded him it was Shabbat, and he continued — that is intentional and at the end inadvertent (or vice versa).

2. **Connection to Melachet Machshevet:** A "half melachah" (half shogeg half intentional) is not a complete melachah, and therefore exempt. This connects with the entire foundation of "engaged" and intent — the melachah must be a complete, consistent action from beginning to end.

3. **"Patur" Doesn't Mean Permitted:** He is exempt from karet/sekilah/chatat, but rabbinically it is forbidden.

End of Chapter 1

The chapter ends with this — a rich chapter that establishes all the **principles of Shabbat melachot:** the foundation of shevitah, the punishments, the "code" of terminology (chayav/patur/mutar), davar she'eino mitkavein, pesik reisha, melachah she'einah tzricha l'gufa, melachet machshevet (intended one melachah and another was done, intended a permitted thing, black and white, reverse order, this fig and that fig, candles), mitaseik, yater al kavnavo/chaser mikavnavo, the measure of melachah, shnayim she'asuha, helper, mekalkel, mekalkel al menat letaken, and half inadvertently and half intentionally.

Full Transcript

Introduction to Sefer Zmanim — Laws of Shabbat

Opening of the Shiur

Good, we are learning and we are beginning, Baruch Hashem, the third sefer of the Rambam, Sefer Zmanim, and we are going to begin learning Hilchot Shabbat from Sefer Zmanim. Baruch Hashem we are fortunate, the third sefer, may Hashem continue to help us.

Before we begin the shiur, we want, as always, to thank the baal hakemach, because if there is no kemach there is no Torah, the tremendous koach hayuli of this shiur. We know that before there is a creation, as it says in the Rambam, Hakdama LaTorah, before there is a creation there is a koach

hayuli. So the koach hayuli of our shiur is our chaver R' Yoeli. Yasher koach, yasher koach to all the other supporters, and may the shiur be spread. We are beginning Hilchot Shabbat, it's a good opportunity, every Jew wants to know Hilchot Shabbat, every Jew wants to understand what Shabbat is, and there is nothing better than learning the Rambam.

Discussion: The Rambam's Relevance to Halacha L'maaseh

Speaker 1: What's good? Yes, one may say, because you said that one can learn Hilchot Shabbat from this. People constantly ask what does one do when the Rambam paskens differently than the Shulchan Aruch or the later poskim.

So I'll first say the sharp answer, then you'll say the nice answer.

The Sharp Answer

The sharp answer is, that until now he has been paskening from his own mind, now he will at least not make a mistake because he thought that the Rambam is l'halacha, and it is not. Okay, we've already made a lot of progress.

The Nice Answer

A second answer is, that we are learning the Rambam b'iyun, one needs to know, it's not really like a study of halacha l'maaseh, we've spoken many times, the Rambam didn't even organize it for that, right?

When someone wants to know how to put in the cholent for Shabbat, one needs to know what kind of cholent pot he has, whether it's a blech, whether it's a crock pot, what are the different halachot about this, the Rambam won't say that. The Rambam will give the klalim, and even if they are the kelalei haklalim, to know what are Hilchot Shabbat, which mitzvot are there on Shabbat, which issurim, which punishments are there? How many levels are there? What is each one of the thirty-nine melachot? He will say the klalim with a few halachot, and for the most part, the klalim are agreed upon.

There is a portion where there is a machloket, one will see devarim shehem halacha shetzricha legufa, that the Rambam paskens one way and the Shulchan Aruch paskens differently. Okay, but generally speaking the klalim don't even have so much machloket. The machloket is in the small details, and one doesn't learn it at all made to know practically. It's made to know, to be a talmid chacham, to know that in Hilchot Shabbat there is such and such, and to know for example in which perek of the Rambam to look.

Well, he already knows that l'maaseh he needs to look in the side of the Rambam, which is printed in most places, there is the Shulchan Aruch, he needs to look what the later poskim say. But this is the greatest benefit, that he knows that he is learning all the halachot, all the Torah.

Speaker 2: Very well said. That the Rambam is not a... usually, most practical are the halachot that are in the newspaper. But you don't want to be the Jew who only knows the halachot that are in the newspaper. And the halachot that are in the newspaper state precisely: before hadlakat hanerot he should go to the mikveh, then he should put on the right sleeve, the right side first, then the cheesecake, and then what each minhag is how one conducts oneself in each place.

The Rambam is not here for a practical guide, because our life is greater than the cholent up, the cholent down. We need to know what is Shabbat Kodesh. Not only the inyan of Shabbat, the holy matters, but what are all the halachot. With the Rambam you can in a relatively short time have covered everything that is very important that stands in Torah she'baal peh about Shabbat. Shulchan Aruch is much longer and much harder.

So someone who grabs hold here more to know what Shabbat Kodesh is, your cholent is here to learn Torah, not only for practicality. Practicality, perhaps you will further ask your moreh hora'ah, perhaps you will look into one of the kitzur sefarim. But the point of learning Rambam, when you finish the entire Rambam you will know the entire Torah shebichtav and Torah she'baal peh. That is the point. The point is not that... finally in the Rambam, Hilchot Shabbat has a certain

advantage that it's relevant to our lives, and the fact is the things that are halachot that are common, the Rambam himself goes according to a certain order of commonness, it comes earlier. But as I said, the point is not only to be practical. It cannot be that the Torah is only a use for a person so that his day-to-day life should be comfortable and calm. That is not the Torah.

Customs of Learning Rambam

Speaker 1: Yes. Very good. I also want to mention, that you mentioned that I also didn't... the people who say that it's a Lubavitcher custom, what about other Chassidic rebbes? They had the custom to make a seder in Rambam, especially in Hilchot Shabbat. I know your uncle, the Toldot Aharon Rebbe, Buta Shuva, motzai Shabbat, in Rambam Hilchot Shabbat? Yes. Do you know about this?

Speaker 2: Yes.

Speaker 1: Do you know how he himself made this custom?

Speaker 2: I know.

Speaker 1: And now on Shavuot I saw brought from the Chida and from many of the baalei mekubalim bringing the custom, that on Shavuot night one learned Mishneh Torah of the Rambam. Yes, the Chida, what does he call it? Did you know about this?

Speaker 2: No.

Speaker 1: Yes. Yes, the mekubalim. Also, you know whoever learns Kabbalah, that the Ramak has an introduction to Kabbalah in Or Nerev, and he says here a din, and one must... the Rambam says the din, yes, one must learn first Mishnah u'pesakim, he says, he means that one fulfills it if one learns Rambam Mishneh Torah, then one can learn Kabbalah.

Should we already finish this shiur? Okay. Yes. Already.

Introduction to Sefer Zmanim – The Pasuk

Like everything, the Rambam begins each sefer with a small introduction. The introduction to Sefer Zmanim is his chapter. Just as there is a minhag Yisrael to write at the top of a page b'siyata dishmaya, each sefer of the Rambam he begins with the language of the pasuk "**b'shem Hashem El Olam**". This is like the sefer is a proclamation, b'shem means publicizing the Name, or that he does it b'shem, as if b'koach Hashem, b'shefa elyon, as if the Almighty makes it that he should be able to write it.

And each sefer the Rambam has like a derash from a pasuk that speaks in praise of the Torah or such a thing, which has some small connection to the sefer, and he uses it like the chapter or the entrance, such an opening like this with a pasuk. It's simply a matter like one sees many times in the midrashim, that there is a matter of interweaving aggadah with halacha, Torah shebichtav with Torah she'baal peh. Yes, that is the matter, he is now beginning Torah she'baal peh, he begins with a pasuk in Torah shebichtav.

He says the pasuk from Tehillim 119, which speaks entirely in praise of the Torah, says David HaMelech, "**nachalti edotecha l'olam ki sason libi hemah**". I have inherited, I have received, or as nachalah means I have inherited, but I hold onto them, I guard them like a nachalah. A nachalah is a place where a person guards his piece of nachalah that he inherited. I guard your edotecha, the Torah which are testimonies, l'olam, forever, pikudei Hashem yesharim

mesamchei lev, because they make me happy, they are the joy of my heart.

Discussion: The Connection of This Pasuk to Sefer Zmanim

So the connection that this has to Hilchot Shabbat, to Sefer Zmanim, I will say what I think, and Rabbi Yitzchak will say what he thinks.

Edot

I guard the mitzvot, they are a testimony. But I think that Shabbat is more testimony, and the yamim tovim are all very much a clear testimony. Only the mitzvot are a further testimony, because so go ovdei avodah zarah, you should not go so. But Shabbat is literally, as we say that it's a testimony, it reminds us, it's a testimony on briat ha'olam, on chidush ha'olam, and on the Almighty's connection to Jews, etc.

L'olam

"L'olam" I would say, many times "l'olam" means forever, netzchiyut, but here we're speaking about the person. "L'olam" means his whole life. His whole life means all times. He will guard, every day he will guard the mitzvot of that day, but it also includes every day. So there is here a matter hinted at a bit of zmanim, yes? When I will do it "l'olam", he means he puts it into time.

Many times he says in every place, even when he will be in that work, but here he says forever. There is no difference which period it is, whether it's Yom Kippur Hilchot Ta'anit, difficult halachot of Yom Kippur, green Tuesday, easy green Tuesday.

Sason Libi

"Pikudei Hashem yesharim mesamchei lev", because they make me happy.

A large part of the Hilchot Zmanim and the Hilchot Eruvin are days of simcha. Yom Tov there is a mitzvah of simcha. Shabbat also there is, it's not called simcha, but oneg are close cousins, and so on. There are also ta'aniyot and things that are not simcha. But in general, first of all, the Torah of the Almighty is mesameiach, that's what the simple pasuk says. But these things have more a direct connection with simcha.

Speaker 2: Yes, I agree. No, I think, first of all, that you say that it's a matter, I think that there is also like simply a beauty. Like you say that he makes an opening. He makes an opening to Zmanim. People think that the Rambam was such a technocrat, they say, yes? He brings every halacha. But one sees from all these openings, he was also a, one can call him an artist. He brought a beautiful pasuk.

And the Rambam's sefer is arranged according to the order of mitzvot, so he brings the pesukim that speak about mitzvot. All the pesukim, I mean, from the openings of the Rambam are about mitzvot, so I remember, if I calculated correctly. And that is one thing. Mitzvot have different synonymous names. I saw, Rav Rabinowitz brings from Ramban what testimony means. One must search for the Rambam who explains the matter, whether the mitzvot that are called edot. One must search well, I don't remember at the moment. But certainly the Rambam also holds that all mitzvot are testimonies, or specifically the mitzvot, obviously explicitly.

I just wanted one more inference on "sason libi". Interesting, because we learned that yamim tovim the Rambam learns usually is sason l'simcha, but it's more simcha, as it says in Hilchot Yom Tov here and the end of Hilchot Chanukah, more sason than simcha ba'olam, right? Sason balev a Jew must have the whole year. Yom Tov one brings it out, one calls

guests, one makes a display of simcha. One can say that it's not only a "state of mind", but it's a "celebration", it must be with pirsumei rabbim, it's a conduct. Yom Tov also has, also Shabbat and also Yom Tov have matters between man and his fellow, "l'maan yanuach avdecha va'amatecha" etc.

And here he says "sason libi", it's very interesting. Perhaps he should have said "sason ha'olam". Perhaps one learns from here that there is an inner simcha of Shabbat and Yom Tov.

It's connected, that one makes a party through the fact that each person should have a sason alone. It's two things that are connected, like a maaseh hamitzvah with a chalut of the mitzvah.

I saw, someone noted that the end in Hilchot Sefer Ahavah ended with the haftarah of "sos asis". Perhaps because of this the Rambam began with "ki sason libi". Okay, fine.

