



פסחים דף נ' עמוד א' מלאכה בערב פסח

INTRODUCTION

The משנה indicates that it is אסור to perform מלאכה on פסח after חצות, and that some have the מנהג of forbidding its performance even before חצות. This שיעור explores the reason for prohibiting ערב פסח on מלאכה. Due to the size of the material, this שיעור is divided into several parts:

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¹ The משנה actually uses the plural ערבי פסחים, which translates as “the eves of Pesachs”. Aside from appearing in our משנה, this term also appears – according to some גירסאות – at the beginning of the last פרק of פסחים. With regards to **that** משנה, there are ראשונים who suggest that the plural ערבי פסחים is used in order to include both פסח ראשון and פסח שני. The צ"ח explains that this cannot possibly be the intention of **our** משנה. For, our משנה bars anyone from performing ערב מלאכה on פסח, and it is illogical for this to be the case on פסח שני, which only a minority of בני ישראל observe. [Further on, the גמרא will explain that פסח שני is observed **only** when the majority of the nation already offered the קרבן פסח at חצות.] Rather, in the context of our משנה, the plural ערבי פסחים should be interpreted as referring to the ערב פסח of each year.

[Regarding whether מלאכה may be performed on פסח שני by those who observe פסח שני, see footnote 49.]

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PART A

חצות ערב פסח on מלאכה ירושלמי's reason for prohibiting

☞ The ירושלמי's source: The source of the איסור to perform מלאכה on ערב פסח.

The ירושלמי states that one must treat the day that he offers a קרבן as a יום-טוב, and he must refrain from performing מלאכה.² The ירושלמי derives this from a subtle contradiction in the פסוק: On the one hand, the פסוק says "שם תזבח את הפסח" ("there **you** shall slaughter the פסח"), implying that the actual שחיטה must be performed by the owner of the קרבן פסח, and not by his שליח. On the other hand, the following פסוק says "ובשלת ואכלת" ("**you** shall roast and **you** shall eat"), implying that only the actual roasting and eating must be performed by the owner of the קרבן פסח, as opposed to the שחיטה, which may be performed by a שליח.³ The ירושלמי resolves this contradiction by explaining that although the **actual** שחיטה does not need to be performed by the owner, he must nevertheless do something **symbolic** to express his personal connection with the שחיטה, as though he himself were performing the שחיטה.⁴ This is accomplished by refraining from מלאכה. Accordingly, all אידן must refrain from performing מלאכה on ערב פסח, on account of the קרבן-פסח that is offered on that day.⁵

Although the פסוק states this דין in the context of קרבן פסח, the ירושלמי goes on to explain that this דין equally applies whenever a person offers up any other קרבן. Nevertheless, there is a clear distinction between the קרבן-פסח and all other קרבנות: Technically, all other קרבנות may be offered at any time of the day. Therefore, one must treat the entire day as a יום, irrespective of the actual time that the קרבן is actually offered. Conversely, the קרבן-פסח may only be offered after חצות, and therefore, ערב-פסח needs to be treated as a יום-טוב only from חצות onwards.

☞ Why does the ירושלמי focus on the קרבן-פסח, yet disregards the חגיגת י"ד?

The ר"ם (in his commentary to the ס"ט עמוד ב' on) asks: The גמרא (on) teaches that an additional קרבן, the חגיגת-ארבעה-עשר, was customarily offered along with the קרבן-פסח. The basis for offering such a קרבן is because the meat of the קרבן פסח must make one feel satisfied. This is easy to achieve when the קרבן פסח is divided amongst a small number of participants, and the meat of the קרבן פסח is plentiful enough to fully satiate each of the participants. However, when the קרבן פסח is divided amongst a large number of participants⁶, the small sizes of the portions would not make a person feel full. A חגיגת-ארבעה-עשר is offered in these instances, and all the participants partake of it until they are satisfied to the extent that the קרבן-פסח will complete their feeling of satisfaction.

Now, the חגיגת-ארבעה-עשר may presumably be offered the entire day. If so, why does the איסור of performing מלאכה on ערב-פסח apply only after חצות; it should also be prohibited before חצות on account of the חגיגת-ארבעה-עשר! The ר"ם suggests a number of solutions:

² In this context, the term מלאכה does not refer to the מלאכות, but rather to tedious or skilled manual labour.

³ This contradiction is further analyzed in footnote 11.

⁴ This contradiction cannot be resolved the other way, by stating that the actual שחיטה must be performed by the owner of the קרבן פסח, whereas the roasting and eating may be performed by a שליח, for it is obvious that the owner must eat the קרבן פסח himself, and he cannot delegate this duty to a שליח.

⁵ The משנה-למלך (in כלי-המקדש פ"ו ה"ט) maintains that it should also be forbidden to fast and eulogize on ערב-פסח, for the ירושלמי explicitly equates the דין of fasting and eulogizing with the דין of מלאכה. The משנה-למלך wonders why the פוסקים do not rule accordingly.

⁶ The מאירי (דף ס"ט עמוד ב' on) explains that there often was not a large enough supply of animals suitable for the קרבן-פסח, which must be a lamb or kid within its first year. Thus, many people would be forced to participate in one קרבן-פסח. The חגיגת-ארבעה-עשר was typically not in shortage, for it may be a cow, sheep or goat, and does not have to be a yearling.

- ❖ *Perhaps* the עשר חגיגת-ארבעה-עשר may only be offered after חצות, like the קרבן-פסח. Although we do not clearly find that the גמרא equates the חגיגת-ארבעה-עשר and the קרבן-פסח in this regard, this may be because the גמרא regards this as obvious. Alternatively, *perhaps* the גמרא does not equate them because of *another* difference between the two; although both are offered up after חצות, the קרבן-פסח must be offered **after** the תמיד-של-בין-הערבים (the daily afternoon קרבן-תמיד), whereas the חגיגת י"ד *might* need to be offered **before** the תמיד-של-בין-הערבים.
- ❖ As explained above, the חגיגת ארבעה עשר was offered only in order to facilitate one's proper observance of the קרבן פסח. Thus, even if we accept that the חגיגת ארבעה עשר may be offered the entire day, nevertheless, it cannot create more of a יום טוב than the קרבן פסח itself.

[For further discussion regarding the exact time of day to offer the חגיגת ארבעה עשר, see the צ"ח (on "א ע"א); the משנה למלך (in "ה"ט); the מנחת חינוך (in "א"ט); and אנציקלופדיה תלמודית (volume 12, pages 606-607).]

⌘ **The ירושלמי: The היתר to perform מלאכה every day of the year.**

The ירושלמי asks: If it is true that one must treat the day that he offers a קרבן as a יו"ט, why is it ever permissible to work, being that there are two קרבנות offered every single day of the year on behalf of every single איד – the morning and afternoon תמיד קרבן. The ירושלמי answers: The תורה makes a special exception with regards to the תמיד קרבן, for the תורה explicitly states "וְאַסַּפְתָּ דִּגְנֶךָ" ("and you shall gather your grain"). This פסוק proves that the קרבן תמיד does not prevent one from working, for it was forbidden for all Jews to work every single day of the year, then how would the grain ever be gathered!

⌘ **Why does the ירושלמי quote the פסוק of "וְאַסַּפְתָּ דִּגְנֶךָ"?**

The אחרונים ask: Why does the ירושלמי bring the less explicit פסוק of "וְאַסַּפְתָּ דִּגְנֶךָ", and not the far more direct פסוק of "שֵׁשֶׁת יָמִים תַּעֲבֹד וְעָשִׂיתָ כָּל מְלַאכְתֶּךָ" ("six days you shall labour and perform all your work")?

- ❖ The צ"ח answers: When one offers a קרבן, only the daytime needs to be treated as a יום טוב, and not the night-time. Now, the פסוק of "שֵׁשֶׁת יָמִים תַּעֲבֹד וְעָשִׂיתָ כָּל מְלַאכְתֶּךָ" does not **prove** that one may work during the day, for one **could** argue that the פסוק refers to night work. Although the פסוק explicitly states "שֵׁשֶׁת יָמִים", it is clear that the פסוק refers to a **period** of six days, which includes the nights⁷. Thus, the פסוק proves only that work is permissible during the overall period of six weekdays, but not necessarily during the daytime hours.

