

1) Numbers 19	במדבר י"ט
<p>1 The Lord spoke to Moses and Aaron, saying: 2 This is the statute of the Torah which the Lord commanded, saying, Speak to the children of Israel and have them take for you a perfectly red unblemished cow, upon which no yoke was laid. 3 And you shall give it to Eleazar the kohen, and he shall take it outside the camp and slaughter it in his presence. 4 Eleazar the kohen shall take from its blood with his finger and sprinkle it toward the front of the Tent of Meeting seven times. 5 The cow shall then be burned in his presence; its hide, its flesh, its blood, with its dung he shall burn it. 6 The kohen shall take a piece of cedar wood, hyssop, and crimson wool, and cast them into the burning of the cow. 7 The kohen shall wash his garments and bathe his flesh in water, and then he may enter the camp, and the kohen shall be unclean until evening. 8 The one who burns it shall wash his clothes in water and cleanse his body in water, and he shall be unclean until evening. 9 A ritually clean person shall gather the cow's ashes and place them outside the camp in a clean place, and It shall be as a keepsake for the congregation of the children of Israel for sprinkling water, [used] for cleansing. 10 The one who gathers the cow's ashes shall wash his clothes, and he shall be unclean until evening. It shall be an everlasting statute for the children of Israel and for the proselyte who resides in their midst.</p>	<p>א וַיְדַבֵּר יְהוָה אֶל־מֹשֶׁה וְאֶל־אַהֲרֹן לֵאמֹר: ב זֶה חֻקַּת תּוֹרַת הַתּוֹרָה אֲשֶׁר־צִוָּה יְהוָה לֵאמֹר דַּבֵּר אֶל־בְּנֵי יִשְׂרָאֵל וְיִקְחוּ אֵלֶיךָ פָּרָה אֲדָמָה תְּמִימָה אֲשֶׁר אֵין־בָּהּ מוּם אֲשֶׁר לֹא־עָלָה עָלֶיהָ עַל־גּוֹ וַיִּתְּתֶם אֹתָהּ אֶל־אֱלֵעָזָר הַכֹּהֵן וְהוֹצִיא אֹתָהּ אֶל־מַחֲוֹץ לַמַּחֲנֶה וְשָׁחַט אֹתָהּ לִפְנֵינוּ: ד וְלָקַח אֱלֵעָזָר הַכֹּהֵן מִדָּמָהּ בְּאֶצְבָּעוֹ וְהִזָּה אֶל־לִבְכַח פְּנֵי אֹהֶל־מוֹעֵד מִדָּמָהּ שִׁבַע פְּעָמִים: ה וְשָׂרַף אֶת־הַפָּרָה לְעֵינֵינוּ אֶת־עֹרָהּ וְאֶת־בְּשָׂרָהּ וְאֶת־דָּמָהּ עַל־פְּרִשָׁה יִשְׂרָף: ו וְלָקַח הַכֹּהֵן עֵץ אֲרָז וְאֵזוֹב וְשִׁנִּי תוֹלַעַת וְהִשְׁלִיךְ אֶל־תּוֹדֹף שְׂרַפַת הַפָּרָה: ז וְכִבֵּס בְּגָדָיו הַכֹּהֵן וְרַחֵץ בְּשָׂרוֹ בַּמַּיִם וְאַחֵר יָבֵא אֶל־הַמַּחֲנֶה וְטָמֵא הַכֹּהֵן עַד־הָעֶרֶב: ח וְהִשְׂרַף אֹתָהּ וְכִבֵּס בְּגָדָיו בַּמַּיִם וְרַחֵץ בְּשָׂרוֹ בַּמַּיִם וְטָמֵא עַד־הָעֶרֶב: ט וְאִשׁ טְהוֹר אֶת אֶפְרַיִם הַפָּרָה וְהֵנִיחַ מַחֲוֹץ לַמַּחֲנֶה בְּמִקְוֵם טְהוֹר וְהִיתָה לְעֹדֹת בְּנֵי־יִשְׂרָאֵל לְמִשְׁמַרְת לְמִי נֹדֵד חֲטָאת הוּא: י וְכִבֵּס הָאִשׁף אֶת־אֶפְרַיִם הַפָּרָה אֶת־בְּגָדָיו וְטָמֵא עַד־הָעֶרֶב וְהִיתָה לְבְנֵי יִשְׂרָאֵל וְלִגְרַם הַגֵּר בְּתוֹכְכֶם לְחֻקַּת עוֹלָם:</p>