Order of Halachot of Sefer Zmanim

The Rambam says: "**Sefer shlishi, v'hu Sefer Zmanim**". He first counts out the Rambam the order that will stand in this sefer. "**Hilchotav eser**", that is each volume of halachot, each category is called halachot. There are ten, we have here ten types, ten categories of halachot. "**V'zeh siduran**".

He begins with Hilchot Shabbat. Let us first give a lineup, perhaps we will say why this is the order:

1. Hilchot Shabbat
2. Hilchot Eruvin, which is a branch in Hilchot Shabbat
3. Hilchot Shevitat Asor – the mitzvah of shevitat asor, Yom Kippur
4. Then comes shevitat Yom Tov, all the melachot of Yom Tov that are different from Shabbat
5. And then the details of certain yamim tovim he begins with Nisan, which is the first month, "hachodesh hazeh lachem rosh chadashim", he begins Hilchot Chametz U'matzah
6. And he goes on to Hilchot Shofar V'sukkah V'lulav, all these mitzvot of the seventh month, special mitzvot of the month of Tishrei

Introduction to Hilchot Shabbat

Yesh bichlelan chamesh mitzvot - shtei mitzvot aseh, v'shalosh mitzvot lo ta'aseh, v'zeh hu peratan:

1. **Lishbot bashevi'i**
 2. **Shelo la'asot bo melacha**
 3. **Shelo la'anosh b'Shabbat**
 4. **Shelo latzet chutz ligvul b'Shabbat**
 5. **L'kadesh hayom b'zechira**
- U'vi'ur kol hamitzvot ha'elu b'perakim elu.**

Chapter 1: Mitzvat Shevita and Principles of Melachot Shabbat

Halacha 1: Mitzvat Shevita and Its Punishments

Aseh: Shevita bashevi'i mimelachah - mitzvot aseh, shene'emar "u'vayom hashevi'i tishbot" (Shemot 23:12).

Bitul aseh v'lo ta'aseh: V'chol ha'oseh bo melacha - bitel mitzvot aseh, v'avar al lo ta'aseh, shene'emar "lo ta'aseh chol melacha" (Shemot 20:9).

Chiyuvei ha'oseh melacha: U'mah hu chayav al asiyat melacha?

- Im asah birtzon b'zadon - chayav karet.

- V'im hayu sham edim v'hatra'ah – niskal.
- V'im asah b'shegaga - chayav korban chatat kevua.

Halacha 2: Chayav, Patur, Mutar

Chayav: Kol makom shene'emar b'hilchot Shabbat sheha'oseh davar zeh chayav – harei zeh chayav karet, v'im hayu sham edim v'hatra'ah - chayav sekila, v'im haya shogeg - chayav chatat.

Halacha 3: Patur

V'chol makom shene'emar "sheha'oseh davar zeh patur" - harei zeh patur min hakaret u'min hasekila u'min hakorban, aval asur la'asot oto davar b'Shabbat, v'issuro midivrei sofrim, harchaka min hamelacha.

V'ha'oseh oto b'zadon - makin oto makat mardut.

"Ein osin", "asur": V'chen, kol makom shene'emar "ein osin kach v'chach", o "asur la'asot kach v'chach", b'Shabbat, ha'oseh oto davar b'zadon - makin oto makat mardut.

Halacha 4: Mutar

V'chol makom shene'emar "mutar la'asot kach v'chach" - harei zeh mutar lechatchila.

V'chen, kol makom shene'emar "eino chayav klum", o "patur miklum", ein makin oto klal.

Principles of Melachot

Halacha 5: Davar She'eino Mitkavein – Lo Nitkavein V'efshar Shelo Yei'aseh

Devarim hamuturin la'asotan b'Shabbat, u'vish'at asiyatan efshar shetei'aseh biglalon melacha v'efshar shelo tei'aseh, im lo nitkavein l'ota melacha - harei zeh mutar.

Keitzad?

Gorer adam mita v'chisei u'migdal v'chayotza vahan b'Shabbat, u'vilvad shelo yitkavein lachfor charitz bakarka bish'at geriratam, u'lfichach im chafru hakarka - eino choshesh b'chach, lefi shelo nitkavein.

V'chen, mehalech adam al gabei asavim b'Shabbat, u'vilvad shelo yitkavein la'akor otam, lfichach im ne'ekru eino choshesh.

V'rochetz yadav ba'afar hapeirot v'chayotza bo, u'vilvad shelo yitkavein l'hashir hase'ar, lfichach im nashar eino choshesh.

Pirtzah dechuka - mutar lehikanah bah b'Shabbat, af al pi shemashir tzererot.

V'chen kol davar she'eino mitkavein k'gon zeh - mutar.

Halacha 6: Lo Nitkavein V'i Efshar Shelo Ya'aseh

Asah ma'aseh v'ne'eseit biglalon melacha shevadai tei'aseh bishvil oto ma'aseh, af al pi shelo nitkavein lah - chayav, shehadavar yadu'a she'i efshar shelo tei'aseh ota melacha.

Keitzad? Harei shetzarich l'rosh of l'sachek bo l'katan, v'chatach rosho b'Shabbat, af al pi she'ein sof megamato l'harigatof ela lachtoch rosho bilvad - chayav, shehadavar yadu'a she'i efshar sheyeichatach rosh hachai ela v'hamavet ba bishvilo.

V'chen kol chayotza bazeh.

Halacha 7: Melacha She'einah Tzricha L'gufa

Kol ha'oseh melacha b'Shabbat, af al pi she'eino tzarich l'guf hamelacha - chayav aleha.

Keitzad, harei shekibah et haner mipnei shehu tzarich lashemen kedei shelo yovad, o kedei shelo yisaref cheres shel ner - chayav, mipnei shehakibuy melacha, vaharei nitkavein l'chabot. V'af al pi she'eino tzarich l'guf hakibuy, v'lo kibah ela mipnei hashemen o mipnei hacheres - harei zeh chayav.

V'chen, hama'avir et hakotz arba amot bireshut harabim, o hamechabeh et hagachelet, kedei shelo yizoku vahan rabim - chayav. V'af al pi she'eino tzarich l'guf hakibuy o l'guf haha'avara, ela l'harchik et hahezek, harei zeh chayav.

V'chen kol chayotza bazeh.

Halacha 8: Melachet Machshevet – Nitkavein La'asot Melacha V'ne'eseit Melacha Acheret

Kol hamitkavin la'asot melacha, v'ne'eseit lo melacha acheret shelo nitkavein lah - patur aleha, lefi shelo ne'eseit machshavto.

Keitzad? Zarak even o cheitz bachaveiro o bivhema kedei l'horgan, v'halach v'akar ilan bahalicho v'lo harag - harei zeh patur.

Nitkavein l'issur kal v'ne'eseit issur chamur: Kal vachomer im nitkavein l'issur kal v'ne'eseit issur chamur, k'gon shenitkavein lizrok b'karmelit, v'avra ha'even lireshut harabim, shehu patur.

V'chen kol chayotza bazeh.

Nitkavein l'davar hamutar v'ne'eseit melacha: Nitkavein la'asot davar hamutar, v'ne'eseit melacha, k'gon shenitkavein lachtoch et hatalush v'chatach et hamechubor - eino chayav klum.

V'chen kol chayotza bazeh.

Halacha 9: Nitkavein B'seder Echad V'ne'eseit B'seder Acher

Nitkavein lilkot te'enim shchorot v'liket levatot, o shenitkavein lilkot anavim v'achar kach te'enim, v'nehapach hadavar, v'liket te'enim bichila v'achar kach anavim - patur. Af al pi sheliket kol shechashav, ho'il v'lo liket k'seder shechashav, patur, shelo asra Torah ela melachet machshevet.

Halacha 10: Nitkavein L'guf Echad V'ne'eseit Oto Hamelacha B'guf Acher

Hayu lefanav shnei neirot dolekot o chavot, v'nitkavein l'chabot zo v'kibah et zo, o l'hadlik zo v'hidlik zo - chayav, sheharei asah min hamelacha shechashav la'asota.

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To what is this comparable? To one who intended to pick this fig and picked another fig, or to one who intended to kill this person and killed another person, for the labor that he intended to do was accomplished.

Law 11: Advancing and Delaying

But if he intended to light first and extinguish second after it, and the matter was reversed, and he extinguished first and afterward lit second after it - he is exempt.

He extinguished this one and lit this one in one breath - he is liable, for even though he did not

advance the lighting, he did not delay it either, but rather did both of them as one, and therefore he is liable.

And so all similar cases.

Unintentional action: And anyone who does a labor unintentionally and did not intend it - is exempt.

Law 12: Done with More or Less Than His Intention

Anyone who intends to do a labor and it was done with more than his intention - is liable; with less than his intention - is exempt.

How so? If he intended to carry a burden behind him, and it came before him - he is liable, for he intended for lesser guarding and greater guarding was accomplished.

But if he intended to carry it before him, and it came behind him - he is exempt, for he intended to carry with superior guarding and carried with inferior guarding.

And so all similar cases.

Law 13: Girded with an Apron

If he was girded with an apron, and threw the burden between his flesh and his garment, whether this burden that is customarily carried in this manner came before him, or whether it came behind him - he is liable, for such is its manner to turn around.

Law 14: Did Not Complete His Intention

Anyone who intends to do a labor on Shabbos, and began it and did the measure, is liable, even though he did not complete all the labor that he intended to complete.

How so? If he intended to write a letter or document on Shabbos, we do not say this one is not liable until he completes his desire and writes the entire letter or the entire document, but rather once he writes two letters he is liable.

And so if he intended to weave an entire garment, once he weaves two threads he is liable, and even though his intention is to complete, since he did the measure with intention - he is liable.

And so all similar cases.

Law 15: Two Who Did It - Each One of Them Can Do It Alone

Any labor that an individual can do alone, and two did it in partnership - whether this one did part of it and this one did part of it, such as this one uprooted the object from this domain and the second placed it in another domain, or whether both of them did it together from beginning to end, such as both of them held the pen and wrote, or held a loaf and carried it out from domain to domain - these are exempt.

Law 16: One Cannot Do It Alone

And if one of them cannot do it alone until they join together, such as two who held a beam and carried it out to the public domain, since one of them does not have the strength to do it alone and they did it in partnership from beginning to end - both of them are liable, and one measure for both of them.

One can and the second cannot: If one of them had the strength to carry out this beam alone, and the

second cannot carry it out alone, and both of them partnered and carried it out - this one who can is liable, and the second is an assistant, and an assistant is not liable at all.

And so all similar cases.

Law 17: One Who Destroys

All who destroy are exempt. How so? If he wounded his fellow or an animal in a destructive manner, and so if he tore garments or burned them or broke vessels in a destructive manner - he is exempt.

He dug a pit and only needs its earth - he is a destroyer and is exempt.

Even though they did a labor, since their intention is to destroy they are exempt.

Law 18: Destroying in Order to Repair

Anyone who destroys in order to repair - is liable.

How so? If he demolished in order to build in its place, or erased in order to write in the place that he erased, or dug a pit in order to build foundations in it, and all similar cases - he is liable, and his measure is like the measure of one who repairs.

Law 19: Part Inadvertently and Part Deliberately

Anyone who does a labor on Shabbos, part of it inadvertently and part of it deliberately, whether he acted deliberately and at the end inadvertently or inadvertently and at the end deliberately - is exempt, until he does the entire measure of the labor from beginning to end deliberately, and then he is liable for kares and stoning, or does it all inadvertently from beginning to end, and then he is liable for a fixed sin-offering.

Laws of Shabbos - Order of the Book of Times and Introduction to Chapter 1

Order of the Book of Times - Continuation

Principle 1: From the Stringent to the Lenient - Four Levels of Cessation

Speaker 1:

There are more or less three principles in the order. The first principle is from the stringent to the lenient, that Shabbos is in the order of cessation, everyone knows that there are four levels of cessation on holidays.