Instead, the ירושלמי brought the פסוק of "וְאַסַּפְתָּ דִּגְנֶךָ", in which ה' blesses the בני ישראל with a bountiful harvest. Obviously, it is completely impractical to reap a bountiful harvest during the night hours, and the פסוק thus proves that it is permissible to work during the day. [The צ"ח goes on to say that this is why the ירושלמי explains their proof from the פסוק at such great length, "אם כל ישראל יושבים ובטלים מי יאסוף להן דגן" ("if all the אידן are sitting idle, who will gather for them the grain?"), in order to emphasize that this פסוק speaks of reaping a plentiful harvest, which requires much daytime work.]

- ❖ The צ"ח provides an alternate answer: The פסוק of "שֵׁשֶׁת יָמִים תַּעֲבֹד וְעָשִׂיתָ כָּל מְלַאכְתֶּךָ" does not **prove** that one may work in spite of the תמיד קרבן, for one **could** argue that the above-mentioned פסוק applies only after the חורבן, when there is no קרבן תמיד. Therefore, the ירושלמי brings the פסוק of "וְאַסַּפְתָּ דִּגְנֶךָ" instead, which speaks of a time when the אידן are settled and in

⁷ – "כל מקום שנאמר שבעת שם דבר הוא, שבוע של ימים, וכן כל לשון שמונת, ששת, חמשת, שלשת" – "Wherever the word שבעת is used, it is a noun which means a septet (a group of seven) of (consecutive) days, and similarly, any instance of the terms שמונת (octet – a group of eight), ששה (sextet – a group of six), חמשת (quintet – a group of five), and שלשה (triad – a group of three)".

control of ישראל, as is clear from the context of that פסוק. Thus, this פסוק proves that it is permissible to work despite the קרבן תמיד.

- ❖ The answer: When the תורה mentions מלאכה, it occasionally means "מלאכת אוכל נפש" (labour required for the preparation of food). Accordingly, one **could** argue that "שֵׁשֶׁת יָמִים תַּעֲבֹד וְעֵשִׂיתָ כָּל מְלֶאכֶתֶךָ" does not **prove** that one may work despite the קרבן תמיד, for perhaps that פסוק refers only to "מלאכת אוכל נפש". Instead, the ירושלמי brings the פסוק of "וְאֶסְפֹּת דְגָנְךָ", for harvesting is "מלאכת עבודה" (full-fledged labour) and not "מלאכת אוכל נפש".⁸ Thus, this פסוק proves that one may perform full-fledged work despite the קרבן תמיד.⁹

⚡ **Does the דין of the ירושלמי have the status of a דאורייתא or a דרבנן?**¹⁰

According to תוספות, the ירושלמי indicates that the prohibition to work when one offers a קרבן is מדאורייתא. How does תוספות know this?

Perhaps תוספות infers this from the fact that the ירושלמי sources this דין in the פסוקים of "שֵׁם תִזְבַּח אֶת הַפֶּסַח" and "וּבְשַׁלְתָּ וְאָכַלְתָּ", as explained above. However, this explanation seems unlikely, for two reasons. First, there is always the possibility that the ירושלמי cited these פסוקים as an אסמכתא. Second, תוספות does not actually quote this part of the ירושלמי, and if it played a central role in drawing their conclusions, it seems inconceivable that they would omit it.

Rather, it appears that תוספות's inference draws on the fact that the ירושלמי requires the פסוק of "וְאֶסְפֹּת דְגָנְךָ" to permit work when offering the קרבן תמיד, which shows that the general איסור is מדאורייתא. For, if the general איסור was only מדרבנן, why would the חכמים need a פסוק in order to treat the קרבן תמיד as an exception? Or, put somewhat differently, if the general איסור was merely מדרבנן, how would the פסוק of "וְאֶסְפֹּת דְגָנְךָ" prove that the חכמים treat the קרבן תמיד as an exception?

On the other hand, the ר"ן argues with תוספות and holds that the איסור to work when one offers a קרבן is possibly only מדרבנן,¹¹ and the חכמים merely supported their תקנה with various פסוקים, as an

⁸ The Alter Rebbe explains (in ש"ע סי' תצ"ה סעיף ט') that harvesting grain is technically regarded as מלאכת אוכל נפש, and it is therefore permitted התורה. [It is ultimately forbidden only because such work is normally done in great bulk, in a manner which provides for a great period of time, and the חכמים were concerned that if harvesting would be permitted, one would end up doing it in great bulk, thereby preparing for the weekdays after י"ט and refraining from the joy of י"ט.] If so, how could the חת"ס and the אור חדש state that the פסוק of "וְאֶסְפֹּת דְגָנְךָ" proves that even full-fledged labour is permitted, when the פסוק discusses harvesting which is technically מלאכת אוכל נפש?

In truth, although the explanation of the Alter Rebbe is the one accepted להלכה, there are many other opinions in the ראשונים. The הלכה is based on the opinions of the רמב"ם, the רא"ש and the ר"ן, who hold that harvesting on יום טוב is permitted התורה. However, other ראשונים maintain that harvesting on יום טוב is forbidden התורה, and it does not qualify as מלאכת אוכל נפש! This includes the opinions of תוספות (in ד"ה כאן) and the רמב"ן, although they argue about the specifics. Interestingly, although תלמוד ירושלמי does not clearly address this matter, (ביצה א:י) clearly derives the prohibition of harvesting from פסוקים, indicating that harvesting does not qualify as מלאכת אוכל נפש! As such, we can now understand the assertion of the חת"ס and the אור חדש – since the ירושלמי itself holds that harvesting does not constitute מלאכת אוכל נפש, the פסוק of "וְאֶסְפֹּת דְגָנְךָ" proves that even מלאכת עבודה (full-fledged labour) is permitted.

⁹ This פרהי כהונה reject this explanation, for the פסוק clearly states "שֵׁשֶׁת יָמִים תַּעֲבֹד וְעֵשִׂיתָ כָּל מְלֶאכֶתֶךָ" – **all** מלאכות! How could it even be suggested that this פסוק deals with "מלאכת אוכל נפש" **exclusively**?

¹⁰ The גמרא records a מחלוקת regarding the איסור to work during the morning hours of פסח (see רש"י and רש"י ערב פסח at that location for the precise basis of this איסור), and in the ensuing discussion, it refers to the איסור of working on ערב פסח as "מלאכה דרבנן". The פרי חדש (סי' תס"ח) proves from this that the איסור to perform מלאכה on ערב פסח is most certainly מדרבנן. The פרי מגדים (מ"ז סי' תס"ח סק"א) disputes this proof, because the גמרא there refers to the איסור of working during the **morning** hours of ערב פסח, which is certainly not מדאורייתא. Thus, that גמרא does not prove whether the איסור of working **after** פסח is מדאורייתא or מדרבנן.

¹¹ The ר"ן's opinion of the ירושלמי has its advantages:

First of all, the ירושלמי raises a contradiction between the פסוקים of "שֵׁם תִזְבַּח אֶת הַפֶּסַח" and "וּבְשַׁלְתָּ וְאָכַלְתָּ": On the one hand, the פסוק of "שֵׁם תִזְבַּח אֶת הַפֶּסַח" implies that the actual שחיטה must be performed by the owner of the פסח, and not by his

אסמכתא.¹² A number of other ראשונים agree with the ר"ן on this point; these include the ריטב"א, the הלכות יו"ט פ"ח הי"ז וי"ח) רמב"ם and the מאירי.

The אור-חדש and חתם-סופר add¹⁴ that the פסוק of "וְאִסְּפָתָהּ דְּגִנְךָ" is useful in proving that the חכמים treat the קרבן תמיד as an exception, on the basis of the famous principle commonly attributed to the ט"ז;¹⁵ that the חכמים do not have the power to forbid something which the פסוק explicitly permits. Therefore, the פסוק of "וְאִסְּפָתָהּ דְּגִנְךָ" – which explicitly permits one to work on a daily basis – explains why the חכמים did not forbid it!

On the other hand, the following פסוק of "וּבִשְׁלֵתָ וְאָכַלְתָּ" implies that it is only the actual roasting and eating which must be performed by the owner of the פסח, as opposed to the שחיטה, which may be performed by a שליח. Now, this "contradiction" seems rather perplexing, being that there are several obvious ways to easily resolve it. For example, the ירושלמי could easily have explained the when the פסוק states "you (shall slaughter, roast, eat)", the intent is not to exclude a שליח, but rather, simply to let "you" know the process of offering the פסח. Furthermore, even if the intent is to exclude a שליח, why are the פסוקים of "שֵׁם תִּזְבַּח אֶת הַפֶּסַח" and "וּבִשְׁלֵתָ וְאָכַלְתָּ" viewed as **contradictory** when they could just as easily be **complementary**; i.e. the פסוק of "שֵׁם תִּזְבַּח אֶת הַפֶּסַח" excludes a שליח from performing the שחיטה, and the following פסוק of "וּבִשְׁלֵתָ וְאָכַלְתָּ" adds that a שליח is excluded from roasting or eating the פסח. What is the contradiction?

