

## *Ein Ma'avirin al HaMitzvot*

### You have only one day out of jail.

### When should you take it? What should you do?

#### **Pesachim 64b**

Imagine a Jew imprisoned in a hostile country, but granted by the authorities **one day a year** out of jail to express his Jewish identity. Which day should he choose? And what should he do on that day?

As we explore the answers to these questions we will uncover meta-principles of Torah law – *halachah* – relating to the timing of mitzvot (Torah instructions) and the choice between them.

This *Thinking Gemara* shiur is about **making choices** – not choices between good and bad, which we are perhaps more familiar with, but rather between good and good – between two mitzvah acts.

Our journey opens in 20th century Communist Russia, goes back to 16th century Egypt, works its way forward two centuries, and then on to more modern times in 19th century Lithuania.

Here are some of the key questions this class will address:

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#### KEY QUESTIONS

- If a Jew is granted only one day out of jail, which day should he choose?
- What are the halachic principles underlying the answer to this question?
- What is the philosophical approach behind the Torah's guidelines for choosing between one good act and another?
- What are some common applications of the principles behind choosing between mitzvot?

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#### CLASS OUTLINE

##### **Introduction.**

**Section I. The Case of the Jewish Prisoner (Rabbi David b. Zimra, Egypt, 1479-1573)**

**Section II. Debate Across the Generations (Rabbi Zvi Ashkenazi, Germany, 1658-1718)**

**Section III. The Case of the Jewish Soldiers (Rabbi Avraham Danzig, Lithuania, 1747-1820)**

**Section IV. Understanding the Dispute**

**Section V. Common Applications of "Ein Ma'avirin al HaMitzvot"**

**Afterword: Relating to Mitzvot; Relating to God**

**Note:** This shiur is not intended as a source of practical *halachic* (legal) rulings. For matters of halachah, please consult a qualified *posek* (rabbi).



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**INTRODUCTION You are given one day out of jail: When should you take it?*****Imagine the following scenario:***

*In Communist Russia of 1970, Alexei Shimonovich, a teacher of Judaism and fifteen-year refusenik ("refused" permission to emigrate to Israel), was tracked by the KGB, tried and convicted for alleged subversion and espionage. He was sentenced to a thirty-year jail sentence in a high-security Soviet prison. His arrest and incarceration sparked a wave of protests by activists from the movement to release Soviet Jewry. After high-level foreign diplomats exerted pressure on the Soviet government, Shimonovich was made an extremely strange offer. He would be allowed **one day out of jail a year; he could choose the day.***

*Shimonovich, a devoutly religious Jew, managed to smuggle out a message requesting that someone contact a leading halachic authority to instruct him which day out of the year he should choose.*

**If, God forbid, you were in his tragic position, which day would you choose and why?****Here is a list of possibilities:**

- Yom Kippur – the holiest day of the year.
- Purim – the day on which Jews worldwide celebrate the victory over Haman and the thwarting of his plot to annihilate the Jewish people.
- Rosh Hashanah – the day that the shofar is sounded.
- Pesach (Passover) – the holiday commemorating the Exodus of the Jews from Egyptian slavery and oppression.
- Simchat Torah – the joyous holiday on which the Torah is completed and begun anew, a day especially embraced by Soviet Jewry.
- Shabbat – the weekly commemoration of God's resting after creating the world.

**Where would you find the answer to such a question?**

## SECTION I The Case of the Jewish Prisoner

### 1. Shut Radbaz 4:13

Question: Reuven was imprisoned in jail and was not able to leave to pray with [a minyan (quorum) of] ten nor to fulfill other mitzvot. He beseeched the minister or governor yet was not granted permission, other than for one day a year – a day of Reuven's choice. Let the teacher instruct us: Which day of all the days of the year should Reuven choose to go to the Beit Hakneset (synagogue)?

שאלה: ראובן היה חבוש בבית  
האסורים ולא היה יכול לצאת  
להתפלל בעשרה ולעשות המצות.  
והתחנן לפני השר או ההגמון ולא  
אבה שמוע להניחו, וזלתי יום אחד  
בשנה איזה יום שיחפוץ. יורה  
המורה איזה יום מפל ימות השנה  
יבחר ראובן הנזכר ללכת לבית  
הכנסת?