There is Shabbos where one may not do even melachos of food preparation. There is Yom Kippur which is also so, but with less stringency, there is no stoning, but there is also a mitzvah of fasting, but the labor is like Shabbos. Then there are holidays where one may do food preparation, it's a second level, could be the third level: Shabbos, Yom Kippur, holidays. Then there is a fourth level, weekday holidays, such as Chanukah, Purim, fast days, where there is in them something of an aspect of not doing labor, certain customs, but there is no prohibition of labor.

So this is first of all an order that we see here, it goes from Shabbos to Yom Kippur to Yom Tov to weekday holidays, one can call it.

Principle 2: Biblical Before Rabbinic

A second thing is biblical and rabbinic. You can see, for example, until the Laws of Sanctification of the Month is apparently certainly entirely biblical. The Laws of Fasts the

Rambam has, it has a basis from the Torah, but for example Tisha B'Av is not a biblical mitzvah, it's a rabbinic mitzvah. So it's half biblical half rabbinic. This is the second thing, he begins with biblical ones, and Megillah and Chanukah is already entirely only rabbinic. So this is the second thing.

Principle 3: From the General to the Specific

And the third thing is from the general to the specific. Such as instead of making Laws of Yom Tov something one laws and speaking Laws of Pesach and Sukkos each separately, he makes first the general, cessation of Yom Tov, which is equal in all holidays the cessation from labor. And then the specific mitzvos that are practiced in Laws of Pesach. There is no Laws of Pesach in the Rambam, there is Laws of Chametz and Matzah. Pesach, the cessation already stands in Laws of Cessation of Yom Tov. What stands only what one needs on Pesach already stands in Laws of Prayer. This is the Rambam's order. Here he only says what are the specific mitzvos of Pesach.

Digression: Shekalim and Sanctification of the Month - Why They Stand at the End

Then also, I think that Shekalim and Sanctification of the Month are two laws that don't entirely belong to the order, because they are at the end of the biblical mitzvos, and there they belong, he didn't find a better place to put them. Although, as you say, one can put Sanctification of the Month as a father, but it doesn't fit, it's not truly here. In Sefer HaMitzvos I think Sanctification of the Month is actually the first of the group.

Speaker 2:

Okay. Yes.

Speaker 1:

So also, for example as you say Shekalim and Sanctification of the Month, one can think of other places where it can fit. Shekalim can fit as a law in Laws of Holy Things, money for sacrifices. Sanctification of the Month one can place somewhere like among the laws of courts, I don't know, in Sanhedrin, Laws of Judges there.

The Rambam's Aesthetics - For Example Laws of Eruvin

But one must understand, first of all it's very nicely said that the Rambam places an emphasis on aesthetics. On this he begins with a verse. Also the aesthetics is that there shouldn't be very thin books and very thick books, and even in the laws.

For example, Laws of Eruvin is a branch in Laws of Shabbos. So it would be very nice Shabbos, Cessation of the Tenth, Cessation of Yom Tov, three types of cessations, because Eruvin is indeed a branch in the cessations. But there are also practical things, that Laws of Shabbos becomes very long, and the Rambam doesn't want that a person... There must be an order for the learners and for the book, so he took out Laws of Eruvin and placed it as a separate branch, because it's a category in itself. Essentially, the Gemara did it so, he goes to begin.

Digression: The Concept of "Shevisa"

But I also have another small point, that there is here the word "shevisa," the same word as "shevisa" of Shabbos, is the same word "shevisas asor." Because "shevisas asor" means two things: cessation from labor and cessation from eating. So it says, the Rambam calls it so, "ceasing" from eating. Such as for example also shemittah is called "ceasing" from doing the regular work. "Ceasing" means breaking the regular cycle.

How do we take it? It's a language of stopping, it means, something that one does normally, and now one stops doing it. Every day a person eats and works. Yom Kippur one stops him from eating, and Shabbos one stops him from working. And cessation of Yom Tov is a weaker sort, because fewer things, the obligation is less, it means, one may do certain melachos of food preparation, and also the the the it's not liable to stoning, it's less stringent. It comes there.

Speaker 2:

Very good.

Introduction to Laws of Shabbos - The Five Mitzvos

Speaker 1:

Okay, and the Laws of Shabbos, let's let, we'll skip to the beginning of Laws of Shabbos, because here he brings up on each law, we'll already learn there. We won't yet learn Sefer HaMitzvos, but learn the five mitzvos that are here in Laws of Shabbos.

The Rambam says, "**There are included in them five mitzvos.**" Always the Rambam begins with where the laws come into the 613 mitzvos. He says, Laws of Shabbos has five mitzvos, **two positive commandments and three negative commandments**, two positive mitzvos and three negative ones, **and this is their detail.**

The Five Mitzvos - Organized According to Topic

The first mitzvah is **to cease on the seventh**, to stop and cease working on the seventh, not to do labor on it. The second mitzvah is... the positive mitzvos...

So, I want to say it, the Rambam makes such a list at the beginning of each law. The Rambam's book is essentially an expanded Sefer HaMitzvos, right? But organized according to the corresponding what's called laws. And consequently he says, in Laws of Shabbos is built on five mitzvos, two positives and three negatives.

But he doesn't organize, in his list he doesn't say two positive mitzvos first and then three negative mitzvos, but correctly, he sees already according to the topic.

So for example, there is a positive mitzvah, a, **to cease on the seventh**. Then b, a negative mitzvah, that is **not to do labor on it**. It's essentially two sides of the same thing, one will see in the few the law of it.

Then there are two more negative mitzvos, c, **not to punish on Shabbos**, one should not punish on Shabbos, a court should not give punishment on Shabbos, a negative in itself according to the Rambam. The fourth mitzvah, **not to go out beyond the boundary on Shabbos**, one should not go out beyond the Shabbos boundary, which is not from the negative of "you shall not do labor," it's a separate negative, the mitzvah of Shabbos boundary. So these are like two additions to "you shall not do labor on it." Besides not labor, there are two more things that aren't exactly labor, but one may not do them, and it's a separate negative.

And five is already a new mitzvah, it doesn't have to do with labor, but a separate thing, the mitzvah of **sanctifying the day with remembrance**, the mitzvah of Kiddush, sanctifying the day through mentioning it, through mentioning it in prayer, in Kiddush.

Why Five Mitzvos? The Oral Torah Explains the Written Torah

And there is a mitzvah that the Rambam explains why five, because for example in the Torah it says very many more times than five times the mitzvah of Shabbos. But the Sages told us with the Oral Torah which ones they said say the same thing several times to warn more, and which is a separate mitzvah. For example, "not to punish on Shabbos" they taught us that the Torah didn't mean simply to warn again about Shabbos, but it meant this specifically. So this is how the Oral Torah explains the Written Torah.

Chapter 1, Law 1 - The Mitzvah of Cessation and Its Punishments

Speaker 1:

And let's go further in the Rambam. So these are the mitzvos. Let's now learn the first chapter. The first chapter the Rambam begins in his way with the definition of the mitzvah. What is the obligation? Which punishments does one receive for it? Which things are biblical and rabbinic? One will see. And then he goes to say in this chapter principles of labor of Shabbos.

So, let's learn.

Speaker 2:

Yes.

Speaker 1:

The Rambam says, law 1. The chapters of the Rambam are... ah, the Rambam didn't make any chapters, all these chapters other people added.

The Rambam's Language: "Cessation on the Seventh" Not "on Shabbos"

The Rambam says, "**Cessation on the seventh from labor is a positive commandment, as it says 'and on the seventh day you shall cease.'**" Which verse is this? Exodus 23.

Okay, let's not get stuck on this. The Rambam always brings a verse that is the easiest and shortest to bring. He doesn't go with the first one. The Rambam's principle is... there is a verse in Mishpatim, it already says earlier in the Ten Commandments, and it already says earlier in Marah. No, the Rambam always brings a verse that is the easiest to bring. Sometimes it's the same verse as the Gemara, sometimes not. He holds that all are the same mitzvah, it's only different languages, different words. One can take one of them, for some reason the Rambam wanted.

He doesn't say "cessation on Shabbos," because Shabbos became after the cessation. "Cessation on the seventh," on the seventh day. After one does cessation on the seventh, one can already call it Shabbos. He wants "and on the seventh day you shall cease."

Nullifying the Positive and the Negative

"**And anyone who does labor on it nullified this positive commandment,**" he nullifies that positive commandment that he just said, "**and transgressed a negative commandment, as it says 'you shall not do any labor.'**" There is also a negative commandment.

Punishments: Kares, Stoning, Sin-Offering

And what is the punishment for this? One already knows, once there is a negative commandment there is a punishment. The Rambam says, "**One who does labor if he did it willingly deliberately,**" if he did it willingly deliberately - it's two things: deliberately means spitefully, he didn't know, and

willingly means spitefully, someone forced him. Yes? "**He is liable to kares.**" He is liable to kares. It doesn't say "without witnesses and without warning," he is liable to kares. The Rambam already explained in Sefer HaMadda what kares is, that the soul is cut off.

"**And if there were witnesses and warning,**" if there were witnesses and warning the punishment is stoning. "**And if he did it inadvertently,**" if he did the labor inadvertently, yes? That is, as usual one says simply inadvertently, he didn't know that it's a labor or he didn't know that it's Shabbos, he didn't know which act he's doing, **he is liable for a fixed sin-offering,** he is liable for a fixed sin-offering.

Law 1 (Continued) - The Principle of Terminology: Liable, Exempt, Permitted

The Rambam says, "**Wherever it is said regarding Shabbos that it is forbidden to do this thing - liable.**"

Now one must learn a principle. We just said that there is a punishment for Shabbos. This is when one is liable, when it's a biblically forbidden matter in Laws of Shabbos, a labor of Shabbos, there are the three punishments. Now one must learn a certain principle. There is a certain principle altogether for the terminology that one will see later in Shabbos. Both in the Mishnah and the Gemara they use the terminology with the principles, and the Rambam himself will use the principles. So he now brings the three terminologies of the three levels of Shabbos prohibition so to speak. It belongs here both what is the principle of which sort of punishments and levels of obligations there are in Shabbos, and both it's an important introduction for the rest of the laws. You'll see the language "liable," you'll know what he means. You'll see the language "exempt," you'll know what he means. Very good.

For example, in a short laws one can each time write "liable to kares," "liable to stoning." But Laws of Shabbos is lengthy, and he's going to bring a whole city the Gemaras. So it's a good thing, he tells you now the code that "liable" means, and he doesn't need to write it out each time.

The Language "Liable"

Wherever it is said regarding Shabbos that it is forbidden to do this thing - liable, what does liable mean? He is liable to kares, and if there were witnesses and warning liable to stoning, and if he did it inadvertently liable to a sin-offering. Always "liable" means he receives the punishments according to the situation.

The Language "Exempt"

And wherever it is said that it is forbidden to do this thing - exempt, it doesn't mean that it's permitted, but "exempt" means exempt from kares and from stoning and from the offering, the opposite of liable. But, it doesn't mean that it's permitted, "**it is forbidden to do that thing on Shabbos, and if he did it one strikes him with lashes of rebellion,**" which is a rabbinic prohibition, a distancing from the labor. We know that the Sages added when it says exempt it means that it's not from the biblical prohibitions that would obligate, but it's forbidden, because if it were permitted it would say permitted.

"**And one who does it deliberately,**" the Rambam now tells us a principle, so you should know which punishment comes on rabbinic matters, "**even though there are no lashes for rabbinic matters, one strikes him with lashes of rebellion.**" When he indeed transgresses on

something that is only a... what's called a shevus, it's only a rabbinic prohibition, he receives lashes of rebellion, another sort of lashes. The precise laws the Rambam explains more, but the meaning is rabbinic lashes, that's the Hebrew translation. If you will ever do this you must learn the laws of punishments of Sanhedrin. But lashes of rebellion in the Rambam means in general that the rabbis give lashes, understood according to their principles, just as by biblical there are principles, but he only means to say that he is liable as the rabbis say.