According to the ר"ן, the answer to these questions is simple. For, according to the ר"ן, the ירושלמי is not explaining the **true** intent of these פסוקים, but rather, explaining how the חכמים **created** a new interpretation as a support (אסמכתא) for their תקנה. Conversely, תוספות seems to understand that the ירושלמי is in fact explaining the **true** meaning of the פסוק. If so, why is the ירושלמי convinced that there is a contradiction which must be solved, when it is much more straightforward to accept that there is no contradiction in the first place!

[In defence of תוספות, there are those who explain the ירושלמי somewhat differently. According to them, the ירושלמי is focussed on the change of form. In other words, the ירושלמי is questioning why the תורה did not state תִּזְבַּח, which parallels the form of the words וּבִשְׁלֵתָ וְאָכַלְתָּ, but instead chose the different form of תִּזְבַּח instead. The ירושלמי answers that this change in form indicates that slaughtering is different to roasting and eating; whereas the roasting and eating must be done by the owner himself, the slaughtering may be done by a שליח as well.]

Another point: After deriving the source of this איסור from the פסוקים of "שֵׁם תִּזְבַּח אֶת הַפֶּסַח" and "וּבִשְׁלֵתָ וְאָכַלְתָּ", the ירושלמי summarizes: "אינו בדין שתהא עסוק במלאכתך וקרבתך קרב אבל אסרו מלעשות מלאכה" ("it is not correct that you should be involved in work whilst your קרבן is offered, but **they** forbade one to perform work"). This line of the ירושלמי is surprising for two reasons: First of all, why does the ירושלמי speak at such length? Secondly, since the איסור is derived from פסוקים, why does the ירושלמי conclude that **they** – the חכמים – forbade one to perform work?"

According to the ר"ן, the answer to these questions is simple: The ירושלמי speaks at length in order to signal that its interpretation of the פסוק is not its true meaning, but only an אסמכתא. Thus, the ירושלמי means: It is not correct to work whilst one's קרבן is offered. Although this is not the **true** intention of the פסוק, nevertheless, **they** – the חכמים – used it as an אסמכתא to forbid work.

According to תוספות however, the ירושלמי cannot be interpreted this way, for they hold that the ירושלמי is explaining the true meaning of the פסוק. See footnote 35 for a possible explanation as to how תוספות interprets this line of the ירושלמי.

¹² An אסמכתא refers to a דין דרבנן that is "supported" by a פסוק. There are several opinions as to what exactly this means:

מהר"ל – The חכמים supported their דין with a פסוק that they "re-explained". Thereby, the masses would think that the דין is מדאורייתא, which would lead them to treat it with the proper respect.

ריטב"א – In an אסמכתא, the פסוק actually means what the חכמים say it means. However, the תורה only stated the דין as a suggestion, not as an obligation. Later on, the חכמים decreed that this דין should be adhered to as an obligation, and this תקנה thus has support from the פסוק.

קריית ספר – When the חכמים instituted new תקנות, they were sometimes open to various ways of instituting them. For example, when the חכמים instituted that one should not travel 2000 אמות on שבת, they could have prohibited 1000 אמות or 3000 אמות instead. Ultimately, they instituted 2000 אמות, because there is a פסוק that can be interpreted as teaching that 2000 אמות is forbidden.

¹³ The מלך (in כלי המקדש פי"ו ה"ט) goes a step further and tentatively suggests that refraining from work when offering any other קרבן is really only a מנהג דרבנן, and only with regards to ערב פסח did the חכמים boost this practice further and confer it the status of an איסור דרבנן. See there at length.

¹⁴ This point is also made by הגהות ר' אייזיק חבר, as well as קי"ז סי' קי"ז.

¹⁵ See the ט"ז in קי"ז סי' קי"ז. In truth, this principle is also espoused by many מפרשים who preceded the ט"ז.

Why is it forbidden to do מלאכה on ערב פסח before חצות?

The משנה mentions the מנהג not to work on ערב פסח before חצות. According to the ירושלמי, what is the basis for this מנהג? The זמן for offering the פסח only begins after חצות, so why should the איסור of performing מלאכה be extended to the morning?

The רא"ש (in שו"ת כלל נ"ה סי' י') answers that this מנהג is an extension of the איסור to work after חצות, on account of the קרבן פסח. The רא"ש does not elaborate further; here are several possible explanations:

- ❖ Since the איסור to perform מלאכה after חצות is מדאורייתא, some accepted the מנהג of refraining from מלאכה in the morning as well, in order to prevent one from mistakenly confusing the time and performing מלאכה after חצות whilst thinking that it was still before חצות. In truth, this explanation is difficult to accept, for ערב פסח has yet other far more serious איסורים which begin only at חצות – the איסורים of eating or possessing חמץ. Yet, although the חכמים were concerned about one mistakenly confusing the time with regards to those איסורים, nevertheless, they did not deem it necessary to extend these איסורים for more than an extra two hours (as specified in the משנה on עמוד ב' דף י"א עמוד א'). If so, why would it be necessary to safeguard the איסור of מלאכה after חצות by refraining from מלאכה already at daybreak?
- ❖ The אור-חדש does not mention the תשובה of the רא"ש, yet he explains a reason which may be compatible with the words of the רא"ש. The אור-חדש notes that there is one opinion in ש"ס – the opinion of בתירה – בן בתירה – who holds that a קרבן פסח is כשר if offered before חצות. Accordingly, those who accepted the מנהג of refraining from מלאכה before חצות did so in deference to the opinion of בתירה, who requires one to treat the entire day of ערב פסח as a יו"ט.

This explanation of the אור-חדש finds it parallel in the גמרא (דף ק"ח עמוד א' סו) which discusses why רב ששת would not eat on ערב פסח. The גמרא suggests that eating might distract one from offering the קרבן פסח, and this is why רב ששת already stopped eating from the morning, in deference to בתירה who regards the entire day of ערב פסח as a suitable time to offer the קרבן פסח.

The answer of the אור חדש does seem difficult; why would a מנהג be established purely on the basis of a solitary opinion which is not the accepted הלכה? Even though the גמרא suggested such an explanation as basis for רב ששת's conduct, the גמרא ultimately rejects this suggestion.

- ❖ Another possible answer: The ירושלמי itself notes that קרבן פסח is unusual in the sense that one must observe only the afternoon as יו"ט, as opposed to any other קרבן which requires one to observe the entire day as a יו"ט. In order not to differentiate between קרבנות (and cause confusion), some accepted the מנהג not to work at all on ערב פסח.

Unlike the רא"ש, several אחרונים hold¹⁶ that the reason of the ירושלמי does not provide any basis for the מנהג to prohibit מלאכה before חצות, and the reason for the מנהג is in order to ensure that one sets aside sufficient time to focus on the פסח preparations, in line with concerns that רש"י mentions¹⁷.

¹⁶ See the קרבן העדה and the פני משה on the ירושלמי who invoke רש"י's explanation to explain the מנהג prohibiting מלאכה before חצות, even though they certainly hold that the איסור after חצות is on account of the קרבן פסח.

¹⁷ This explanation precisely matches one suggested interpretation of רש"י, as noted in footnote 50.

**APPENDIX to PART A:
Working on ראש חודש and חול המועד despite the מוסף קרבן.**

The אחרונים ask: Why is it מותר to perform מלאכה on ראש חודש? Since a קרבן מוסף is offered on behalf of all the אידן on ראש חודש, work should be forbidden; either מדאורייתא (according to תוספות), or מדרבנן (according to the ר"ן)! For, although the ירושלמי provides a פסוק which proves that one may work despite the קרבן תמיד, there does not seem to be any פסוק proving that one may work despite the קרבן מוסף of ראש חודש!

Furthermore, although it is well established that one may not work on חול המועד, there is a famous מדרבנן as to whether the מלאכה on חול המועד is מדאורייתא or only מדרבנן. Now, the whole discussion seems redundant according to תוספות, for a קרבן מוסף was in any case offered each day of חול המועד, which itself should be sufficient reason to forbid work on חול המועד – even מדאורייתא. For what purpose does תוספות discuss (elsewhere) whether the מלאכה of חול המועד is מדאורייתא or מדרבנן? This problem becomes all the more pronounced in light of תוספות's conclusion in מסכת חגיגה (see דף י"ח עמוד א' ד"ה חוש"מ) and elsewhere; that the איסור to perform מלאכה on חול המועד is only מדרבנן!