2) Mishnah Gittin Chapter 5:4	משנה גיטין פרק ה משנה ד
<p>One who renders another's food ritually impure, or one who mixes <i>teruma</i> [tithed for the priest] with another's non-sacred produce, or one who pours another's wine as a libation before an idol, in each of these cases causing the other a monetary loss, if he acted unintentionally, he is exempt from paying for the damage. If he acted intentionally, he is liable to pay. Priests who disqualified an offering through improper intention in the Temple, by expressing, while sacrificing the offering, the intention of sprinkling the blood of the offering, burning its fats on the altar, or consuming it after its appointed time, if they did so intentionally, they are liable to pay the value of the offering to its owner, who must now bring another offering.</p>	<p>המטמא והמדמע והמנסך בשוגג פטור במזיד חייב הכהנים שפגלו במקדש מזידין חייבין:</p>



<p>3) Talmud Tractate Gittin 53a</p>	<p>תלמוד מסכת גיטין דף נג.</p>
<p>Hizkiyya says: By Torah law, one who commits one of the offenses listed in the mishna, whether he did so unintentionally or intentionally, is liable to pay for the damage he caused, like any other person who causes damage.</p>	<p>אמר חזקיה: דבר תורה אחד שוגג ואחד מזיד - חייב;</p>
<p>What is the reason for this? The reason is that even damage that is not evident/recognizable is categorized as damage. One is liable for damage not only when the damage is evident, i.e., when he causes a change in the item's physical state, but also when the damage is not evident, i.e., when he causes a reduction in the item's value due to a change in its halakhic status, e.g., when he renders it impure. And what is the reason that the Sages said that if he committed one of these acts unintentionally he is exempt? This is so that the one who caused the damage will inform the injured party about what happened. If a fine were imposed even in a case where the damage is caused unintentionally, there would be a concern that the guilty party might not report the damage so as to avoid the penalty. In such a situation the injured party will not know what happened, as the damage is not evident, and he will inadvertently use that which has become impure, mixed with <i>teruma</i>, or poured before an idol.</p>	<p>מאי טעמא? היזק שאינו ניכר שמייה היזק, ומה טעם אמרו בשוגג פטור? כדי שיוודיעו.</p>
<p>If it is so that there is a concern about this, then he should be exempt from liability even if he committed one of these offenses intentionally, so that he will inform the owner of the item. Now, since it was his intention to cause him damage, will he not inform him? If he does not tell him, the other person will never know that he suffered damage. Consequently, he will certainly inform him of what he did and that his property is now subject to a prohibition, and there is no concern that the injured party will inadvertently come to transgress the prohibition. This is Hizkiyya's opinion.</p>	<p>אי הכי, אפילו במזיד נמי! השתא לאוזוקי קא מכוין, אודועי לא מודע ליה?</p>
<p>And Rabbi Yohanan says: By Torah law, one who commits one of the offenses listed in the mishna, whether he did so unintentionally or intentionally, is exempt from liability for the damage he caused.</p>	<p>ורי יוחנן אמר: דבר תורה אחד שוגג ואחד מזיד - פטור;</p>
<p>What is the reason for this? The reason is that damage that is not evident is not categorized/recognizable as damage. And what is the reason that the Sages said that if he committed one of these acts intentionally he is liable? This is so that each and every person who has a grievance with his neighbor and wishes to cause him harm should not go and render impure the other person's pure foods, and say: I am exempt from liability.</p>	<p>מאי טעמא? היזק שאינו ניכר לא שמייה היזק, ומה טעם אמרו במזיד חייב? שלא יהא כל אחד ואחד הולך ומטמא טהרותיו של חבירו, ואומר פטור אני.</p>