Innovation: "Exempt" Doesn't Mean "Permitted" in Laws of Shabbos

And this is also a novelty, not always must one say this when one says exempt. Not in the entire Torah when it says exempt does it mean exempt but forbidden. There are places where exempt means exempt and permitted. But here regarding Shabbos, and perhaps certain other laws, one must know that when it says exempt you should not think that it is allowed. Exempt means only that one does not need to bring stoning, but it is forbidden to do, and even if one does it intentionally there is even rabbinic lashes.

Novelty: Makkos Mardus — Actually a Punishment, Not Just Coercion

And rabbinic lashes I wanted to emphasize, and as Rabbi Yitzchak explained it, is that there are many times when one is coerced, meaning that the court forces him to stop, but there is no punishment afterwards. But the Rambam learns, he calls it makkos mardus, he means yes, actually a proper punishment, not just that one is forced, like "we force him until he says I want to" or until he does. This is an external law. But again, it could be that the Sages distinguish that they did not give lashes for this, they said yes, it is not an obligation. The Rambam brings it all as an actual obligation. Okay, it's not ours.

That is, for example, from Sefer HaMada we could know the punishment that the Sages use as niddui (excommunication). Here we became introduced to a new punishment that the Sages use, makkos mardus. I haven't seen makkos mardus, I remember in certain laws the Rambam said. And the Gemara many times, the Gemara is not so systematic in this way. In the Gemara it sometimes says "liable to lashes," and the Gemara means to say makkos mardus which is rabbinic. The Rambam made from this a consistent system. When there is a rabbinic prohibition he wrote "we lash him makkos mardus."

The Language "We Do Not Do" / "It Is Forbidden to Do"

Okay, the Rambam says further, **"And so every place where it says 'we do not do such and such' or 'it is forbidden to do such and such on Shabbos,'" when it says this, it usually doesn't mean that it's biblical, rather it means that it is rabbinically forbidden. And what happens if one did it intentionally? The Rambam doesn't tell us about witnesses, one needs witnesses for what, we don't know this, "we lash him makkos mardus."**

The Rambam said the general rules of words, the language, what "forbidden" means. If it were rabbinically forbidden it wouldn't say "forbidden," if it were biblically forbidden it wouldn't say "forbidden," it would say "liable." Here it says "we do not do," it would say "liable," not "we do not do."

The Language "Permitted"

"And so every place where it says 'it is permitted to do such and such,'" when it says "permitted," it doesn't mean

to say that it is biblically permitted, rather it is permitted ab initio.

The Language "Not Liable at All" / "Exempt from Anything"

"And so every place where it says 'he is not liable at all' or 'exempt from anything,'" when one adds the word "anything," then it means that the punishment of makkos mardus also doesn't come, "we do not lash him at all," no lashing comes, no punishment, also not any rabbinic punishment.

Discussion: Does "Not Liable at All" Mean Completely Permitted?

Speaker 1: But apparently it implies that it's still rabbinically forbidden?

Speaker 2: No, no, no. It's also rabbinically permitted. Because the language "from anything" comes to bring out exactly that.

That is, the Rambam who says basically in these two details, there are three levels in the laws of Shabbos: there is liable, exempt, and permitted. Now, these three levels, not always do they stand in exactly these languages. There is another language that one says by exempt... sorry, by exempt there is only one language. But no, there is another language. By liable there is only one language. Exempt has two languages or three: "exempt," but one can also say "we do not do" or "it is forbidden to do," which this doesn't mean liable, this means only... sorry, this means biblically exempt but rabbinically liable. The same thing, permitted has two languages. When it says permitted. So what does one say not liable at all? What does the "at all" give out? Even not makkos mardus. When it would have been exempt but according to this there would have been makkos mardus, this is permitted. That's what I mean.

Permitted never stands that it's only biblically permitted. If it says permitted it means also rabbinically permitted. If it says exempt, it means that he is only biblically exempt, and not at all exempt from makkos mardus. To know exempt from makkos mardus, it will say "he is not liable at all," if exempt from anything. But it's still very possible there's a rabbinic prohibition where there isn't makkos mardus on it, and on this it says "he is not liable at all." Because if not, it wouldn't work out to make two languages for the same thing.

Speaker 1: No, no, no. There are many languages. Why shouldn't the same language always stand?

Speaker 2: The logic of the languages makes sense though. Liable means liable to a sin offering. Exempt means exempt, exempt from some punishment. This is liable, liable is liable, not liable to do any. When one says forbidden, doesn't it mean that you get a punishment? The Rambam holds that you get makkos mardus, it could be true, but the word says don't do it. Permitted means you may do it, it's a different meaning. But the same thing, "not liable at all," why do you give him the language "at all"? The language "at all" you give him that it's permitted. That's what I mean. What can be different?

If it were permitted, it's hard to say that "not liable at all" means to say... why shouldn't the Sages replicate the same language of the Torah?

Speaker 1: I said that... the Torah doesn't say exempt, the Torah says... but I'm speaking about the Rambam. Why shouldn't he be consistent and say that "not liable" means only not the punishment?

Speaker 2: Because I believe already, there are presumably laws in the laws of Shabbos where there is no makkos mardus but it is a rabbinic prohibition, because it's a stringency, because one should adopt the stringency, or because... we don't see.

Okay, let's see if we find proofs.

Speaker 1: I don't need proofs.

Speaker 2: No, one doesn't need proofs, but the Kesef Mishneh says such a thing. But there is in the Rambam, every thing has more than one language. There is a general language, one can remember, everyone can remember sometimes to say exempt, sometimes he says "not liable at all." It means the same, it's not such a problem. We see here it looks like the Kesef Mishneh makes a lot of sense already.

Speaker 1: You learned it before the class, beforehand.

Speaker 2: Usually when a person looks at something afterwards he means... no, I already looked beforehand in the Kesef Mishneh. No, no, he says it with simple words, "not liable at all" means that he is not... why shouldn't he say exempt? We were already told how one says permitted ab initio. Permitted ab initio one says with the words permitted to do such and such. One is liable, how does one know that he is not liable? When it says the word clearly. So one sees from the... okay, we're at the Acharonim, thank God. You can look in the commentators later.

Law 5 — Davar She'eino Miskavein (Unintended Action)

The Rambam says further. Okay, until now we have learned what one is liable for, what one is exempt from, what is the essential prohibition of doing a melachah on Shabbos. Now we are going to learn various... no, we still hold very far from learning what the melachos are, that will only come in chapter 7. We are now going to learn rules of what it means to have done a melachah, for the sake of intention, for the sake of... I mean, he is going to give here a few cases of what it means not to have done a melachah because intention is lacking. He is going to tell us here that a melachah comes with intention, that is what is liable. And what means not intention, he is going to tell us which thing can be called not intention, and which thing is called intention even though it looks like he has no intention or what. Yes, these are the next few laws, beautiful topics in the Gemara, one speaks about this a lot, but we are going to learn here very simply. Yes, we want to know the rules, we don't want to know pilpul that only confuses people. No, no, we need to understand though. We don't need to understand anything, we need to know that it stands.

Davar She'eino Miskavein — Possibly It Will Happen and Possibly It Won't

The Rambam's words: Things that are permitted to do on Shabbos, but at the time of doing them it is possible that a melachah will be done because of them and it is possible that it won't be done — if he did not intend for that melachah but intended for the permitted thing to do, behold this is permitted. How so? A person drags a bed and chair and bench and the like on Shabbos, provided that he does not intend to make a furrow in the ground at the time of dragging.

The Rambam says, "**Things that are permitted to do on Shabbos**" — things that one may do on Shabbos, as he is going to give an example, "**but at the time of doing them it is possible that a melachah will be done because of**

them and it is possible that it won't be done" — when one does certain things that one may do, many times incidentally it happens with, it occurs, there is done with this action also something else, a melachah, but it is only a possibility, sometimes yes, sometimes no. So, "**if he did not intend for that melachah but intended for the permitted thing to do, behold this is permitted**" — if he was not intending the melachah, rather he was intending the permitted thing to do, he is permitted. The intention doesn't mean that he pushes with closed eyes and he makes intentions, he means to do the melachah, he means to do the permitted thing. And the example will explain. "**How so? A person drags a bed or chair or bench**". A person may drag a bed, or a bench, or a closet, **and the like on Shabbos**, because this is a permitted thing to do on Shabbos, he may carry things on Shabbos in a place where it is permitted to carry.

But provided that he does not intend to make a furrow in the ground at the time of dragging, when he drags a heavy thing it will possibly make a groove in the floor. So if a person wants to make a groove in the floor and he drags a bed, then certainly he is transgressing the melachah of, which we will learn later, of plowing, of digging, making a hole in the floor.

But what happens when a person doesn't want to dig the floor, he wants to drag his bed, but dragging the bed many times makes such a groove in the floor? The Rambam says that one may do it. **Therefore**, if one did indeed do so, one dragged a heavy thing and one was plowing with this the ground, **he need not worry about this**, he need not fear that he stumbled with a prohibition, **because he did not intend to plow**, he did not have in mind to plow, he did not mean to.

The same thing, another example. **And so a person walks on grass on Shabbos**, a person may walk on grass on Shabbos, and by walking on grass grass can indeed be uprooted, **provided that he does not intend to uproot them**, this is not his intention, his intention is only to walk, **therefore if they were uprooted he need not worry**, if it was indeed uprooted he need not worry, because this is davar she'eino miskavein, this he did not have in mind.

Another example, **and washes his hands with fruit powder and the like**. One may wash one's hands with fruit powder, with a type of thing that one uses to wash hands, dust, a powder from certain fruits for what, as one uses soap, and one washes off with this the hands, and one means to wash off, because on Shabbos one may wash. But this thing can also uproot many times the hair from the hands, but because it's not his intention, let it be removed. As long as this is not his intention, this is not what he is doing, this is not what he seeks here to do, therefore even if it was uprooted, he need not worry, because his intention was only the washing.

Another example, **a narrow breach**, if a person has a very narrow passageway in the house where he can just pass through, or in the building, what is the problem, when he walks through it is very possible that he makes the hole a bit bigger, because when he moves a little stone moves, and a little stone can fall out. But it's only a possibility, as he says, possibly it will be detached. **It is permitted to enter on Shabbos**, one may enter into the breach, **even if stones fall**, even if stones fall from him from the wall, he makes the breach a bit bigger, which would apparently be a prohibition of

building, but since this is not his intention, it is permitted. Or building, he makes the breach bigger, he builds with this a wall as it were, he builds a door he means. Simply it is a prohibition, it's a biblical prohibition to build, but it's a prohibition. One can be precise whether it's actually a prohibition in any case, yes.

And so any davar she'eino miskavein, like this, or any other examples of a davar she'eino miskavein, when he does something and there is a result that happens also something else, but this is not his intention, it is permitted.

Two Conditions for Davar She'eino Miskavein

So here there are two conditions: one, that he doesn't mean the prohibition. That is, if he drags a bench in order to make a hole, it is proper plowing. He drags a bench because he needs a bench, it just makes a hole, it is permitted. The second condition is that it doesn't happen inevitably, it happens sometimes yes, sometimes no.

Discussion: Must One Investigate the Specific Case?

But here it's a bit hard to understand, because a person can see on the bed, if it's a very heavy bed it makes a hole. It's not hard to understand, it means sometimes yes and sometimes no, every second time it makes a hole. As he says, it depends on the bed, it depends on this. But the law here says that a person doesn't need to investigate whether the bed always makes a... one doesn't need to go into details, because the idea is simple, a person knows that this doesn't happen every single time, it happens every second time, therefore he doesn't need an investigation. He doesn't think, he doesn't need to stand and make sure.

