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Kilayim Trader and Issurei Hana'ah

Kilei Begadim (forbidden mixtures involving fabrics) differs from other forms of *kilayim* in a number of ways. The *Mishnah* teaches that the prohibition is specifically regarding mixtures of wool and linen (9:1) and only applies when wearing them (8:1). Exactly what qualifies as “wearing” is fleshed out in our learning.

The *Mishnah* (9:5) teaches that garment traders can sell their *kilayim* wares “in the usual manner” provided that when doing so, they do not intend to warm or shade themselves from the elements. The *Bartenura* explains that the sellers would wear the garments to demonstrate their size and the *Mishnah* permits such behaviour. The *Mishnah* should strike us, having just explained that it is prohibited to wear *kilayim* clothing.

The *Bartenura* explains that the reason why this case is permissible is because the seller did not intend to gain any benefit from wearing the garment. The explanation touches on a broader debate between *R' Yehuda* and *R' Shimon* regarding whether it is permissible to perform an act if the intended outcome was not the violated prohibition (*davar she'eino mitkaven*). According to the *Bartenura* our *Mishnah* follows the opinion of *R' Shimon* who permits such a case since the seller intention is to present his wares and not to gain benefit from wearing *kilayim*.¹

The difficulty with this explanation is that we learn that *R' Shimon* agrees, that if the prohibited outcome is certain (*p'sik reisha*), the action is prohibited despite being unintended (*Pesachim* 25b). In this case it would appear that when the seller wears the garment, the violation of *kilayim* is certain. So the question returns: why can the seller wear garment?

The *Tosfot* (*Shabbat* 29b) explain simply that our case is where the outcome of benefit from the clothing is not certain. For example, he is wearing other clothing that are warming or shading him. By explaining that this case is not a *p'sik reisha*, we can once again say that the *Mishnah* is reflecting the opinion of *R' Shimon*.

The *Tosfot Yom Tov* also answers by redefining our case. He explains that in this case the seller is not wearing the *kilayim* garments, but rather carrying them on his shoulder. In such a case the prohibition of *kilayim* is different to when wearing it. The prohibition is only when one gains benefit from it, as opposed to wearing *kilayim* that is prohibited in all circumstances.²

The *Ran* however maintains that in our case the seller is indeed wearing the *kilayim* clothing. He explains that in a case involving a prohibition against gaining benefit (*issur hana'ah*), *R' Shimon* would permit a *davar sheino mitkaven* even in a case of a *p'sik reisha*.³ How do we understand the *Ran*?

The *Minchat Asher* explains that the *Ran* does not mean that if one does not intend to get any benefit from an *issur hana'ah* then it is not defined as *hana'ah*, because then there would be no debate between *R' Shimon* and *R' Yehuda* - all would agree it is *mutar*. Instead, he explains as follows. *Issurei hana'ah* are not violated simply because a person benefited from them (*Tosfot Pesachim* 26a s.v. *Otan*). It is rather that a person used them for benefit – the act is important. Now since *issurei hana'ah* are not purely outcome focused, the question of intention returns. In our case, the seller put on the *issur hana'ah*. *R' Yehuda* does not give any weight to intention when dealing with deliberate acts. The seller performs an action and gained benefit for an *issur hana'ah*; consequently it is prohibited. For *R' Shimon* however intention is important when classifying an action; in this case specifically whether the seller action is one of gaining benefit. To explain, if someone dragged a heavy table on *Shabbat* that would certainly create a furrow, *R' Shimon* would agree that it would be prohibited, because the certain violation is directly connected to the action, albeit unintended. In our case however, when the seller wears the garment, because the prohibition is itself connected to intention, the violation is no longer a *p'sik reisha*.⁴

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¹ It follows then that the earlier *Mishnah* (8:2) follows that opinion of *R' Yehuda*. The *Mishnah* there prohibited one from wearing *kilayim* even if his intention was only to evade the tax collector.

² According to this explanation, we have no longer need to say that *Mishnayot* two and five are present conflicting opinions (see previous footnote). The earlier *Mishnah* is simply case of wearing,

whereas our *Mishnah* is a case of carrying. The *Tosfot Yom Tov* uses this answer to explain how the *Rambam* rules according to both *Mishnayot*. See the *Mishnah Achrona* for more in this point.

³ The *Ran* adds that this is to the exclusion of *issurei achila* and *bi'ah*.

⁴ See the *Minchat Asher* for further detail.

Revision Questions

כלאים ז' – ז' – ט' ז'

- What should one do if the wind blew his vines such that they bent over other produce? (ז': ז')
 - If grain is within a vineyard during which times of the growth of both plants do they become *assur be'hana'ah*? In other words, what is the *onat ha'kiddush*? (ז': ז')
 - When is it forbidden to place a pot-plant containing a vegetable in a vineyard? (ח': ז')
 - Explain the basic differences between *kil'ei kerem*, *kil'ei zeraim*, *kil'ei begadim* and *kil'ei behema*. (ח': ז')
 - What is the scope of the law when the *Torah* forbids using an ox and donkey to plough together – does it also apply to other animals? (ב': ז')
 - What is the punishment for *kil'ei behema*? (ג': ז')
 - Would a passenger in a wagon being pulled by two different animals also transgress this prohibition? (ג': ז')
 - Can one tie a horse to the side a wagon that is being pulled by two oxen? (ד': ז')
 - Does the prohibition of *kil'ei behema* apply to a horse and an animal which is a product of *kil'ei behema* whose mother was a horse? (ד': ז')
 - If one cannot identify the parentage of mules, can they be used together for working in the field? (ה': ז')
 - Into what category do the following animals fit?
 - Hedgehog?
 - *Chuldat HaSna'im*? (ה': ז')
 - Dog?
 - Pig?
 - Elephant and monkey? (ו': ז')
 - Does one transgress the prohibition of *kil'ei behema* if a human being and an ox are used together to pull a wagon? (ו': ז')
 - Which two fabrics when combined constitute the prohibition of *kil'ei begadim*? What two other laws relate specifically to these two fabrics? (ז': ז')
 - When is it a problem to have a mattress made with linen and wool? (ז': ז')
 - Does one transgress *kil'ei begadim* if the prohibited garment is worn on top of ten other layers of clothing? (ז': ז')
 - Explain the debate regarding handtowels made from *shatnez*? (ג': ז')
 - Do the laws of *kil'ei begadim* apply to death shrouds? Why? (ד': ז')
 - When can *shatnez* saddles be problematic? (ד': ז')
 - Can a seller of fabrics hang his *shatnez* garments over his shoulder when sampling his products? (ה': ז')
 - Can a tailor rest *shatnez* garments on his lap while mending the garment? (ו': ז')
- What do the *tznuyim* do in the above two cases?

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
7 th November ל' חשוון	8 th November א' כסלו	9 th November ב' כסלו	10 th November ג' כסלו	11 th November ד' כסלו	12 th November ה' כסלו	13 th November ו' כסלו
Kilayim 9:7-8	Kilayim 9:9-10	Shviit 1:1-2	Shviit 1:3-4	Shviit 1:5-6	Shviit 1:7-8	Shviit 2:1-2