Similarly, according to the ר"ן who holds that the איסור מלאכה generated by a קרבן is only מדרבנן, it would be problematic to say that the איסור מלאכה of חול המועד is only מדרבנן. Why would the חכמים have to make such a תקנה, considering that מלאכה should already be מדרבנן on account of the קרבן מוסף that was offered each day of חול המועד?

The אחרונים present various approaches:

- ❖ The צ"ח: The purpose and focus of the פסוק of "וְאֶסְפַּתְּ דְגַנְךָ" is not to teach that one may work in spite of the קרבן תמיד, but rather, that the אידן are blessed with a bountiful harvest (amongst other things) as a reward for obeying the word of ה'. As such, the פסוק is not a **source** or **reason** for explaining why one may work despite the קרבן תמיד, but rather, merely a גילוי ("revelation") that this is the case. Thus, even once this פסוק **proves** that one may work despite the קרבן תמיד, it is still necessary to explain **why** the קרבן תמיד and קרבן פסח are different. Logic dictates that the distinction lies in the fact that the קרבן תמיד is a קרבן ציבור (a קרבן), whereas the קרבן פסח is a קרבן יחיד (an individual קרבן). The קרבן יחיד has much more of a personal connection with its owner than does a קרבן ציבור, for a קרבן יחיד is offered directly by the individual (or his שליח), whereas a קרבן ציבור is offered by בית דין on behalf of all בני ישראל.

According to this explanation, a קרבן ציבור does not require the individual to refrain from מלאכה, whereas a קרבן יחיד does require the individual to refrain from מלאכה. It is for this very reason that the קרבן מוסף does not require the individual to refrain from מלאכה.

- ❖ The טורי אבן (מגילה דף כ"ב ע"ב in) presents a radically different approach: The קרבן מוסף is indeed reason to withhold בני ישראל from working on the day that it is brought, but it is not reason to prevent them from working at night, or after the חורבן. It is specifically at these times that it is permissible to work on ראש חודש, and to establish that there is a separate prohibition against working on חול המועד, whether מדאורייתא or מדרבנן.

The approach of the טורי אבן raises an obvious difficulty: Being that the איסור of working on account of the קרבן פסח still applies these days (for the reasons explained in Part B), why does the איסור of working on account of the קרבן מוסף not apply these days¹⁸? The טורי אבן struggles

¹⁸ In Part B, various reasons are provided for explaining why the איסור of working on account of the קרבן פסח still applies these days. All of these reasons seem applicable to the קרבן מוסף as well, besides one: The צ"ח points out that the קרבן פסח

with this problem and ultimately suggests that the חכמים did not carry over the איסור מלאכה to the times after the חורבן,¹⁹ given that ראש חדש occurs many times throughout the year, and a prohibition to work on these days would cause great financial loss and inconvenience.

was brought by the majority of the אידן, but not by the minority who were exempt (e.g. those who were טמא or רחוקה). Yet, the משנה teaches that there is an איסור for **all** אידן – without exception – to perform מלאכה on ערב פסח. According to the opinions that the איסור מלאכה on ערב פסח is התורה מן התורה, why should it extend to even those אידן who are exempt from the קרבן פסח? Presumably, this is because the חכמים extended the איסור even to those אידן who did not participate in the קרבן פסח. Once the חכמים made a תקנה banning **all** אידן from performing מלאכה – whether they participated in the קרבן פסח or not, this תקנה remains in force for all time, being that it is a "דבר שבמניין". [This is a brief summary of the צל"ח; see Part B page 12 for further elaboration.] Conversely, with regards to the קרבן מוסף, there would have been no need for the חכמים to make any תקנה, being that every single איד was represented in the קרבן מוסף, and thus, every איד without exception was prohibited מן התורה from working on the day of the קרבן מוסף. Thus, there was no reason for the חכמים to make a תקנה banning work on the day of a קרבן מוסף, and thus there is no איסור when the קרבן מוסף is no longer offered.

¹⁹ When there is no דאורייתא איסור.

PART B

Whether the ירושלמי's reason is relevant these days.

Nowadays, there is no בית המקדש, and the קרבן פסח is no longer offered²⁰. Accordingly, the בעל המאור and ר"י maintain that there is no longer any איסור to perform מלאכה on ערב פסח, and the matter is subject purely to the local מנהג. However, תוספות clearly argues, as do most other ראשונים.

The רמב"ן provides various proofs to support the position of the ראשונים:

- ❖ The משנה was written after the בית המקדש, and yet, there is nothing in the משנה which indicates that the איסור no longer applies. In fact, had the משנה meant to limit this דין to the era of the בית המקדש, it should have presented this דין as the איסור מלאכה that applies during the timeframe of the קרבן פסח, instead of presenting it applying in the timeframe of ערב פסח. This clearly demonstrates that the איסור to work on ערב פסח applies after the חורבן.²¹
- ❖ A משנה records a debate between ר' מאיר and the חכמים as to whether one may complete a מלאכה that he already started before the זמן האיסור. Now, ר' מאיר lived after the חורבן, and it is highly unlikely that he would have argued about a דין which was not practically relevant in his time. This clearly demonstrates that the איסור to work on ערב פסח applied even in his time, after the חורבן.²²

⚡ According to the ירושלמי, why is there an איסור בזמן הזה?

According to those who hold that the דין of the ירושלמי is מדרבנן:

Ultimately, the בעל המאור raises an important question: According to the ירושלמי, the איסור to work on ערב פסח is only on account of the קרבן פסח. Why should this איסור apply these days, when there is no קרבן פסח?

According to the opinion that the דין of the ירושלמי is מדרבנן, the answer is relatively simple, as explained by the רמב"ן:²³ There is a principle that "כל דבר שבמנין צריך מנין אחר להתירו" ("any matter instituted by a tally of חכמים requires another tally to repeal it"). This principle teaches that if the חכמים make a תקנה that is accepted by ישראל, it remains in force even after the underlying cause or reason for the original תקנה no longer applies. [Such a תקנה can only be repealed by another group of חכמים; the ראשונים debate whether it is sufficient for the latter group to be as great and as large as the former group, or perhaps they need to be even greater and larger.] The source for this principle: As a preparation to מתן תורה, the אידן were instructed "אל תגשו אל אשה" – to separate from their wives. Obviously, the reason for this command was in order to properly prepare for מתן תורה. If so, it would seem just as obvious that the אידן were automatically permitted to return to their wives after מתן תורה. Yet, we find after מתן תורה that ה' specifically instructed "לך אומר להם שובו" "לך אומר להם שובו" ("go tell them that they may return to their tents"). This demonstrates that an איסור remains in force even after its reason no longer applies, unless it is explicitly repealed. [The פרי מגדים (see "א"א סי' תס"ח סק"א) emphasises that this principle of "דבר שבמנין" is not merely מדרבנן (and the פסוק merely an אסמכתא), but מדאורייתא.] Here too, although the original reason for the איסור to work on ערב פסח no longer applies, the תקנה nevertheless remains in full force, being that it was never repealed.

²⁰ Actually, there is uncertainty as to whether the קרבן פסח must be offered when control of the הבית is in Jewish hands. This became a practical matter after the six-day-war, until control of the הבית was given away several years later. The Rebbe discusses this issue in לקוטי שיחות חלק י"ב (on pages 221-222), and advised that one sidestep the matter by spending ערב פסח away from ירושלים.

²¹ וכ"כ הריטב"א.

²² וכ"כ הריטב"א והמאירי.

²³ וכ"כ הראב"ד, הריטב"א, רבנו דוד, הר"ן בחי' ועל הרי"ף, המהר"ם חלאוה, המאירי, הרשב"ץ במאמר חמץ צה-צו (תורת הראשונים עמ' ת"ע).

The רמב"ן explains²⁴ that this is also the explanation of a סוגיא in משנה (on דף צ"ט) teaches that there is an איסור דרבנן to eat on פסח. [The גמרא clarifies the exact length and extent of this איסור.] The גמרא discusses whether the reason for this איסור is in order that one not be distracted from offering up the פסח, or in order that one have a good appetite for מצה. The גמרא (on דף ק"ח עמוד א') suggests that רב ששת, who would not eat on פסח, held of the former reason²⁵. [The גמרא ultimately rejects this suggestion.] Now, חורבן; how could the גמרא even think of suggesting that his fast had anything to do with the פסח? This demonstrates, says the רמב"ן, that an איסור דרבנן applies even long after its reason no longer applies.