This is the point. Apparently it stands here that if there is a possibility that not, he doesn't need to... normally a person would not have needed to stumble, he would have needed to think that every coarse person makes a... but if the person has already once walked through and it fell...

Let's learn further, because here it becomes a question about... when one goes into details one becomes confused, but the rule is very simple. There are things that one knows are not inevitable to happen, it happens sometimes yes and sometimes no, possibly even most times, no difference, but not inevitable, then it's an accident, and then one may. But, now one can learn the second side of the coin that we just spoke about.

Law 6 — Pesik Reisha V'lo Yamus

Yes, apparently. **He did an action and a melachah was done because of it.** What happened? A person did what the Rambam just said. He did an action, and because of it a melachah happened. He did something, for example, and there happened for the sake of this a melachah, **certainly it will result because of that action.** There happened such a type of melachah that this yes is certain and definite that it happens because of that action. The Rambam will already say the example. **Even though he did not intend it,** even though he did not have in mind the second melachah that happened as a result, he is indeed liable. Why? **Because the matter is known that it is impossible that that melachah not be done.** If a person does something that always happens from it as a result a melachah, even though his intention was not the melachah, but the result brings inevitably... the action brings inevitably the result, the melachah, he is liable.

Example: Cutting Off a Bird's Head

The Rambam goes further. **Behold if he needed the head of a bird to play with it for a child.** He has a bird, and he wants to have the head of the bird to play for a child. So what does he do? **He cuts off its head on Shabbos.** He cuts off the head of the bird so that he will have the head from it to be able to give to a child. **Even though his ultimate goal is not the killing of the bird but only to cut off its head.** The person will claim, "I'm not here a slaughterer, I'm one who wants to cut off the head." That's how one slaughters. But I'm not seeking here to slaughter, I need to have exactly such a size toy. My boy is missing something the size toy, I'll give a cut off the piece. He is indeed liable. Why? It's indeed a davar she'eino miskavein, he doesn't mean to cut, he only means to have the size head. But there is no way to have the size head without cutting. **It is a known matter that it is impossible to cut off the head of a living thing without it dying at that moment.** It is a known matter that one cannot cut off, the specific thing one cannot cut off without one killing with it. Therefore, even though it's a davar she'eino miskavein, but we don't have here the second condition that it's possible and not possible. **And so all similar to this.**

Novelty: Category of Action, Not Specific Case

So what it looks like here is that when the category of the thing is that it's always impossible, a person doesn't need to look at his specific case whether it will happen or shouldn't happen, he doesn't need to investigate beforehand, make experiments. But if it's a type of thing that doesn't always result in such a result, and that's not his intention, but if it's absurd, everyone knows that this happens, it doesn't help. One can't say that this wasn't his intention.

This is an inquiry which is one of the practical differences (nafka minas), but what is correct, what is the practical nafka mina is the question that you very correctly asked, whether each time one can make a majority and check this. From the examples at least that the Rambam brought, the Rambam doesn't go into reasons and pilpul, but from the examples that the Rambam brings one sees very clearly that at least the psik reisha v'lo yamus (inevitable consequence) that we say that Rabbi Shimon agrees about that it's forbidden, one brings the clearest example that can be. One doesn't say "but if he is extremely pressed and this is the only way," it's very much not that. So it sounds it's more inclined to that side.

So it has to do with the category, not with the specific case. The types of things that are always are the things connected, always cutting off the head of a chicken kills the chicken, that one may not do. But the type of thing like going through a weak place, one hasn't forbidden the type of thing, it's still called a davar she'eino miskavein (unintended consequence). I can perhaps say it this way, but I don't even know if it's a correct word. This is very certain. That is, every thing in the world is somewhat doubtful. I drag a heavy, a very heavy bed, it's still doubtful, because this isn't a plowing implement, this is a bed. Who knows, it depends how strong the sand is, and how heavy the bed is, and how badly one drags, and whether one lifts it higher or lower, it depends on a thousand things. After all, I tell you, there is one way in the world that one cuts off the head of a chicken and it still lives. Except, I don't know, if it's a Baba Sali, I don't know. In the natural way there's no such thing. This is what the Gemara always speaks about.

Explanation: Category is the Main Thing, Not Two Equal Conditions

I would say it this way, that what the Rambam says that it's permitted, he says two conditions, but it's not two equal conditions. The category of the thing is *davar she'eino miskavein*. But he says here that there can be a thing that is intended for one thing, but that also means intended. When someone cuts off the head to play, he has done two things here: he has slaughtered a chicken, and he has given his child something to play with, because the two things are closely connected. But a thing that by category, dragging a household item, a household object, is not the category of something that always makes a hole. That is, for example, if someone drags some other type of thing, not from the three that the Rambam enumerated, not a chair, but something that is dramatically always much much heavier, when someone drags a piece of a building, which is a type of category of a thing that makes a hole.

The Rambam doesn't bring the details, and in my opinion this isn't relevant to the question of practical halacha. Perhaps we'll see later in the laws, still much the Gemara is more practical, but it's made so one should understand the category, to judge each time. This is the meaning of plowing. Plowing means that the rabbi looks at the specific case, or one asks, one already knows a rule here, the rabbis have already said, and one judges according to that, but we know the rules.

The Dispute Between Rabbi Yehuda and Rabbi Shimon

Shall I tell you the secret? The sugya (Talmudic passage) is a dispute in the Gemara between Rabbi Yehuda and Rabbi Shimon. That is, *davar she'eino miskavein*. Rabbi Yehuda says that one is liable, and Rabbi Shimon exempts.

Law 7 – Melacha She'eina Tzricha L'gufa (Labor Not Needed for Its Own Sake)

Now the Rambam is going to bring another matter of intention, which is called *melacha she'eina tzricha l'gufa*. The Rambam says this: **Anyone who does a melacha on Shabbos... even if he doesn't need the essence of the melacha, we'll soon see what he explains this means, is liable for it, he doesn't need the essence of the melacha. How so?**

Example: Extinguishing a Lamp

If he extinguished the lamp, when he doesn't need the oil, someone who extinguishes, there are two types of reasons why people extinguish a lamp. The first case why a person extinguishes a lamp is because he wants to still have the oil for tomorrow, **so that it not be lost**, it shouldn't be lost.

Laws of Shabbos – Melacha She'eina Tzricha L'gufa and Melechtes Machsheves

Law 7 – Melacha She'eina Tzricha L'gufa

The Rambam says this: **Anyone who does a melacha on Shabbos, even though he doesn't need the essence of the melacha – is liable for it.** Someone does a melacha on Shabbos, even if he doesn't need the essence of the melacha – we'll soon see what he explains this means – liable for it, he doesn't need the essence of the melacha.

How so? If one extinguishes the lamp because he needs the oil, someone who extinguishes, there are two types of reasons why people extinguish a lamp. The first case why a person extinguishes a lamp is because he wants to still have the oil, the oil, for tomorrow, **so that it not be lost**, the oil shouldn't be used up, he needs to have it. **Or so that the house not become smoky, or so that the wick not be burned**, he doesn't want the lamp's wick to be burned.

Explanation: What is Normal Extinguishing?

So let's understand clearly, extinguishing is a bit funny because we don't have the clear intuition what is normal extinguishing. A normal extinguishing is not that someone wants to spare the oil, he wants to save oil. A normal extinguishing is when I need the extinguishing. Why do I need an extinguishing? He makes a coal, yes, that's the example from the Gemara. I thought that the Rambam goes like earlier he's going to bring two examples, he only brings the example which is called *melacha she'eina tzricha l'gufa* and he is liable.

I'll tell you this way, usually the prohibition of extinguishing is when he needs the extinguishing. For example, a person wants to make a coal. A coal is, he needs to have a coal, it lights easily, a coal. So what does a person do? He extinguishes a piece of wood, because he wants with the manner of extinguishing to make a coal. As opposed to someone extinguishing something so it shouldn't make a fire, when there would be another way of stopping the fire, he's not seeking the extinguishing. Extinguishing is a type of thing that creates something, it creates a coal. Here he's not seeking to create a coal, but he only wants that it should be extinguished. But it's still also called extinguishing, because since there is no other way to... there's no other way.

Return to the Words of the Rambam

Okay, he says this, says the Rambam, let's learn inside back in the Rambam. This is the meaning of *melacha she'eina tzricha l'gufa*, I don't need the essence of the melacha, I don't need the thing that is called the melacha. Extinguishing means I don't need to extinguish, I need... I extinguish because I need to have the oil remain, or so. Many contradictions, for example... okay, let me answer you the Gemara. The Gemara says he didn't extinguish a lamp not in order to make a coal, but one for its own sake, but simply because he wants to save the oil, or he doesn't want to make a fire. What's the meaning not make a fire? He's afraid lest one make a fire. That's not a need, but let's say that the lamp shouldn't burn the entire... the truth is that one extinguishes simply a fire shouldn't burn, that's a thing that we'll speak about later regarding doubt.

He says, from where do we know this? Is he liable. From where do we know this? Extinguishing is a melacha, extinguishing is a melacha, but one is liable even though he had something else to extinguish. But until one needs the essence of extinguishing, even if he doesn't want the actual act of extinguishing like the other case which is usually the more extinguishing, and not extinguishing but for another reason, free people and children of kings he is liable.

Example of Slaughtering

Let's bring another simple example for clarity. For example when someone slaughters, when he slaughters he wants it as slaughtering, because the act of slaughter makes the animal permissible. When he cuts off a bird's head by *davar she'eino miskavein*, it's also the melacha of slaughter. For example, let there be another example, he cuts off because he wants to have the... whatever, because he needs to have something. He needs to have a side result, but that's the manner.

The Difference Between Melacha She'eina Tzricha L'gufa and Davar She'eino Miskavein

But this is... this one must be clear, *melacha she'eina tzricha l'gufa* has very little to do with *davar she'eino miskavein*. *Davar she'eino miskavein* means I intend one thing and a second thing happens. *Melacha she'eina tzricha l'gufa* means I

do one thing and the one thing happens. There aren't two things here. It's a distinction, I don't need the essence of the action of the melacha, I need the melacha for another reason, not for the reason that one usually uses the melacha, and I need the melacha for another reason. A melacha is an automatic thing that has a result. You can have the correct result, the standard result. The standard result of the melacha of extinguishing is to make the coal glow. The non-standard result is not in order to save the oil. That's not the meaning of extinguishing. Why so? Because you understood that this is the meaning of extinguishing. What can say that this is a type of extinguishing? This is the meaning of meleches machsheves, not the meaning of that. And I need this for another result, but it's not another action.

She'eina tzricha l'gufa is always when there are two melachos, I do one thing not a melacha, but two other things, two actions. I drag a bench, and there's a melacha of plowing. I'm not engaged in plowing. Melacha she'eina tzricha l'gufa is rather one is engaged in plowing, but he doesn't need the hole, he needs to have the... the... move the sand. That's the next thing that we're also going to bring a bit clearer.

Example of One Who Moves a Thorn

And so, one who carries a thorn four amos in the public domain. Usually there's a prohibition, one of the 39 melachos is to carry a thing four amos in the public domain. So usually he carries something in the public domain because he wants... he has benefit from it, he wants to carry it in the public domain. A person sees a thorn in the public domain, he wants to remove the thing so people shouldn't stumble on it. Therefore, he intends to remove it, he doesn't intend to carry in the public domain. But that's called the melacha of carrying in the public domain. Whatever thing carrying, one hasn't made a distinction in this. Therefore he is indeed liable.