### 2. Ibid.

Answer: I have seen that one of the wise men of our generation responded to this question. He dived into deep waters but brought up a pottery shard, and he built his construction upon shaky foundations. At first he said that Yom Kippur is the best [day to choose]. Then he switched it for Purim, because of the Megillah reading and publicizing of the miracle, which requires [a quorum of] ten. It is not fitting to rely on his words.

תשובה: הנה ראיתי אחד  
מחכמי דורנו בתשובה דבר זה  
צלל במים אדירים והעלה חרס  
בידו ועל יסוד רעוע בנה יסודו.  
בתחלה כתב דעדיף יום  
הכפורים ואחר כך החליפו  
ביום הפורים משום מקרא  
מגילה ופרסומי נסא דבעינן  
עשרה, ואין ראוי לסמוך על  
דבריו.

### 3. Ibid.

Yet, the ruling that one should rely on is based on the principle, "Ein ma'avirin al hamitzvot – We may not pass up mitzvot." There is no opposition to this principle; therefore, the first mitzvah he encounters that cannot be fulfilled while imprisoned takes precedence. We do not pay attention to whether the first mitzvah he encounters is a "light" or a "weighty" one, for one cannot know the reward of mitzvot. This is very obvious to me.

David son of Shlomo ibn Avi Zimra

אבל מה שראוי לסמוך עליו  
הוא דאנן קיימא לו דאין  
מעבירין על המצות ואין  
חולק בזה כלל הלכה המצוה  
הראשונה שתבא לידו שאי  
אפשר לעשותה והוא חבוש  
בבית האסורים קודמת ואין  
משגיחין אם המצוה שפגעה  
בו תחלה היא קלה או חמורה  
שאי אתה יודע מתן שכרן של  
מצות וזה פשוט מאד אצלי.  
דוד בן שלמה ו' אבי זמרא:

### 4. Moed Katan 9a-9b

He (Rabbi Shimon bar Yochai's son) found them pointing out a contradiction between two biblical

אזל אשכחניהו דקא רמו קראי  
אהדי: כתיב (משלי ד:כו)

verses. One verse (Mishlei/Proverbs 4:26) says, “Assess the path of your feet, and all of your ways will be proper.” Yet, in another verse (Ibid, 5:6) it is written, “Lest you assess the path of life.” They resolved the contradiction: One is referring to a mitzvah that can be fulfilled by someone else, and the other to a mitzvah that cannot be fulfilled by someone else.

“פִּלְסִים מֵעַגְל רִגְלֶךָ וְכָל דְרָכֶיךָ יִכּוֹנוּ, וְכִתִּיב (משלי ה:ו) “אַרְחַ חַיִּים פֶּן תִּפְלִס”. לֹא קָשִׁיא: כָּאן בְּמִצְוָה שְׂאֵפְשֵׁר לַעֲשׂוֹתָהּ עַל יְדֵי אֲחֵרִים, (עמוד ב') כָּאן בְּמִצְוָה שְׂאֵי אֵפְשֵׁר לַעֲשׂוֹתָהּ עַל יְדֵי אֲחֵרִים.

## 5. Rashi's Commentary on Moed Katan 9a and 9b

**“Assess the path of your feet”** – That is to say, measure the mitzvot, discern which is the greatest and fulfill it.

פִּלְסִים מֵעַגְל רִגְלֶךָ - כְּלוֹמַר שְׂקוּל מִצְוֹת וְעֵינֵי בְּהוֹן, אִיזוֹ מִצְוָה גְדוֹלָה, וְעֵשֶׂה הַגְּדוֹלָה:

**Yet it is written, “Lest you assess the path of life.”** – This implies that you should do every mitzvah that comes your way, whether it is great or small, and that you should not pass up a small mitzvah to perform a greater one.

וְכִתִּיב אֲרַח חַיִּים פֶּן תִּפְלִס - דְּמִשְׁמַע כָּל מִצְוָה שֶׁתִּבְּא לְיָדְךָ עֲשֵׂה אוֹתָהּ, בֵּין גְּדוֹלָה בֵּין קְטַנָּה, וְאַל תִּנְיַח קְטַנָּה מִפְּנֵי הַגְּדוֹלָה:

**A mitzvah that can be done by others** – You should “assess the path of your feet,” and do the greater mitzvah, and your friends will do the smaller one.