To further bolster his answer, the רמב"ן notes²⁶ that although the original reason for the איסור to work on פסח no longer applies, nevertheless, there is still good reason to extend this תקנה to our times, in order to ensure that one is not distracted from his פסח preparations²⁷, and this is why a subsequent בית דין cannot nullify this תקנה.

The ראב"ד adds: We find elsewhere that the חכמים required us to conduct ourselves as in the times of the המקדש, in order that we be accustomed to act fittingly when it is speedily rebuilt²⁸. Here too, it is forbidden for us to work on פסח even in our times, in order that we be accustomed to act appropriately once the practice of הפסח recommences²⁹.

According to the ירושלמי, why is there an איסור בזמן הזה?

According to those who hold that the דין of the ירושלמי is מדאורייתא:

At first glance, the logic of the רמב"ן does not appear to work for תוספות, for they hold that it is אסור to work on the day that one offers a קרבן. Thus, it would seem out of place to discuss the concept of a שבמנין, דבר שבמנין, being that it applies to a דין דרבנן and not to a דין דאורייתא! [By the same token, it would be irrelevant to cite the above-mentioned case of רב ששת, for abstaining from food on פסח is מדרבנן, and not מדאורייתא!]

In truth, this needs to be examined further: As explained above, the principle of שבמנין דבר is derived from ה' instructions (regarding separating from one's wife before תורה). If so, it could be argued that the concept of שבמנין דבר applies even to a דין דאורייתא. That being the case, one could explain that even if the איסור to work on פסח is מדאורייתא, due to the קרבנות offered on that day, nevertheless, the איסור remains in force even when קרבנות are no longer offered. This seems to be the approach of the פרי מגדים (see סק"א).

²⁴ וכ"כ רבנו דוד, הר"ן בחי' ועל הרי"ף, המהר"ם חלאוה, המאירי, הרשב"ץ במאמר חמץ צה-צו (תורת הרשונים עמ' ת"ע).

²⁵ The רמב"ן is astounded by this suggestion; if anything, the day when one brings a קרבן is reason to celebrate by **not** fasting or eulogizing (see footnote 5)! The גמרא answers that, according to one approach there, תוספות didn't actually fast (i.e. accept the day upon himself as a fast, known as תענית); rather, he just didn't eat.

²⁶ וכ"כ הר"ן בחי' ועל הרי"ף, הריטב"א, המאירי. וראה גם מש"כ המהר"ם חלאוה.

²⁷ This sentiment is echoed in footnote 51; see there.

²⁸ For example: The משנה (in מסכת ר"ה) relates that shortly after the destruction of the second המקדש, it was decreed that חדש (new produce that may not be eaten before the עומר) should not be eaten until the **end** of the sixteenth of ניסן, even though מדאורייתא, when there is no קרבן העומר, one may eat it at **daybreak** of the sixteenth. The reason for this תקנה was because "מהרה יבנה בית המקדש"; the בית המקדש will speedily be rebuilt. If people would be allowed to eat חדש at daybreak when there is no בית המקדש, then the following year – when the בית המקדש is already rebuilt – they might mistakenly think that חדש is still permitted at daybreak (even before the קרבן העומר is offered), for that is what they did the previous year. In order that they be accustomed to act fittingly when the בית המקדש is speedily rebuilt, ובא רבן יוחנן בן זכאי instituted that חדש should not be eaten until the **end** of the sixteenth of ניסן.

²⁹ The ראב"ד's other remarks indicate that the איסור to work on פסח is merely מדרבנן; yet, he still mentions the concept of "מהרה יבנה בית המקדש". This is a חידוש, because there is no precedent to say that the concept of "מהרה יבנה בית המקדש" applies to a דין דרבנן!

However, the צ"ח contends that the "דבר שבמנין" rationale is effective only according to those who hold that the איסור to perform מלאכה is מדרבנן, for only then could it be said that the **definition** of the original איסור was not to work **on פסח ערב**, and that this תקנה remains in force even when its reason no longer applies. However, if the איסור is מדאורייתא, then the precise definition of the איסור is **not** to refrain from work **on פסח ערב**, but rather, to refrain from work **when bringing a קרבן**. Accordingly, in our times when the קרבן פסח is no longer offered, the איסור דאורייתא of working when bringing a קרבן certainly does not apply. If so, we are back to the original question: Why should the איסור of working on פסח ערב apply these days when there is no קרבן פסח?

Several possible answers:

- ❖ The ר"ש and the הרשב"א explain that since our forefathers observed פסח ערב as a יו"ט, we are duty bound to observe it as well. This answer fits the words of תוספות precisely, who state: "ונראה דאף בזמן הזה דליכא הקרבה כיון שנאסר אז אסור לעולם" ("it appears that even these days when there is no offering, **since** it was forbidden **then**, it is forbidden forever"). A close examination of these words reveal that תוספות is not merely stating a **fact**; that the איסור to perform מלאכה on פסח ערב these days remains in force as in times bygone. Rather, תוספות is actually stating the **reason** as well; that the איסור to perform מלאכה on פסח ערב applies these days **because** it applied in times bygone.

These ראשונים bring an interesting precedent: When the second המקדש בית המקדש was built, the אידן required much wood to fuel the fire on the מזבח. Several families rose to the occasion, and they donated the necessary wood. In recognition of their tremendous מצוה, these families and their descendants were granted the privilege of donating wood to the בית המקדש annually; each family at their appointed time. On the day that each respective family would donate wood, they would also offer an עולת נדבה (a donated burnt-offering). That day was observed as a יום טוב for the family; they would not fast, deliver eulogies or engage in מלאכה.³⁰

Now, the רבי אלעזר ב"ר (י"ב עמוד א' on) תענית and (דף מ"א עמוד א' on) עירובין in גמרא relate that רבי אלעזר ב"ר hailed from the family of בנימין בן סנאב, who were privileged with bringing their annual תשעה באב. According to רבי אלעזר ב"ר, it once happened that תשעה באב occurred on שבת, and the fast was deferred to Sunday. Since Sunday – י' אב – was his family's personal יום טוב, he and the members of his family merely commenced the fast, but did not complete it.

It is common knowledge that רבי אלעזר ב"ר lived at the time of the חורבן, as his father, רבי צדוק, was one of the elders at the time of the חורבן.³¹ Thus, this תשעה באב incident could have technically occurred either right before, or right after, the חורבן. The ר"ש and תוספות (as well as הרשב"א) are of the opinion that this incident must have actually occurred after the חורבן, because the אידן did not observe the fast of תשעה באב during the times of the second המקדש בית המקדש. Even though תשעה באב had been established as a fast day immediately after the destruction of the first המקדש בית המקדש, nevertheless, it was transformed into a day of rejoicing during the era of the second המקדש בית המקדש, much in the same way as when משיח comes.

From this, we clearly see that the family of בנימין בן סנאב still observed their forefather's יו"ט even after the חורבן – to the extent that they did not fast on נדחה באב (deferred תשעה)

³⁰ The (כלי המקדש פי"ו ה"ט) משנה למלך explains that the יו"ט was mainly on account of the קרבן that was offered, and not on account of the עצים that was donated. See there at length.

³¹ See גיטין דף נ"ו for a detailed account of how רבי צדוק fasted for forty years in order to prevent the חורבן, and about his subsequent rehabilitation.

באב)³² Similarly, ערב פסח must be observed these days, in commemoration of our forefather's observance during the times of the בית המקדש.

[It should be noted that the proof of the רא"ש and the תוספות הרשב"א is based on the presumption that the אידן did not fast on תשעה באב during the times of the second בית המקדש. This is the opinion of most ראשונים, based on their interpretation of the גמרא in 'ר"ה י"ח עמוד ב'. However, the רמב"ם (in פ"א ה"ג in רמב"ם, based on his unique interpretation of the above-mentioned גמרא) holds that the fasts associated with the destruction of the first בית המקדש were not completely revoked during the times of the second בית המקדש. Instead, these fasts became optional, with many adherents still fasting. In fact, the words of the רמב"ם indicate that the fast of תשעה באב in particular was observed during the time of the second בית המקדש.³³ According to the רמב"ם, it is quite possible that the above-mentioned תשעה באב incident actually occurred before the חורבן, and the family of בנימין סנאב בן בנימין commemorated the day as a יו"ט (to the extent of not fasting on the נדחה באב נדחה) precisely because **they** were bringing up their קרבן **on that very day**, and not merely because their forefathers had once observed the day as a יו"ט.