Oh, he's not carrying in the public domain. He's not carrying. I need that the thing should be in the second place. I bring it from here to there. Here I'm not bringing it from here to there, I'm removing it. Removing is not the meaning of carrying, that's the meaning of removing. I'm engaged here in removing damage, I'm engaged in moving things. But still, he is liable. Why is he liable? Because this means that he has done the same melacha for another intention. The intention is another matter. This, according to the Rambam's ruling, is melacha she'eina tzricha l'gufa, he is liable.

Oh, the Mechaber says a novelty from the same sugya, **so that the public not be harmed by it.** There's a great distinction in the poskim whether people can be harmed from it. He doesn't learn it for its own sake because he wants to have the great distinction, but he learns it for its own sake so he shouldn't stumble in it. He is also liable, because this is even if it's one tzricha l'gufa, a melacha one is liable because one has done the act of melacha.

For a melacha she'eina tzricha l'gufa even though it's for its own sake except to distance the damage, he is liable, and so all similar cases. Yes. This is the melacha she'eina tzricha l'gufa.

The Dispute Between Rabbi Yehuda and Rabbi Shimon – The Ruling of the Rambam, the Ra'avad and the Shulchan Aruch

It's also the same dispute between Rabbi Yehuda and Rabbi Shimon, and the Rambam rules regarding *davar she'eino miskavein* like Rabbi Shimon that it's exempt, and by melacha

she'eina tzricha l'gufa he rules like Rabbi Yehuda that it's liable. And here come in other disputes, other Rishonim. The Ra'avad learns that also melacha... nu? The Ra'avad brings the poskim who say that also melacha she'eina tzricha l'gufa is exempt? Yes, the Ra'avad, and so most other poskim, the Shulchan Aruch rules that according to Rabbi Shimon in both places leniently, that melacha she'eina tzricha l'gufa is also exempt. It comes out from their laws a great stringency according to the Rambam, that melacha she'eina tzricha l'gufa is liable, sorry, but according to the Ra'avad, and so also the Shulchan Aruch, and most poskim, rule that melacha she'eina tzricha l'gufa is exempt.

Also the previous law of *psik reisha* there's a dispute about this, and according to other poskim it's much easier, because there's an opinion of the Aruch that *psik reisha* is also not always liable, but when he has some benefit from it, but there's a thing like *psik reisha* that he doesn't care or he doesn't have benefit from it. In short, in both these laws there are other opinions of Rishonim that are more lenient, both regarding *psik reisha* and regarding the law of melacha she'eina tzricha l'gufa.

Law 8 – Meleches Machsheves: Intended One Melacha and Another Melacha Occurred

Okay, let's understand in any case the general principle. Now we're going to learn a new type of intention, not only intending for *davar she'eino miskavein*, but more, the Rambam calls this, it's called in the Gemara "meleches machsheves," that he didn't want to do the thing. Both things are perhaps a melacha, but he intended to do something else.

Yes, **Anyone who intends...** now, now the Rambam is going to tell us more things about intention. "Meleches machsheves" Rabbi Yitzchak made the chapter, so it says in the Gemara, there is meleches machsheves the Torah forbade. A melacha that comes with thought. I want to make clear that here one is not going to speak about that he intended to do one thing and with it a second thing happened. Here one speaks in the same act, that he had a plan – here one speaks of his plan – he planned to do in one way and it happened in another way. Both are melachos or both not, we'll see, but it's another type of category. The person's intention didn't happen. A person did something and it flopped, what he tried to do didn't happen.

So thus, **Anyone who intends to do a melacha, and a different melacha occurred that he didn't intend** – something completely different happened that he didn't have in mind, and the Rambam is going to explain the Gemara – **is exempt for it**, he is exempt, **even though** the second thing that he did is also a melacha, **his thought was not fulfilled**, because his plan didn't happen.

Example: Threw a Stone

That is, he explains, **threw a stone or arrow at his fellow or at his animal to kill them**, he intends that he's now shooting perhaps his weapon at a person or an animal. In practice, the stone or arrow went and did something completely different, **and it went and tore a tree in its path and didn't kill.** Instead of killing, there was no deadly weapon for people, it was that he did something in tearing a tree. So the going from the prohibition of killing to the prohibition of reaping, **he is exempt**, because his thing didn't

happen, what he had in mind didn't happen, something completely different happened.

Kal V'chomer: Intended a Light Prohibition and a Severe Prohibition Occurred

Kal v'chomer, this is when both are a primary melacha, both are the same severity. He says, all the more so that one is exempt when **he intended a light prohibition and a severe prohibition occurred**, when the person had in mind a light prohibition and a severe prohibition occurred. **Such as when he intended to throw in a karmelis**, a person had in mind to throw something that it should fall in the karmelis, a person stands in the karmelis and he throws, and then he would only have been a rabbinic prohibition, **and it passed to the public domain**, in practice it didn't fall as he had in mind, it fell into the public domain, **he is exempt**.

It's an interesting thing, because it's not another type of thing, it fell a bit in another place, but it's another category. It's actually what he had in mind it should fall here, and it fell in a completely different place. The word "had in mind" makes me nervous, he didn't plan, he wanted the stone to arrive in a karmelis, it arrived somewhere else, he has nothing from this, as if he didn't want to do this, he didn't intend to do this. That person isn't happy, as if he says, "my stone didn't arrive as I wanted."

And so all similar cases.

Intended Something Permitted and a Melacha Occurred

Laws of Purposeful Work – Laws of "Lo Nitkavin" and the Order of Work

Law 9: Intended to Pick Black Figs and Picked White Ones – Wrong Order

Speaker 1:

And it is forbidden work, such as when he intended to cut, he threw a knife or something, and he intended to cut something that is permitted to cut. Detached, one may not cut things that are attached, but something that is already cut from its... from its life force, one may cut. By mistake he cut the attached, he indeed seemingly transgressed the prohibition of reaping, but he had no intention of reaping at all, and so too all similar cases.

Here he goes on to say things that are even much weaker cases of lo nitkavin. So let's see. **Intended to pick black figs**, his goal was to cut down certain figs, the black ones, **and ultimately in practice** his work didn't succeed **and he picked white ones**. Or **he intended to pick grapes and then figs**, he wanted to pick grapes and then figs, and it happened in reverse, **and he picked figs first and then grapes, he is exempt**.

Even though he picked everything he thought, even though in practice he did, by the end of the day what he wanted was done, because he wanted both to be cut, the black ones and the white ones, he just didn't do it in the order he wanted, **since he didn't pick in the order he thought, he is exempt, for the Torah only prohibited purposeful work**. The Torah only prohibited purposeful work.

Discussion: How to Understand the Case of Wrong Order

Speaker 2:

You know we need a case of what this means "intended"? I would have thought that... ah, no. I thought that one could explain it simply, let's divide it into two actions. Now, I had a

plan to pick black ones and white ones. I don't believe that figs are black and white, it apparently means dark and light.

Black means dark, darker, but not black. Figs are green or brown, I don't know what color, not black. But anyways, I want now to pull out this fig, I mistakenly pulled out that fig. This properly belongs to the previous law that we said is exempt, because I didn't mean that one. Just later I had another plan, the next minute I wanted the other one, and I wanted this one. But both, if you count each specific case separately, both times it's lo nitkavin to cut it. Just I had a bigger plan that both should be picked. But what does the bigger plan matter to me?

I want to understand what does it mean? He didn't realize what he was doing? "Oops, I did the wrong thing"? You did it! You wanted to cut down the green one, you cut down the green one. Were you distracted?

Speaker 1:

It means like before, he threw a knife and it didn't reach. He threw a knife, he wanted to cut grapes, but if he stands and cuts down, what are you doing? Now he cuts down grapes, "Oops, it's green, it's desecrating Shabbos". No, wait, it wasn't intentional. It was intentional. Ah, were you distracted? "Ah, actually I wanted, the plan was, I wrote in my notebook what I'm going to do, a different order." Is his plan his notebook?

Speaker 2:

It's possible, every time we speak of a work, every work done inadvertently he didn't want. The inadvertence doesn't come in here.

Speaker 1:

No, it is, you're right, that presumably it must be that he reached out his hand and he didn't notice that he took the wrong one. It must be some such thing, he threw a knife, or he reached out his hand when he wasn't looking. Because if, you could say every work that a person cuts on Shabbos and it's inadvertent, that he also did a work not in order. Because I wanted to cut on Sunday, and I cut it on Shabbos. I wanted to cut the green one, and I took the red one in my hand. He stood there and he cut. What does it mean not to have intention? Not having intention can only mean when he throws and it doesn't succeed. He throws a knife to cut, he throws it at the thing, but the knife didn't land so well.

But if someone stands and pulls down grapes, and then in his hand he notices, "Ah, it's the green grapes, my intention was first to cut the red ones and then the green ones." In what way didn't your intention happen? I wanted to cut down both, and both were cut down.

Speaker 2:

Wait, wait, those are two different questions. They make which one first, or what to do first with both. I said, when he throws something and it doesn't succeed, you can say the work didn't succeed. But when a person stands and cuts fruit, he cut down an apple, "Ah, I wanted to cut down the green one first, my intention was that I should pick the green one, but I wanted to pick the red one," and it didn't succeed according to his watch. It's a very weird law, it doesn't make any sense. Because I say, apparently all these speak of something similar to there, like throwing, I throw a knife to cut. It's a great novelty.

Speaker 1:

I agree. I mean that, no, let's not say so. I mean that first of all, if you ask the question that the order isn't decisive, because I'm explaining that according to my approach how the order is indeed decisive, because each time he didn't mean that. That seems to me the straight way of thinking about this. If you ask another question, if you don't understand at all what is the meaning of "intended to cut black figs," what did he do with his hand? Then one must practically understand, if you say that he must throw, he doesn't see. I reached out my hand, I go to the fridge, I mean to take out the milk, by mistake I took out the cheese. His thought wasn't realized. It happens that people, he had an intention, a plan, he wanted to do something, it didn't happen to him, he did both. But it's not called with his intention, he's not inadvertent, he's a lo nitkavin, his thought wasn't realized. I need to think of a case of something where he doesn't have full control in his hand, something must come about such a thing.

Speaker 2:

I don't agree. If someone cuts grapes, he cuts grapes. What is the Jew doing now? He stands on a tree and he cuts grapes, and that's the prohibition of reaping. Ah, he wanted them to be green. Your grapes weren't green, tough luck. I told him, the Rambam gave us a very weird example, and there's still missing some case from the example.

Speaker 1:

I don't agree, because the, again, you, you keep on jumping between two different questions. If you understand how it is practically, I understand very well. Many times I go to the fridge, I meant to take out water, by mistake I took out seltzer. I didn't think, it fell out from the center. It's his thought wasn't realized, I didn't do any work. That's what he's talking about.

Now you're asking, if you understand... I don't know if he would say he did this if the action was distracted, especially if he wanted both the seltzer. No, forget about the... again, you keep on jumping back to the other question that I wanted both. Now, this minute, I didn't want both. I wanted that fig, not that one. Good day. And now I took the wrong one, I made a mistake. How did the mistake happen? I was distracted, it was hard to reach, I had to stick in my hand, I couldn't see. That's certainly the parameters of how the mistake happened. His thought wasn't realized.

If you want to ask another question, that it looks to you that both types of figs are the same, or both types of grapes together are the same, that's another problem. Now it's not such a big problem, one can say technically each time, and I told him, if a person has a general intention, then the correct law should be liable. If he has a specific intention, he still needs to follow the recipe for the black ones, then it's different. Yes. Enough.

Law 10: Intended to Pick This Fig and Picked Another Fig – The Same Type

Speaker 1:

The Rambam brings more examples. **There were before him two candles lit or extinguished.** Right. The second example is also according to his thought was realized, according to his intention was realized. Let's see. He had two candles lit or extinguished, **and he intended to extinguish this one and extinguished that one, or to light this one and lit that one,** then he is indeed liable, **for the work he thought to do was done.** Meaning he didn't have a specific

intention which one to extinguish. He just planned to extinguish the candles, but there's no difference between the two candles. Then... there's no black ones or green ones, that's the point. Yes. He would have had to do exactly the same thing.