מִצְוָה שְׂאֵפְשֵׁר לַעֲשׂוֹתָהּ עַל יְדֵי אֲחֵרִים - תִּפְלִס, פִּלְסִים מֵעַגְל רִגְלֶךָ, שֶׁתַּעֲשֶׂה אֶתֶּה הַגְּדוֹלָה, וְחִבְרִידָה יַעֲשׂוּ קְטַנָּה:

**A mitzvah that cannot be done by others** – You should not assess. Rather, whatever mitzvah comes into your hands, whether great or small, you should perform.

וּבְמִצְוָה שְׂאֵי אֵפְשֵׁר לַעֲשׂוֹתָהּ עַל יְדֵי אֲחֵרִים - אַל תִּפְלִס, אֲלֵא מִצְוָה שֶׁבָּא לְיָדְךָ, בֵּין גְּדוֹלָה בֵּין קְטַנָּה עֲשֵׂה:

## 6. Yoma 33a

Reish Lakish says, “We may not pass up mitzvot.”

אָמַר רִישׁ לְקִישׁ: אִין מַעְבִּירִין עַל הַמִּצְוֹת.

## 7. Mechilta Parshat Bo, Parsha 9

“You should guard the matzot (and prevent them from leavening)” (Shemot/Exodus 12:17). Rabbi Yoshiah said, “Do not (only) read this Hebrew word as it is voweled (*matzot* – referring to unleavened bread), but read it as *mitzvot*, meaning that “You should guard the *mitzvot*.” Just as you should not cause matzah to leaven (by leaving the dough to rise) so you should not cause the mitzvot

“וּשְׁמַרְתֶּם אֶת הַמִּצְוֹת.” ר' יוֹשִׁיָּה אָמַר אַל תִּקְרִי בֶן אֲלֵא 'וּשְׁמַרְתֶּם אֶת הַמִּצְוֹת'. כְּדָרְךָ שְׂאִין מִחְמִיצִין אֶת הַמִּצְוָה, כִּדְרָךְ אִין מִחְמִיצִין אֶת הַמִּצְוָה. אֲלֵא, אִם בָּא מִצְוָה לְיָדְךָ עֲשֵׂה אוֹתָהּ מִיָּד.



to “leaven” (by delaying them). Rather, whenever you encounter any mitzvah, do it immediately.

### 8. Pirkei Avot (Ethics of the Fathers) 2:1

Be as careful about a “light” mitzvah as you would a “weighty” one, for you do not know the reward of mitzvot.

וְהוּי זְהִיר בְּמִצְוָה קְלָה  
כְּבַחַמְוֵרָה, שְׂאִין אַתָּה יוֹדֵעַ  
מִתֵּן שְׂכָרוֹ שֶׁל מִצְוֹת.

### 9. Rabbi Binyamin Blech, Understanding Judaism: The Basics of Deed and Creed, pp. 7-8

God alone knows what weight to give every action in the cosmic scheme of reality. For us, every mitzvah must be equal simply because each one shares its source in the Divine imperative. Each is to be observed because God said so. That is true for the simplest act, and it is true for the most demanding one as well.

It is here that a profound point begins to emerge. If we were to give preference to one mitzvah over another for whatever reason, it is then we who become final arbiters of the purpose of commandments. To rank one law above another might not seem a crime, but whenever we call one thing more important than the next, we also diminish the one not chosen for highest priority.

Treat all mitzvot equally, because to do otherwise is to say I think that this particular law is not so important. If I like the ethical parts of the Torah, but do not feel constrained by the rituals, then of course I will say the former is what God really cares about. Do I find rituals rich in symbolism, pageantry, and beauty, but laws restricting me in my business practices too confining? Then obviously God only meant to be taken seriously when He told me to pray to Him, but He was not serious when He insisted I not prey upon my fellow man.

Selectivity is the transgression that allows us to pick and choose from the law and hence to redefine it...That is the point of the Mishnah that the Radbaz used as the basis for his response to the Jew forced to “select” a day of religious observance. Choose the first day so that you don’t in fact choose, but rather God chooses for you. Choose the first day, because if you are granted the freedom to practice your religion on any one day, you dare not defer it to another and thereby declare that you are “looking for something better.”