In a certain sense, this explanation seems more favourable than that of the רא"ש and the תוספות הרשב"א, for it becomes easier to understand why the טוב of יום בנימין בן סנאב was important enough to override תשעה באב נדחה. According to the רמב"ם, this יו"ט which celebrated the קרבן they offered that very day was more important than the fast which was optional during those times. According to the רא"ש and the תוספות הרשב"א however, it is harder to understand why the personal יו"ט of the family of בנימין בן סנאב superseded תשעה באב, being that their personal יו"ט was purely in commemoration of their forefather's יו"ט, as opposed to תשעה באב which, after the חורבן, became obligatory for the entire nation.³⁴

Furthermore, in relating this incident, רבי אלעזר ב"ר צדוק began his remarks with "פעם אחת..." ("it **once** occurred..."). Now, if רבי אלעזר ב"ר צדוק meant to relate an incident that occurred after the חורבן, it is not clear as to why he prefaced his words with "פעם אחת", for תשעה באב נדחה is a relatively frequent occurrence, and the family of בנימין בן סנאב would presumably have repeated their conduct on every such occurrence. However, if רבי אלעזר ב"ר צדוק meant to relate an incident that occurred before the חורבן, but which no longer occurred after the חורבן, the expression "פעם אחת" is easier to understand.]

The תוס' הר"פ provides a similar explanation, but using a different precedent. The גמרא states in a number of places (see דף ו' עמוד א' that "שואלין ודורשין בהלכות הפסח קודם הפסח שלשים יום" ("we enquire into and expound the laws of פסח for thirty days prior to פסח"). The גמרא in עבודה זרה (on דף ה' עמוד ב') indicates that the reason for this תקנה was in order to give the אידן thirty days' notice to prepare all the various קרבנות that they required for יו"ט. Even though קרבנות are no longer offered these days, the תקנה to expound the laws of פסח for thirty days remains in force.

- ❖ According to the צ"ח, although תוספות holds that the איסור to perform מלאכה on ערב פסח is rooted in the תורה, nevertheless, the איסור דאורייתא applies only to those who actually

³² It should be noted that, with regards to certain details, the fast of תשעה באב נדחה (a postponed תשעה באב) is not as stringent as תשעה באב itself. Nevertheless, it is obvious that if the family of בנימין בן סנאב did not conclude the fast, it could only have been on account of a very compelling reason.

³³ The שפת אמת (in ר"ה י"ח עמוד א') adds that this was so only during those periods when the אידן were not autonomous, and were at the mercy of the Greeks or the Romans. This point adequately defends the רמב"ם's opinion from the vigorous attack of the שו"ת ח"ב סי' רע"א (in תשב"ץ), who finds the רמב"ם's position so untenable that he concludes it to be a copyist's error.

³⁴ See גבורת ארי (authored by שאגת אריה) who grapples with this problem; see there for his answer.

participated in the פסח, as opposed to those who were exempt from it (e.g. one who was מלאכה on פסח, it must be that the חכמים – already in the times of the בית המקדש – extended the איסור even to those who were not participating in a פסח, being that most of the nation was preoccupied with the קרבן. Now that we have demonstrated that there was a תקנת חכמים requiring **all** to refrain from work, we may answer as the רמב"ן; that the תקנה remains in force even after its reason no longer applies, being that it is a "דבר שבמנין"³⁵

This answer can also be inserted into the words of תוספות (although not as easily). As explained above, when תוספות states "ונראה דאף בזמן הזה דליכא הקרבה כיון שנאסר אז אסור לעולם", they are not merely stating a **fact**, but also a **reason!** According to the צ"ח, their words mean that the איסור to perform מלאכה on פסח applies these days **because** it applied – as a תקנת חכמים – in times bygone.

- ❖ Earlier, we mentioned the approach of the ראב"ד; that the חכמים require us to refrain from work on פסח in order that we be accustomed to act accordingly when the בית המקדש is speedily rebuilt. In theory, this explanation is compatible with those who hold that there is an איסור to perform מלאכה when bringing a קרבן.³⁶ However, it is not compatible with the actual words of תוספות, which are "ונראה דאף בזמן הזה דליכא הקרבה כיון שנאסר אז אסור לעולם".³⁷ From the words of תוספות, it is clear that the איסור to work on פסח these days is on account of the past, and not the future!

³⁵ It has already been noted in footnote 11 that after the ירושלמי brings the פסוקים of "שם תזבח את הפסח" and "ובשלת ואכלת", it summarizes: "אינו בדין שתהא עסוק במלאכתך וקרבנך קרב אבל אסור מלעשות מלאכה" ("it is not correct that you should be involved in work whilst your קרבן is offered, but **they** forbade one to perform work"). Above, we questioned this line of the ירושלמי: First of all, why does the ירושלמי speak at such length? Secondly, since the איסור is derived from פסוקים, why does the ירושלמי conclude that **they** – the חכמים – forbade one to perform work"? [See footnote 11 for one possible answer.]

According to the צ"ח, we might answer that the ירושלמי speaks at length in order to signal that the דין דאורייתא does not apply to everyone (e.g. one who was טמא or רחוקה), and the חכמים extended the איסור to all אידן. Thus, the ירושלמי means: The פסוק teaches that it is incorrect to work whilst one's קרבן is offered. Although this applies only to those **participating** in the פסח, nevertheless, **they** – the חכמים – prohibited **anyone** from performing work.

³⁶ In fact, the words of the ראב"ד may be even more compatible with this opinion than with the opinion of those who hold that there is an only an איסור דרבנן, for the reason noted in footnote 29.

³⁷ Unlike the suggestion of the מצפה איתן.

PART C

חצות ערב פסח on מלאכה after רש"י's reason

רש"י does not directly explain the reason for prohibiting מלאכה on ערב פסח after חצות. However, he does explicitly explain the reason for the מנהג of not working on ערב פסח before חצות; lest people be so carried away with their work that they neglect to destroy the חמץ, to offer the פסח, or to prepare מצות (which must be baked before nightfall³⁸, so that that the סדר may begin before the children fall asleep³⁹).⁴⁰ The מפרשים argue about what exactly רש"י means.

☞ The opinion of רש"י, as interpreted by the majority of ראשונים – he ignores the ירושלמי:

Many ראשונים (such as the רמב"ן, ר"ן, ריטב"א, רבנו דוד, מהר"ם חלאווה, מגיד משנה יו"ט ח"ז) hold that רש"י is not only explaining the reason for the מנהג of not working before חצות, but also, the reason for the איסור to perform work after חצות. In other words, רש"י holds that the חכמים prohibited work after חצות lest one neglect his פסח preparations⁴¹, and some places accepted upon themselves the מנהג to refrain from work in the morning hours as well. According to this interpretation, רש"י apparently ignores the ירושלמי; either because he was not aware of it⁴², or because he holds that תלמוד ירושלמי argues with תלמוד בבלי on this point⁴³.

☞ The difference between ערב פסח and ערב סוכות

The מגיד משנה asks: Why is ערב פסח treated more stringently than any other יו"ט? If the איסור to work on ערב פסח is purely on account of פסח preparations, then it should also be forbidden to work

³⁸ רש"י introduces this point to explain why baking the מצות cannot be postponed until פסח night, and one must therefore be busy with baking them on ערב פסח. [See also the Alter Rebbe סימן תני"ח סעיף ד' regarding ערב פסח that falls on שבת. Since the מצות cannot be baked then, some people were accustomed to baking it on the ליל הסדר, to conform with the precept of "חביבה מצוה בשעתה" – "a מצוה is precious at its time". Nevertheless, the Alter Rebbe says this practice should be nullified, because the סדר must begin without delay so that the children will be awake. Instead, on such a קביעות, the מצות should be baked one day early, on ערב שבת.]

³⁹ As a source for this obligation, רש"י cites the גמרא which states: "חוטפין מצה בלילי פסחים בשביל תינוקות שלא ישנו" – "We snatch the מצה on the nights of פסח in order that the children do not sleep." However, it must be noted that there are different ways of explaining that גמרא:

The רמב"ם (in חמץ ומצה ז"ג) interprets this phrase to mean that those present at the סדר must snatch the מצה from each other in order to generate a vibe that will keep the children awake. Although we clearly see from this that it is important to keep the children awake, nevertheless, according to his approach, we do not see that this translates into any explicit obligation to begin the סדר right away.