The Rambam says, **Intended to pick this fig and picked another fig, or he intended to kill this one and killed that one, the work he thought to do was done.** So here there's a more subtle distinction. If he meant, there's a distinction between the two figs, then he's exempt. If there's no distinction, he meant to take the fig, he took the other fig, he meant to do the work of reaping figs, the work of reaping figs was done. Only when there are two types of figs, he didn't mean that fig at all, he meant the work of reaping black figs, a completely different work, but it's a different gift, a different type of fig.

Discussion: What Makes a "Distinction" Between Two Things?

Speaker 2:

If you have two candles, one is a drop bigger and one is a drop smaller, would you also say exempt? One must understand what the Rambam wants to make exact categories. The question is what makes things a category. If it's two companies, or if one is on the right side and one is on the left side. The Rambam doesn't go into such a rule of what is the distinction.

And how I'm in doubt is the black and white figs, is it simple that the black figs are more like this fig and picked another fig?

Speaker 1:

No, it looks like the Rambam is saying something, that there are things where both are the same, it's copy paste, and there are things that are unique, for example, it has a different color.

Speaker 2:

What's the problem? They say, two apples aren't the same, because they don't come out from a company, they come from a tree, and when the tree gives out things each one is a drop different. And when the company gives out candles, what's the parameter? Every two candles are two different candles. The little fire dances a drop differently, you know how the air comes in. There's a distinction, between every two things there's a distinction. One must stand in it and tell us something here.

Speaker 1:

The distinction means, you're not significant with the distinction. You always have like the second case. I hear, but you see here a distinction. Black and white is different. Two candles are two of the same types, there's no distinction. It could be black and white is indeed more counted and less counted, so when one uses them, one will put in a pot, one will eat and one will put away in storage. They're two different types of things. It must be some real real distinction that understands with the peace.

Speaker 2:

No, it can even be... ah, the Rambam says "intended to kill this one and killed that one," also it has its distinction. By people, yes. There's no distinction. I want to kill a person. Really a crazy action. I don't know. This is hard for me. According to what I understand, the second case is indeed difficult, the "intended to kill this one," because two people there's certainly

a distinction. Or perhaps no, perhaps for example I know he goes into some war, there's no distinction which soldier he kills, one is a soldier. Perhaps when he indeed intended to kill just a certain person... I don't know, it indeed lacks just the subtle distinction.

Speaker 1:

By the way, this whole topic isn't for practical law, because it's certain that all these are exempt but forbidden. It's only a practical difference for an obligation of a sin offering. The Shulchan Aruch doesn't bring all these laws at all. It's a bit theoretical all these laws.

Speaker 2:

Okay, but another... another law. When there is by murder there's also in the Gemara such a type the Gemara, when I would have killed such and such and such...

Speaker 1:

Okay, but that was through. Also it's only regarding punishment. I say, regarding punishment one may make these theoretical things, no?

Law 11: Intended to Light the First and Extinguish the Second, and the Matter Was Reversed

Speaker 1:

But if he intended to light the first and extinguish the second after it, and the matter was reversed, and he extinguished the first and then lit the second after it, behold this one is exempt. He indeed had some calculation. He first wanted to extinguish the candle, because he wants to have it for later. Whatever, he has a calculation, and it happened completely not according to his calculation. **And he extinguished the first and then lit the second after it, behold this one is exempt.** Because then it was different. Then it is indeed like black and white.

Speaker 2:

But this is a law of the order. We learned explicitly by the figs, that even in reverse order is also called "offspring of thought."

Extinguished This One and Lit This One in One Breath

Speaker 1:

Extinguished this one and lit this one in one breath, he extinguished and lit at the same time, he lit and extinguished a candle. **Even though the lighting didn't precede, behold there's no evil, rather he does both as one therefore he is liable.**

It's an interesting case. Meaning, he had a plan to do one before the other, meanwhile he extinguished both in one breath.

Laws of Shabbos: Misaseik, More Than His Intention, Less Than His Intention, Two Who Did It

Law: Misaseik

Speaker 1:

This is the same law of the orders. One learned explicitly by the claim, that even if it's in reverse order is also called complaint of witchcraft. Extinguished this one and lit this one in one breath, he extinguished and lit one at the same time he lit and extinguished a candle. Even if the lighting didn't precede, behold there's no evil. Rather both as one the interesting case. He had a plan to do one before the other, until the world both extinguished in one breath.

Speaker 2:

Can you really light one with a blow? No, light.

Speaker 1:

Ah, sorry, extinguished this one. One can sometimes with a knife first. He speaks of one making an extinguishing and one making the lighting after the extinguishing, but at once meaning it came out not his thought. He didn't do everything in reverse. Interesting the latest law. Even more subtle. This holds more and more subtle distinctions of what it means that it happened in his thought?

Ah, we don't know the background. In truth, the Sages sought to remove the obligation of stoning from people, yes? I know he's ten. This is a theoretical Gemara, and the Rav and the distinction on this law and the tractate of crises. That I mean that it's a theoretical the Gemara, the beginning. He sees the Rav and that distinction, something we won't delve into this, because it should be practically relevant, and it's also too complicated for me. Now you should ask if someone has time to do something and it should delve into this. Time has no place.

Enough, in general... enough, says the Rav but further, here it indeed returns from practical matters. So the whole matter was regarding my obligation from exempt, and says the Rav gets into a fight. But now says the law what is called misaseik, that we know a lot.

In general there is a law like misaseik from the intention of friends, he had nothing at all in mind. He cut, for example you know that he swung his hands and something got pulled up. He had nothing at all in mind, as such. But also, but misaseik isn't applicable initially, anyway. He is exempt from punishment.

But the bones play misaseik, it's indeed alive, so one can't say on this dead. No, misaseik that died, there's probably intended, it goes back to the law.

Law: More Than His Intention / Less Than His Intention

Now one can learn another way how there are distinctions that he didn't mean and what he meant didn't happen, yes? What is indeed or not realized in his intention.

Laws of Shabbat Chapter 1: General Principles of Melachot — Two Who Did It, Destructive Acts, and Part Inadvertent and Part Intentional

The Rambam says, **anyone who intends to do a melacha,** and his melacha happened, but it didn't happen the way he wanted, this is like **yater al kevonato** (more than his intention). He wanted to light a small candle, and it became bigger than he had in mind. But in practice, what he had in mind happened, it just happened more than that, it happened with an addition, but the thing happened. **But if it was less than his intention, he is exempt,** because what he had in mind didn't happen.

Example: In Front of Him and Behind Him

How so? Rashi says, **he intended to carry a load behind him,** he had in mind to drag, he tied things to himself on his back, to drag from the back. **And he carried it in front of him,** for example he's dragging a pocketbook, and he can hold it from the back of his shoulders, and in practice it slipped and it's lying in front of him, **he is liable.**

Why? Because when a person holds a bag on himself, he's dragging a bag on himself, he's guarding the bag. And when

it's behind him, it doesn't get guarded as well, because it's lying in the back, he doesn't see it. In front of him is better guarding. So he had in mind with this load that there would be the matter that he should be able to carry the load, and the load was guarded, but it was even better guarded. He intended for lesser guarding, and it became guarding... We don't say that this means like he had in mind one thing and a different thing happened, because the main thing he had in mind was to guard the load, and it happened, it just happened with a bit extra.

But if he intended to carry in front of him, he had in mind to carry a load in front of him, **and it came to be behind him**, then he is indeed **exempt**. Why? Because he intended for excellent guarding, **and he carried it with minimal guarding**, what he wanted didn't happen, it happened even weaker than he wanted. He wanted good guarding, there was not good guarding. So regarding carrying, the carrying happened, but we say that this type of carrying is a type of carrying that must also have guarding, and there wasn't the quality of guarding that he wanted.

In general, anything similar to this. The Raavad is precise here, I don't want to delve into this, but it appears here, one can think what is the meaning of "less than his intention". "Less than his intention" doesn't mean that he poured out a larger glass, it's more like the melacha became better, and the melacha became better. That it became weaker. It's the quality of the melacha that wasn't good. It's the quality of the melacha, not the quantity, not how much.

Exception: Girded with an Apron

Another exception that exists, in this law of "in front of him and behind him" there is an exception, that not always is he exempt when it turned around. Yes?

"If he was girded with an apron, and threw the load between his flesh and his garment", he put in a heavy thing, he put it in to be in the belt, it should be on his body, the belt should catch it, yes? **"Whether this load that normally goes out in this way came to be in front of him, or came to be behind him, he is liable"**. Then, if he didn't... when the previous case was for example it was laid on his shoulder, and it can go this way, it can go that way. But when he lays it on his body under the clothing, then there's no difference which way the... even if it turned around in the middle, he is liable. **"Because its normal way is to go out like this"**. Although here there was also apparently weaker guarding when it was behind him, but this is "its normal way to go out turning around". When things lie in such a case, it's "its normal way to go out turning around".

So, what he said earlier, "it came to be in front of him, it came to be behind him", we're speaking specifically when it's not "its normal way to go out". It's not easy... a pocketbook is slippery, it slips both ways. We're speaking of a different case, where... So, there a thing that doesn't slip so easily, then he didn't mean it. Because when a thing is "its normal way to go out turning around", you can't say you didn't mean it. It's relative to the ground. So, this is a yoke. You say exactly, but it's laid on the side, it comes out. So, this is "done with his intention".

Law: He Began a Melacha and Did the Measure — Even Though He Didn't Complete It

Okay, a few more details in this matter of "his intention wasn't fulfilled".

"Anyone who intends to do a melacha on Shabbat, and began it and did the measure", someone intends to do a melacha on Shabbat, and he began the melacha, and he did the measure. Later the Rambam will go, every melacha has a measure. For example, I know, let's say, he wanted to cook, and he cooked a... ah, the Rambam is already going to give an example, it's hard to give one's own examples.

He is liable, even though he didn't complete all the melacha that he obligated himself to do, even if the entire melacha that he had in mind to complete didn't happen, but he did do a measure of the melacha.

How so? One who intended to write a letter on Shabbat, he had in mind to write a certain text on Shabbat, a certain letter. **We don't say**, one might have been able to say, that as long as he didn't write the entire letter his intention wasn't fulfilled. But we don't say, **this one doesn't go out until he completes his desire**, until he does everything he has in mind, **and writes the entire letter and the entire document, rather from when he writes two letters**, he is **liable**. The law that the measure of writing is two letters says that it doesn't concern me, he has already done a complete melacha. The melacha is the essence of writing. You intended to do two melachot, let's say.

Speaker 2:

Right, right, when he wanted to write an entire letter, you wanted to do multiple melachot. An entire melacha, and you wanted to do an entire melacha. You just planned to do a bigger melacha, it doesn't mean that since only half happened one is exempt, right?

Speaker 1:

And the Rambam could have stayed presumably with the same example, for example he wanted to pick up a hundred eggs, and he only took two eggs, by picking up two eggs he already became liable, yes?

Speaker 2:

No, by that it's perhaps more simple. Perhaps the example...

Speaker 1:

No, but here he could have said that it's still half work, because it's not a letter. He wanted to write a certain letter.

And so, he gives another example. **And so a craftsman who obligated himself to weave an entire garment**, he had in mind to sew an entire garment. But **from when he weaves two threads he becomes liable**, when one weaves two threads one becomes liable. **Even though his intention was to complete**, even if the intention was yes to have a full garment. But **since he did the measure intentionally**, he did however do the measure, he did the measure of two threads or two letters, **he is liable. And so anything similar to this.**

He basically says that when the Sages say that this is the measure, it doesn't concern me that you had in mind that the melacha would be finished when it would be bigger. It doesn't concern me with your goal. You have a bigger goal, but the melacha is this. The Sages say that this is already a part of the melacha.