### 10. Devarim (Deuteronomy) 5:16

Honor your father and your mother as the Lord, your God, has commanded you, so that your days should be lengthened and so that

כְּבָד אֶת אָבִיךָ וְאֶת אִמְךָ כַּאֲשֶׁר צִוָּה  
ה' אֱלֹהֶיךָ, לְמַעַן יֵאָרִיכוּ יָמֶיךָ וְלִמְעַן  
יִיטַב לְךָ עַל הָאֲדָמָה אֲשֶׁר ה'

it will be good for you upon the land that the Lord, your God, has given you.

אֲלֶהֶיךָ נָתַן לְךָ:

### 11. Ibid. 22:6-7

When you chance upon a bird's nest before you, on the way, upon a tree or on the ground – chicks or eggs, and the mother is sitting on the chicks or eggs – do not take the mother along with the offspring.

(ו) כִּי יִקְרָא חֹן צְפוּר לְפָנֶיךָ בַּדֶּרֶךְ בְּכֹל עֵץ אוֹ עַל הָאָרֶץ אֶפְרָחִים אוֹ בִּיצִים וְהָאִם רֹבֶצֶת עַל הָאֶפְרָחִים אוֹ עַל הַבִּיצִים לֹא תִקַּח הָאִם עִם הַבָּנִים:

You shall surely send away the mother, and take the offspring for yourself, in order that it should be good for you, and you will have long days.

(ז) שִׁלַּח תִּשְׁלַח אֶת הָאִם וְאֶת הַבָּנִים תִּקַּח לְךָ לְמַעַן יִיטֵב לְךָ וְהֵאֲרַכְתָּ יָמֶיךָ.

## SECTION II Debate Across the Generations (Rabbi Zvi Ashkenazi , Germany, 1658-1718)

### 12. Menachot 49a

Rav Chiya son of Avin asked Rav Chisda: If the community did not have [enough animals to offer both] the *tamid* (twice daily) sacrifice and the *mussaf* (additional sacrifice brought on Shabbat or holidays) – which takes precedence? What is the case [Rav Chiya was asking about]? If you say it was [a choice between] today's daily offering and today's additional offering, the answer is obvious. The daily offering is clearly preferable because it is both frequent [and frequent mitzvot take precedence over others] and holy [because it is being offered on a holiday] – whereas the additional sacrifice, though still especially holy, is not as frequent. Rather, the question he asked was about having to choose between tomorrow's (a normal day's) daily offering and today's (Shabbat's) additional offering. Does the daily sacrifice take precedence because it is more frequent, or is the additional sacrifice preferred because is it more holy?

בָּעָא מִיְנֵיהּ ר' חִיָּיא בְר אָבִין מֵרַב חֲסָדָא: צְבוּר שְׂאִין לָהֶם תְּמִידִין וּמוֹסָפִין אִי זֶה מֵהוּן קוּדְם? הִיכִי דְמִי? אִילֵּמָא תְּמִידִין דְּיוֹמִיָּה וּמוֹסָפִין דְּיוֹמִיָּה, פְּשִׁטָּא תְּמִידִין עֲדִיפִי דְּהוּן לְהוּן תְּדִיר וּמְקַדְּשִׁי, אֲלָא תְּמִידִין דְּלְמַחֲרָא וּמוֹסָפִין דְּהָאִדְנָא, תְּמִידִין עֲדִיפִי שְׁכֹן תְּדִיר, אוֹ דְּלְמָא מוֹסָפִין עֲדִיפִי דְּהוּן לְהוּן מְקַדְּשִׁי?

### 13. Rambam, Mishneh Torah Hilchot Temidin Umusafin 8:20

If they only found two sheep – and if they were to offer them for today's *musaf* there would not be enough for tomorrow's *tamid* – both options are equally valid. If they offered them for today's *musaf*, it is valid, and if they wanted to leave them for tomorrow's *tamid* offerings, they could do so.