However, according to the preferred interpretation of רש"י and the רשב"ם (see there), this phrase means that the סדר should begin quickly and must not be delayed, in order that the children will be awake for the סדר. According to this approach, we see an explicit obligation to begin the סדר right away. This דין is also brought להלכה in the Alter Rebbe סימן תני"ח שער הצינור סימן תני"ח סק"ב. [See the שער הצינור who explains that the מקור of this דין in שו"ע is from the way that רש"י explains this phrase of the גמרא.] The ראב"ד (in חמץ ומצה ז"ג) also concurs with רש"י.

⁴⁰ The רמב"ן and the ריטב"א mention the need to also prepare מרור. Similarly, the מאירי mentions the need to prepare מרור and חרוסת, and also to perform הגעלה for any utensils being used for פסח.

⁴¹ Even after one finishes all his פסח preparations, it is still forbidden to perform מלאכה. This might be because the חכמים were concerned that would rush his preparations and not do them properly if he knew that he could do מלאכה afterwards (see ואתי who gives such an explanation in a similar context). Alternatively, perhaps the חכמים felt that this תקנה would not be properly adhered to unless it was enacted as a blanket rule.

⁴² It is common knowledge that part of the ירושלמי was not available to רש"י. For example, see שבת דף צ"ב עמוד א', where רש"י quotes a ירושלמי in the name of יהודה בר יצחק בר רבינו גאון who heard it from רב האי גאון. [Furthermore, our תוספות – as well as the תוספות הרשב"א and תוספות הר"פ – quote the ירושלמי in the name of the ריב"א, even though the ריב"א seems to add no insight to the ירושלמי. Presumably then, the reason they quote the ריב"א is simply because they did not have access to the ירושלמי, and they only became aware of it through the ריב"א. However, this proposition is not convincing; there is a far more likely reason why the ריב"א is mentioned, as presented in footnote 45.]

⁴³ This possibility will be explained in the following Shiur.

on ערב סוכות as well, due to the extensive preparations (i.e. building and decorating the סוכה, and preparing the מינים)!⁴⁴

The אור"י בשם ריב"א explains that this question is also what motivated the ריב"א to reject the position of רש"י. This is also implicit in תוספות at the very outset: דמפרש בירושלמי מאי שנא ערבי – פסחים משאר ערבי יו"ט – “the ר"י says in the name of the ריב"א that the ירושלמי explains what the difference is **between ערב פסח and other עיו"ט**.” In other words, תוספות sought an explanation that would adequately explain the difference between ערב פסח and every other עיו"ט. Being that רש"י does not seem to address this issue, תוספות completely disregarded רש"י's explanation, to the point of not even quoting his opinion at all, and they turned to the ירושלמי instead to explain this issue.⁴⁵

Although these ראשונים clearly believed that רש"י's explanation did not adequately explain the difference between ערב פסח and every other עיו"ט, a number of אחרונים propose a variety of ways to defend רש"י:

The תוספות-יו"ט answers that most people do not postpone their סוכות preparations until ערב סוכות, for it is a מצוה to begin building the סוכה immediately on יום כיפור.⁴⁶ Conversely, the tasks of הידור מצוה and baking the מצות must be performed specifically on ערב פסח, and it is a מצוה to bake ערב פסח after חצות, as detailed in תנ"ח שולחן-ערוך סי' תנ"ח.⁴⁷ Thus, one is far busier on ערב פסח with ערב פסח tasks than he is on ערב סוכות with ערב סוכות tasks, and ערב פסח is therefore treated more stringently than ערב סוכות.

The פני-יהושע answers that building a סוכה is tedious and time-consuming, and it is unlikely that one would delay this job until ערב סוכות. Even if one were to delay this job until ערב סוכות, it is unlikely that he would let himself be distracted with other tasks, for he is mindful of the time-consuming and labour-intensive task that stands ahead of him. Conversely, the ערב פסח tasks are not as time-consuming; destroying the חמץ takes only a couple of minutes, arranging to participate in a קרבן פסח also takes only a couple of minutes, and baking the מצות takes less than half-hour. Thus, there is greater concern that one might mislead himself into thinking that he has plenty of extra time available, and he might allow himself to be distracted with other tasks. Therefore, ערב פסח is treated more stringently than ערב סוכות.

[In a certain sense, the פני יהושע's approach is the exact opposite of all the other answers to the מגיד מ'שנה's question, in which the uniqueness of פסח preparations is precisely that they take a lot of time. According to the פני יהושע, the reverse is true – we are concerned that one may forget them since they *don't* take a lot of time! In support of his approach, the פני יהושע points out that it fits with the language of רש"י precisely, who states that we are concerned that one may “forget” the פסח preparations, as opposed to saying that one might run out of time for the פסח preparations.]

⁴⁴ The גמרא will explore the exact extent of the מלאכה on איסור מלאכה and ערב יו"ט. According to the first answer of the גמרא, as understood by certain מפרשים, the difference amounts to only half-hour. [This will be explored extensively in a future Shiur.] The רמב"ן asserts that, according to this approach, the question of the מגיד מ'שנה is not much of a question, because ערב פסח is easily the busiest ערב יו"ט of the year, which easily explains why the איסור is half-hour longer.]

⁴⁵ Our תוספות – as well as the תוספות הרשב"א and תוספות הרי"ף – quote the ירושלמי in the name of the ריב"א, even though the ריב"א seems to add no insight to the ירושלמי. Why? The most likely reason is because the ירושלמי itself does not explicitly discuss the distinction between ערב פסח and ערב סוכות; it merely focuses on the prohibition to perform work on ערב פסח. The ריב"א is mentioned, because he was the one who realized that the ירושלמי's explanation gives us all the information we need to also explain the distinction between ערב פסח and ערב סוכות.

⁴⁶ The פרי חדש (in סי' תס"ח סק"א) notes that תוספות in ודבריו and חולין פי"ג ע"א ד"ה ודבריו indicates that one is busy on ערב סוכות with these tasks, to the extent that he is too busy to prepare meat for יום טוב. However, the קרבן נתנאל notes that this is not necessarily the case according to an alternate answer provided by תוספות in עבודה זרה. In any case, רש"י does not need to agree with תוספות on this point.

⁴⁷ The הלכה י"ז also makes this point regarding baking the מצות (הלכות יום טוב פרק ח' הלכה י"ז).

The answers (based on תוספות ע"ז ה' ע"ב ד"ה עיו"ט אחרון) that the main meals and festivities of *סוכות* ordinarily takes place on the last day (i.e. *שמיני עצרת*), whereas the main meals and festivities of *פסח* ordinarily takes place on the first day. Thus, *ערב פסח* is a busier time than *ערב סוכות*, for one must make all the unique *פסח* preparations listed by *רש"י* in addition to preparing for the general *י"ט* meals and festivities, and it is therefore more stringent than *ערב סוכות* when one is busy mainly with the unique *סוכות* preparations, but not so much with preparations for the general *י"ט* meals and festivities.

⚡ Practical differences between this interpretation of *רש"י* and the *ירושלמי*

The *חק יעקב* (in *סי' תס"ח סק"א*; echoed in *סי' תס"ח ס"א*) provides the following practical difference between this interpretation of *רש"י* and the *ירושלמי*: When *ערב פסח* occurs on *שבת*, most of the *פסח* preparations take place on *ערב שבת*, whereas the *קרבן פסח* is offered on *שבת* itself. According to *רש"י*, it would be forbidden to work on *ערב שבת*, being that the *פסח* preparations are conducted on that day. According to *תוספות* however, it would be permitted to work on *ערב שבת*, for it is not yet the time to offer the *קרבן פסח*.

The *דבר שמואל* suggests another practical difference between this interpretation of *רש"י* and the *ירושלמי*: According to the *ירושלמי*, the *איסור* to perform *מלאכה* on *ערב פסח* stems from the fact that one must make a *י"ט* of the day that he brings a *קרבן*. Accordingly, it should also be forbidden to eulogize and fast on *ערב פסח* as well.⁴⁸ According to *רש"י* however, the *איסור* of performing *מלאכה* on *ערב פסח* has nothing to do with treating the day as a *י"ט*, and there is no reason to forbid eulogies and fasts on *ערב פסח*.