<p>4) Talmud Tractate Gittin 53a-b</p>	<p>תלמוד מסכת גיטין דף נג. - :</p>
<p>The Gemara raises an objection to the opinion of Hizkiyya from what we learned in a mishna (54b): With regard to priests who disqualified an offering through improper intention in the Temple, by expressing, while sacrificing the offering, the intention of sprinkling the blood of the offering, burning its fats on the altar, or consuming it after its appointed time, if they did so intentionally, they are liable to pay the value of the offering to its owner, who must now bring another offering.</p>	<p>תנן : הכהנים שפגלו במקדש, מזידים - חייבין,</p>
<p>And it is taught with regard to this mishna that the Sages instituted this obligation for the betterment of the world, so that priests should not act in this manner toward people to whom they wish to cause harm.</p>	<p>ותני עלה : מפני תיקון העולם ;</p>
<p>And if you say that damage that is not evident is nevertheless categorized as damage, it should have said that if they acted unintentionally they are exempt due to the betterment of the world. This is because according to Hizkiyya, if they acted intentionally they should be liable by Torah law for the damage they caused, and not by rabbinic ordinance instituted for the betterment of the world.</p>	<p>ואי אמרת היזק שאינו ניכר שמיה היזק, האי שוגגין פטורין מפני תיקון העולם מיבעי ליה!</p>
<p>That is also what the tanna is saying, and the mishna should be understood as follows: If they acted intentionally, they are liable, but if they acted unintentionally, they are exempt. And the reason that they are exempt is for the betterment of the world.</p>	<p>הכי נמי קאמר : מזידין - חייבין ; הא שוגגין - פטורין, מפני תיקון העולם.</p>
<p>Rabbi Elazar raised an objection based on what was taught: With regard to one who performs a task with the water of purification, i.e., water that is to be mixed with the ashes of the red heifer, which was used to purify people and objects that had contracted ritual impurity by contact with a corpse, or performed labor with the red heifer of purification, and by doing so he disqualifies it, he is exempt according to human laws but is liable according to the laws of Heaven.</p>	<p>מתיב רבי אלעזר : העושה מלאכה במי חטאת ובפרת חטאת – פטור מדיני אדם וחייב בדיני שמים ;</p>
<p>And if you say that damage that is not evident is nevertheless categorized as damage, then according to human laws he should also be liable.</p>	<p>ואי אמרת היזק שאינו ניכר שמיה היזק, בדיני אדם נמי לחייב!</p>
<p>He, Rabbi Elazar, raised the objection and subsequently he himself resolved it: That which they said, that he performed labor with the red heifer, means that he placed it in a pen [lirvaka] so that it would nurse from its mother and would incidentally thresh, meaning that his action is not defined as having the heifer perform labor. And that which they said, that he performed a task with the water of purification, means that he weighed weights with the water, which is not an actual task performed with the water.</p>	<p>הוא מותיב לה, והוא מפרק לה : פרה - שהכניסה לרבקה על מנת שתניק ותדוש, מי חטאת - ששקל בהן משקלות.</p>



<p>But doesn't Rava say: Water of purification with which he weighed weights is fit?</p>	<p>והאמר רבא : מי חטאת ששקל בהן משקלות - כשרה!</p>
<p>It is not difficult: This <i>baraita</i> is referring to a case where he weighs an object with the water itself [using displacement], and therefore the water is disqualified. And this statement of Rava's, that the water is fit, is referring to a case where he weighs an object against the water.</p>	<p>לא קשיא : הא בגופן, הא בכנגדן.</p>
<p>If he weighs an object with the water itself, then he performs a real task with it, and if damage that is not evident is nevertheless categorized as damage, then he should also be liable according to human laws to pay for performing a task with the water.</p>	<p>בגופן מעשה קא עביד בהו, ואי היזק שאינו ניכר שמיה היזק, בדיני אדם נמי לחייב!</p>
<p>Rather, it is necessary to say that both this and that refer to a case where he weighed an object against the water, and still it is not difficult: This <i>baraita</i> is referring to a case where in the course of the weighing the object his attention was diverted from guarding the water, and owing to this lapse in attention the water became disqualified. And that statement of Rava's is referring to a case where his attention was not diverted, and therefore the water did not become disqualified.</p>	<p>אלא, אידי ואידי בכנגדן, ולא קשיא : הא דאסח דעתיה, הא דלא אסח דעתיה.</p>
<p>Rav Pappa raises an objection against Hizkiyya's opinion from that which is taught in a <i>baraita</i>: If one robbed another of a coin and afterward the coin was rendered invalid by the government, or if he robbed another of <i>teruma</i> and it became ritually impure, or if he robbed another of leavened bread and Passover then elapsed over it, rendering it forbidden, in each of these cases the robber can return the item and say to the robbery victim: That which is yours is before you. Since the robber returned the stolen item, he is not required to compensate the victim of the robbery for his monetary loss, although the stolen items are currently of minimal or no value.</p>	<p>מתיב רב פפא : גזל מטבע ונפסל, תרומה - ונטמאת, חמץ - ועבר עליו הפסח, אומר לו הרי שלך לפניך ;</p>
<p>And if you say that damage that is not evident is categorized as damage, then this man is a robber, and he should be required to pay full compensation for the damage he caused.</p>	<p>ואי אמרת היזק שאינו ניכר שמיה היזק, האי גזלן הוא, ממונא מעליא בעי שלומי!</p>
<p>This is a conclusive refutation, and the opinion of Hizkiyya is rejected.</p>	<p>תיובתא.</p>