לא מִצְאוּ אֶלָּא שְׁנֵי כְּבָשִׂים,  
אִם יִקְרִיבוּ אוֹתָם לְמוֹסֵף  
הַיּוֹם אִין לְהוֹן תְּמִידִין לְמַחֵר.  
הַרִי הַדָּבָר שְׁקוּל - אִם  
הִקְרִיבוּם לְמוֹסֵף הַיּוֹם  
הִקְרִיבוּ, וְאִם רָצוּ לְהַנִּיחַם  
לְמַחֵר לְתִמְדִין יִנְיחוּ:

## SECTION III The Case of the Jewish Soldiers (Rabbi Avraham Danzig, Lithuania, 1747-1820)

### 14. Tosafot Yoma 33a

Reish Lakish's principle (that you may not pass over mitzvot) only applies where you have to do both, and it instructs you to give precedence to the one you encounter first. But the principle does not apply where a person can only fulfill one of the two. Under such circumstances, one should perform the more frequent one and not the less frequent one.

דְּלֹא שְׂיִכָּא דְרִישׁ לְקִישׁ אֶלָּא  
הֵיכָא דְבָעִינָן לְמַעַבְדַּ תְּרוּיָהּ  
שְׂיִישׁ לְהַקְדִּים הֵהוּא דְפָגַע בֵּיהּ  
בְּרִישׁא אַבְל הֵיכָא דְלֹא עָבְדִין  
אֶלָּא חַד לֹא גְמָרִין מִינֵיהּ  
וְנַעֲבִיד לְתַדִּיר לְחַדִּיהּ וְלֹא  
נַעֲבִיד לְשְׂאִינוּ תְדִיר:

### 15. Chayei Adam 68:1

[Exceptional cases where the rule against passing up mitzvot does not apply:]

A. The principle of not passing over mitzvot only applies where one means to perform two mitzvot, for instance putting on both a tallit and tefillin. In this case, one must perform whichever one he encounters first [and then perform the other]. But if one does not have the opportunity to do both of them, the principle does not apply. On the contrary, we would then prefer the more severe mitzvah. For instance, when the choice is between tzitzit or tefillin – one or the other – one should prefer tefillin because of their greater sanctity and also because their obligation applies to the body itself (whereas tallit applies to clothing) ... Even if one has a biblical-level mitzvah to do today, but its fulfillment will preclude the fulfillment of another, more stringent, biblical mitzvah tomorrow – tomorrow's mitzvah takes precedence.

א) דְּלֹא שְׂיִיךְ דְּלֹא מַעֲבִירִין  
אֶלָּא כְּשֶׁרוֹצֶה שְׁתֵּי מִצְוֹת, כְּגוֹן  
שְׂרוּצָה לְהַנִּיחַ טְלִית וְתַפְלִין  
דְּבִאִיזָה שְׂפִגַע תַּחֲלָה צְרִיף  
לְעִשׂוֹת. אַבְל אִם אִין לוֹ פְּנֵאֵי  
לְקִיִּים שְׂנִיָּהֶם רַק אֶחָד, לֹא  
שְׂיִיךְ בְּזָה אִין מַעֲבִירִין, אֶלָּא  
אֲדַרְבֵּה אֲזִלִּין אַחַר הַמִּצְוָה  
הַחֲמוּרָה, כְּגוֹן צִיצִית וְתַפְלִין,  
תַּפְלִין חֲמוּרָה שֶׁהִיא קְדוּשָׁה  
בְּיוֹתֵר וְגַם חֹבֶת הַגּוֹף ...  
וְאִפְּלוּ יֵישׁ לְפָנָיו מִצְוָה  
דְּאוּרִיתָא לְעִשׂוֹת הַיּוֹם, רַק  
כְּשִׂיעֲשֵׁנָה הַיּוֹם לֹא יוּכַל לְמַחֵר  
לְעִשׂוֹת מִצְוָה דְּאוּרִיתָא  
אַחֲרֵת שֶׁהִיא חֲמוּרָה מְאוֹ,  
מִצְוָה דְּלְמַחֵר עֲדִיף.



**16. Chayei Adam 68:1**

Concerning the matter of Jewish soldiers – it seems to me that if he must go to his post on the day before Yom Kippur, so that he will not be able to put on tefillin that day (the day preceding Yom Kippur), yet, on the other hand, he will be able to fast the next day, on Yom Kippur... we do not say, “do not pass up mitzvot.”