The *אור-חדש* and *צל"ח* allude to another possible difference between this interpretation of *רש"י* and the *ירושלמי*: According to the *ירושלמי*, the *איסור* to perform *מלאכה* on *ערב פסח* stems from the fact that one must make a *י"ט* of the day that he brings a *קרבן*. Accordingly, anyone who observes *פסח* would be required to refrain from *מלאכה* on *פסח שני* as well, on account of the *קרבן פסח* that he offers. According to *רש"י* however, *ערב פסח* is forbidden only on account of the many *פסח* preparations. There are not so many preparations on *פסח שני*, for one does not need to destroy his *חמץ*, and he can postpone baking *מצה* until nightfall. Hence, *רש"י* would hold that *מלאכה* is permitted on *פסח שני*.⁴⁹

⚡ The opinion of *רש"י*, as interpreted by various *מפרשים* – he accepts the *ירושלמי*

Several *אחרונים* disagree with the *ראשונים*'s explanation of *רש"י*, and they present various ways of reconciling the words of *רש"י* with the *ירושלמי*:

- ❖ The *חק-יעקב* and *שפת-אמת* suggest that *רש"י* accepts the *ירושלמי*'s rationale for prohibiting work on *ערב פסח* **after** *חצות*. Nevertheless, *רש"י* holds that this reason does not adequately explain the *מנהג* of refraining from *מלאכה* **before** *חצות*, when it is still too early to offer the *קרבן פסח*. Therefore, *רש"י* provides another reason, in order to explain the *מנהג* of refraining from *מלאכה* **before** *חצות*.⁵⁰

In fact, the *צל"ח* points out that *רש"י* might accept that it is *אסור מדאורייתא* to work on *ערב פסח* **after** *חצות*, in accordance with *תוספות*'s explanation of the *ירושלמי*. If this is the case, then it is easy to explain why *פסח* preparations are of greater concern than *סוכות* preparations, based on the fact that it is *אסור מדאורייתא* to perform *מלאכה* after *חצות* on *ערב פסח*, but not on *סוכות*.

⁴⁸ See footnote 5 where the *משנה-למלך* (in *כלי-המקדש פ"ו ה"ט*) wonders why the *פוסקים* do not rule accordingly

⁴⁹ All agree that *מלאכה* may be performed on *פסח שני* by those who already offered the *קרבן פסח*, as explained in footnote 1.

⁵⁰ This explanation precisely matches the interpretation of the *ירושלמי* that is noted in footnote 17.

It is precisely because work after חצות on ערב פסח is אסור מדאורייתא (on account of the קרבן פסח) that one might labour furiously in the morning to complete all his mundane tasks, and he might be distracted to the point that he forgets his פסח preparations. On ערב סוכות however, work is prohibited only for a part of the afternoon, and is no more than an איסור דרבנן. [The specifics of this will be discussed in the גמרא.] Thus, it is far less likely that one would work himself up into a frenzy to complete his mundane tasks before חצות, and thereby forget his סוכות preparations.

The איור-חדש and the שפת-אמת make a similar point, but with a different twist: Since there is an איסור דאורייתא to work on ערב פסח after חצות on account of the קרבן פסח, the חכמים viewed this as sufficient foundation for establishing the מנהג to prohibit the morning hours as well, albeit for a different reason – in order to allow one to focus on his פסח preparations. On ערב סוכות however, work is prohibited only for a part of the afternoon, and is no more than an איסור דרבנן. [The specifics of this will be discussed in the גמרא.] The חכמים did not view this as sufficient basis for establishing a מנהג to prohibit the morning hours as well. According to this approach, the reason provided by רש"י is not substantial enough to *create* an איסור מלאכה from the morning, but it is sufficient to *extend* the איסור מלאכה from the afternoon to the morning.

- ❖ The נצי"ב (in מרומי שדה) explains that רש"י accepts the ירושלמי's rationale for prohibiting work on ערב פסח **after** חצות. Nevertheless, רש"י holds that this does not adequately explain why this איסור should apply in our times, when the קרבן פסח is no longer offered. Therefore, רש"י provides another reason, in order to explain what prompted the חכמים to extend the איסור to our times. [This explanation echoes the רמב"ן's words in מלחמות].⁵¹ According to the נצי"ב, the reason provided by רש"י is not substantial enough to *create* this איסור מלאכה, but it is sufficient to *extend* the איסור מלאכה that existed in the times of the המקדש בית המקדש to our times.
- ❖ The מאירי and the ראב"ד explain (at least in one of their approaches) that the rationale of the ירושלמי was never intended to be the core reason for prohibiting work on ערב פסח. Rather, the איסור to work on ערב פסח is primarily due to the פסח preparations, and the ירושלמי added a reason merely to further fortify the severity of this איסור.

The advantage in these approaches is that רש"י will agree with the ירושלמי, and also, that the distinction between ערב פסח and ערב סוכות is immediately understood. However, there is also a serious downside with these approaches – if רש"י does accept the explanation of the ירושלמי, it seems inexplicable that he would omit all mention of it in his explanation of the משנה.

⁵¹ See footnotes 26 and 27.

PART D

Summary of the main differences between the reasons of רש"י and the ירושלמי.

To summarize, רש"י states that the איסור to work on ערב פסח is in order to allow one to focus on his פסח preparations, whereas the ירושלמי holds that the איסור is on account of the קרבן פסח. Various difficulties have been raised over the course of this discussion; some of which are more problematic for רש"י, and others for the ירושלמי. A brief summary:

☞ Why does the איסור מלאכה (and accompanying מנהג) apply specifically to ערב פסח and not to ערב סוכות?

According to the ירושלמי, the answer is obvious; the איסור מלאכה is not applicable on ערב סוכות, when there is no קרבן פסח. According to רש"י however, the answer to this question is not so obvious, and is further elaborated upon on page 14 above.

☞ What is the basis for the איסור מלאכה on ערב פסח before חצות?

According to רש"י, the answer is obvious; just as the purpose of the afternoon איסור is to allow one to focus on his פסח preparations, so too, the purpose of morning מנהג is to allow one to focus on his פסח preparations. According to the ירושלמי however, the answer to this question is not so obvious, and is further elaborated upon on page 6 above.

☞ Why does the איסור מלאכה (and accompanying מנהג) apply to ALL, without exception?

According to רש"י, the answer is obvious; the purpose of the afternoon איסור is in order to allow one to focus on his פסח preparations, which every single איד participates in on one level or another. According to the ירושלמי however, the answer to this question is not so obvious (being that some are exempt from offering the פסח קרבן), and is further elaborated upon on page 12 above.

☞ Why does the איסור מלאכה (and accompanying מנהג) apply these days?

According to רש"י, the answer is obvious; the purpose of the איסור מלאכה (and accompanying מנהג) is in order to allow one to focus on his פסח preparations, which is just as important these days as it was in the times of the המקדש בית. According to the ירושלמי however, the answer to this question is not so obvious, and is further elaborated upon on page 9 above.

☞ • ☞

Additionally, there are some **practical** differences between the reasons of רש"י and the ירושלמי. A brief summary:

☞ If one performed מלאכה on ערב פסח after חצות, did he transgress an איסור דאורייתא or an איסור דרבנן?

According to רש"י (as understood by those ראשונים who hold that רש"י disregards the ירושלמי), he merely transgressed an איסור דרבנן. According to the ירושלמי, the ראשונים debate whether he transgressed an איסור דאורייתא or an איסור דרבנן – see page 4.

☞ When ערב פסח falls on שבת, may מלאכה be performed on ערב שבת?

According to רש"י (as understood by those ראשונים who hold that רש"י disregards the ירושלמי), it would appear that מלאכה should be prohibited, in order that one focus on his פסח preparations. According to the ירושלמי however, מלאכה should be permissible, for the קרבן פסח is not offered on ערב שבת. [See page 16.]

⌘ Is there an איסור to fast and eulogize on פסח?

According to רש"י (as understood by those ראשונים who hold that רש"י disregards the ירושלמי), there is no reason to prohibit fasting and eulogizing, for these do not occur regularly enough to hinder one's פסח preparations. According to the ירושלמי however, there is reason to forbid these activities, due to the קרבן פסח. [See page 16.]

⌘ May מלאכה be performed on פסח שני by those observing פסח שני?

According to רש"י (as understood by those ראשונים who hold that רש"י disregards the ירושלמי), there is no reason whatsoever to prohibit work on פסח שני, being that פסח שני does not demand the same level of preparation that פסח ראשון does. According to the ירושלמי however, מלאכה would be forbidden for those who observe פסח שני, on account of the קרבן פסח שני that they offer. [See page 16.]