Speaker 2:

A complete melacha.

Speaker 1:

A complete melacha.

By the way, we do reckon with your goal, when you want to kill a certain person. But... yes, yes. He must apparently look at it as more like... you wanted to do two melachot or something like that. It did enough melacha that you wanted to do.

Law: Two Who Did It

Okay, now one can learn another law. Apparently he doesn't have it with intention, he's just stating the law of two who did it. Here is another way when it's an introduction with all other melachot, what he's going to say is when a person does it. What happens if two people do it together? Or what happens if... more cases.

The Rambam says, "**Any melacha that an individual can do alone**", that a person can do alone, "**and two did it in partnership**", in practice two people did it in partnership together. Partnership can mean two ways, says the Beit Yosef in **this one part and this one part**, that means they divided half and half with the melacha. You do the first half melacha, I do the second half melacha.

For example, "**this one uprooted the object from this domain and the second placed it in another domain**". The first person made the uprooting, an object needs to come from one domain to another. The first made the uprooting, the second made the placing in another domain. The second took it over and put it in another domain.

Or they worked together from one domain to another and grabbed it together, "**in a manner that two did it as one from beginning to end, for example two grabbed a quill and wrote**", two people grabbed a pen and they wrote together, "**or a loaf and carried it out from domain to domain**", or they both together grabbed a bread and carried it out from domain to domain, "**these are exempt**". In both cases they are exempt, because one person didn't do a complete melacha. Between the two of them together a melacha came out, but not one did the whole thing. Then they are exempt. This is a law of two, in the Gemara it's called "two who did it".

But the Rambam says, this is only as he said, that each individual could have done it alone. But **if the individual cannot do it alone until his friend helps him**, if it's such a type of melacha that one needs to have two people who can carry it out, "**for example two who grabbed not a loaf**", not a loaf, a bread that each one can do alone, rather "**a beam**", a large heavy beam, "**and carried it out from the public domain, and if one of them doesn't have the strength to carry it out alone**", that means, if one of the two people alone wouldn't have been able to drag the heavy beam, and therefore, this is the reason why they did it together, "**and they did it in partnership from beginning to end, both of them are liable**", they are both liable. Because this is the way how one does such a melacha.

And here there is a question about the measure. Because one might think that then one needs two measures, because two people did it. No. **One measure for two**. If the measure is killing is... yes, does that mean it? Apparently. But it's interesting, because we're speaking here of a heavy thing. Automatically, apparently one measure for two, even the same reason that one cannot. But... there is a difference. There is a minimum essential measure, you see, every thing has its measure.

Laws of Shabbat Chapter 1: General Principles of Melachot — Two Who Did It, Destructive Acts, and Part Inadvertent and Part Intentional

Two Who Did It — Continuation: The Measure of Melacha with Two

Speaker:

Because this is how one does the melacha.

And here there is a question about the measure. One might think that then one needs two measures, because two people did it. No. **One measure for two**, because if the desired measure is, yes, that's what it means.

Apparently, what's interesting, because we're speaking here of a heavy thing, I would automatically apparently reckon the measure not no, but the same reason that one cannot. But there's no difference, there is a minimum measure of carrying out, we'll see every thing has its measure.

So the point is, one measure is enough, although each one can say "I only moved half a measure", it's not so. **The measure of shiur that the Sages made is not on the person, rather it's on the melacha**. This is already a significant melacha. This means it was divided between two people, and in such a case there won't be a problem, because this is the way how one does the melacha, through two people.

Two Who Did It — One Can and One Cannot

Speaker:

What happens in a case when it's such a doubt? Let's see. **If one of them had the strength to carry out the beam alone**. There's a strong person, a father with a son take out the beam, a big person with a small person. The first person could have done it alone, but the second person couldn't have done it alone. **And the second cannot carry it out, and the two of them carried it out together, the one who can carry it out is liable**, if the person who can do it alone is liable, because it means he did it. The second only helped him out, a nice assistant. **An assistant is not liable at all**, because he couldn't have done it alone, so he does nothing. The second does nothing. An assistant is not liable at all, meaning he is exempt even rabbinically, right? He is exempt when he does nothing.

Discussion: Who Is Called the Assistant?

Speaker:

It's very interesting, and who is called the assistant? Many times one could make the definition be who wants the beam to be moved, or who asked whom the favor. It doesn't go like that. **We look at who does it**. I would have thought like this, the homeowner calls over his neighbor who is bigger and stronger than him. That one is the assistant, from the perspective of just how we look at it. But the melacha, no, in practice they did indeed divide fifty-fifty in the strength that they put in, they did the melacha together. But because he can't alone he is... right, that doesn't mean he didn't do the melacha. You can't tell me he's like nothing.

Let's understand better. The principle here has to do with what one can do. That means, apparently like a change from the normal way, so I want to think. A thing that one can do alone, you do with two people, both of them are exempt but it's forbidden. A thing that one person can't do alone, this is the way to do the melacha, each one does it in an unusual way.

So, in the way that is half half, one can do it alone, so from his side he did this. I hear. And the second does nothing. Why? Because eh, practically now... why shouldn't we say now from the side of the first person, sorry, from his side there should have been a two who did it, because he can indeed do it alone, and here he did it in a different way with two people. Why do we say that this means he did it with two people at all?

Discussion: What If the Assistant Did Most of the Work?

Speaker:

One needs to understand a bit better, because for example, what happens when the one who cannot do in practice most of the work? He indeed can't alone, but with a second he can do it, and he did most of the work, the other only helped him a bit. I hold that the assistant means the one who can do it. It could be that the Rambam doesn't mean this, he means such a type of case of a father with a child, he means when the assistant is certainly an assistant.

I need to think what happens when... he doesn't say, one can carry out alone, he asked the other at all. Two such people, two of the second person could he perhaps have done it? Something is missing here. But this is how it stands in the law. Okay.

Discussion: Comparison to Two Who Did It When Both Can

Speaker:

But you mean to say, when two people that each one of them can alone, it would have been two who did it that they would have been exempt. And here, because there's a second who can't alone, he becomes such an assistant, we look at him like he did nothing, he's just playing around. The second... that makes it more different.

Okay.

One Who Destroys Is Exempt

Speaker:

Another principle, one more principle, two more principles. Another principle in the laws of Shabbat. There is, all laws of Shabbat are when one wants to do something. But when one does an act that isn't called at all, just a destructive act, one is exempt.

How so? **If he wounded his fellow or an animal in a destructive manner**, when someone... there are ways of wounding and being liable. For example, someone needs to make a wound on his animal, I know, to let blood. But if he doesn't do it for that, rather he does it in a destructive manner, he didn't do a productive thing, he didn't do any melacha.

And so tearing a garment. Tearing a garment can sometimes be tearing, the melacha of tearing in order to sew. But when he tears just like that in a destructive manner, he burns it, he breaks it around in a destructive manner, **he is exempt**, it's not called a melacha. It's not called done, this is something that isn't significant, nothing was done. He is further exempt from the punishment.

Digging a Pit and Only Needing the Dirt

Speaker:

Digging a pit and only needing the dirt, when someone dug a pit, and essentially the reason why he dug the pit is because he needs the sand, he is destructive and exempt. Why is he called destructive? Because the pit is now a destruction. You made now an ugly thing on the floor, a pit that doesn't belong there.

It's interesting, many times we say the opposite, like when one extinguishes something because one needs the coal. We say that this is called digging. Which digging is called in a place where they can build there, making a pit because one wants a pit, one wants to plant, yes. Here he doesn't want digging, he wants to have sand.

Let's say simply, a digging is a repair in the ground usually, or plowing or building is a repair in the ground. Here you're destroying the ground. You're only selecting destructively, because you need to have sand, but you're destroying the ground, so you're exempt. Even if he's not doing melacha, but he intends to destroy, they are exempt.

One Who Destroys in Order to Repair — Liable

Speaker:

But this is only when it's a true destruction. But **anyone who destroys in order to repair** is indeed liable. When the destruction is a preparation to repair, it means like he is engaged in repair.

How so? **One who demolishes in order to build in its place**, someone breaks something, one might say he is a mekalkeil (destroyer). But if he breaks it because he wants to build in that place. **Or one who erases**, someone erases something, he is indeed a mekalkeil. But if he erases **in order to write in the place that was erased. Or one who digs a pit in order to build foundations within it** to build there, **and the like, behold he is liable.**

But which melacha (forbidden labor) is it? It's called soter (demolishing) and it's called boneh (building). Because this is called boneh, yes? This is called soter? No, this is called soter later, because... ah, so this is soter. **Its measure is like the measure of the one who repairs**, they have the same shiur (measure). When building they have the same minimum shiur. What the purpose is, one looks at what the purpose is. He is essentially a boneh, the melacha is soter.

Indeed you ask a good question, why do we need an extra melacha? We will see later, perhaps we will discover the secret of this. It appears that this is melachat boneh. No, this is melachat soter, that you are only liable when it's a mekalkeil that is essentially a boneh, or a mochek (eraser) that is essentially a kotev (writer), and the like.

Okay.

Partly Inadvertent and Partly Intentional

Speaker:

Another distinction. A melacha that was done partly intentionally and partly inadvertently. Let's see. **Anyone who performs a melacha on Shabbat, part of it inadvertently and part of it intentionally.** That is, in the middle of the melacha he caught himself what he's doing, for example, and he continued further. Or the opposite, **whether he acted intentionally and in the end inadvertently, whether inadvertently and in the end intentionally, he is exempt.** If it wasn't an entire melacha from beginning to end intentionally, one is not liable. Not liable for a chatat (sin offering), certainly. Exempt means one doesn't receive the punishment that is due. **Until he performs the measure of the melacha entirely from beginning to end intentionally, and afterwards he will be liable for karet (spiritual excision) and sekilah (stoning).** Or, sorry, only afterwards, then he is liable for karet and sekilah.

There is a liability for intentional and there is a liability for inadvertent, right? For intentional one is liable for karet and sekilah, and for inadvertent a chatat. Both require the entire melacha to be in one category. You can't dance in between. You can't say, "I did earlier intentionally, now I did inadvertently, so let me bring a korban chatat." No, he is exempt from everything. That is, not from everything, rabbinically it's forbidden. But in practice it was neither this nor that. Right. **Or he did it all inadvertently from beginning to end.** That is, either he is entirely intentional and he is liable for karet and sekilah, or he is entirely inadvertent and he is liable for a fixed chatat. Neither here nor there, he is not liable for the punishment.

What Does "Inadvertent" Mean Here?

Speaker:

But one must understand the case. Intentional and in the end inadvertent doesn't mean he became distracted and he does things automatically, because that is indeed the last thing we learned, that is kavana (intent). It doesn't mean that he's not thinking, "I'm building, I'm building, I'm building." He completely forgot something, yes, something happened,

something truly inadvertent. Because usually when one says this it means he had in mind, and stopped having in mind. That's not what inadvertent means here. **Inadvertent means he didn't know it was Shabbat, he didn't know this was a melacha, that it's forbidden.** But here he remembered, he forgot, and the like, or someone told him.

Connection to Melachet Machshevet

Speaker:

It's an interesting halacha. It must be the same from beginning to end. This apparently also connects with the engaged in intent and melachet machshevet (thoughtful work), yes, because this is something not complete, it's a half melacha. A half melacha is not even liable for a chatat, it's exempt. But here he comes to stand, okay, not relevant in taharot (purity laws), all these things that were learned the last few things, but exempt.

End of Chapter One

Speaker:

Okay, until here chapter one. A very beautiful chapter, very good.