וְלָכֵן נִרְאָה לִי בְּאֲנָשֵׁי חֵייל  
יְהוּדִים שְׂצָרִיף לַיְלִיד עַל מִשְׁמֶר  
שְׁלוֹ בְּעֶרְבַּ יוֹם כְּפוּר וְכִיּוֹצֵא בּוֹ  
אֶלָּא דָּאזְ לֹא יָכוֹל לְהִנִּיחַ תְּפִלִּין  
בְּאוֹתוֹ יוֹם, וְלַעֲוֹמֵת זֶה יָכוֹל  
לְמַחֵר בְּיוֹם הַכְּפוּרִים  
לְהִתְעַנּוֹת ... לֹא אֲמַרְיֵנוּ אֵין  
מַעֲבִירִין עַל הַמִּצְוֹת.

**SECTION IV Understanding the Dispute****17. Mishnah Zevachim 89a**

Any [mitzvah] that is more frequent than others takes precedence. The daily sacrifices precede the musaf (additional) sacrifices; the musaf of Shabbat precedes the musaf of Rosh Chodesh (the first day of the Jewish month); and the musaf of Rosh Chodesh precedes the musaf of Rosh Hashanah (the first of the year). This is based on the verse (Bamidbar/Numbers 28:23): “You should do these [other sacrifices] besides [here implying ‘after’] the daily burnt offering.”

כָּל הַתְּדִיר מִחֲבָרוֹ, קוֹדֵם אֶת  
חֲבָרוֹ. הַתְּמִידִים קוֹדְמִים  
לְמוֹסְפִין, מוֹסְפֵי שַׁבַּת קוֹדְמִין  
לְמוֹסְפֵי רֹאשׁ חֹדֶשׁ, מוֹסְפֵי  
רֹאשׁ חֹדֶשׁ קוֹדְמִין לְמוֹסְפֵי  
רֹאשׁ הַשָּׁנָה, שְׁנַאֲמַר (בַּמִּדְבָּר  
כח), “מִלְּבַד עֲלֵת הַבֶּקֶר אֲשֶׁר  
לְעֵלֵת הַתְּמִיד תַּעֲשׂוּ אֶת אֵלֶּה:”

**18. Terumat Hadeshen Responsum 35**

Question: One who sees the moon at its renewal (after it reappears following the new month) during a weekday, but wishes to wait to say the blessing over it until *Motza'ei Shabbat* (Saturday night) – is this proper practice?

Answer: It seems that this depends on *Motza'ei Shabbat* being only a few days into the month, such as when it occurs on the seventh or eighth of the month. Under such circumstances, even if it is cloudy on *Motza'ei Shabbat* there will still be three, four, or five days left to make the blessing, up to the end of the fifteenth day. It is then correct to wait until *Motza'ei Shabbat*, for the *Or Zarua* has written that we make the blessing over the renewing moon specifically on *Motza'ei Shabbat*, when we are in good spirits and in our best clothing...

שְׂאֵלָה: הַרְוָאָה לְבִנְיָה בְּחֻדוֹשָׁה  
בְּיַמֵּי הַחֹל, וְאוֹמֵר נִמְתִּין לְבָרֵךְ  
עַל חֻדוֹשָׁה עַד לְמוֹצָאֵי שַׁבַּת  
יִפֶּה הֵם עוֹשִׂין אוֹ לֹא?

תְּשׁוּבָה: יִרְאָה דִּישׁ לְחַלֵּק  
בְּדָבָר, הִיכָא דְלֵיל מוֹצָאֵי שַׁבַּת  
הַבָּא בְּקָרוֹב, אֵינּוּ לֵילוֹת הַרְבֵּה  
בְּחֻדוֹשׁ, כְּגוֹן ז' אוֹ ח' בְּחֻדוֹשׁ,  
שְׂאֵפִילוֹ אִם יֵהָא מְעַנּוֹ בְּמוֹצָאֵי  
שַׁבַּת, וּב' אוֹ ד' לֵילוֹת  
אֲחֲרָיו, עֲדוֹן יֵשׁ זְמַן לְבָרֵךְ עַד  
סוֹף יְלֵיל ט"ו, כִּי הָאֵי גּוֹנָא  
יִפֶּה לְהִמְתִּין עַד מוֹצָאֵי שַׁבַּת.  
דְּכָתַב אֹר זָרוּעַ: דָּאֵין מְבָרְכִין  
עַל הִרְחָ אֶלָּא בְּמוֹצָאֵי שַׁבַּת,  
כְּשֶׁהֵן מְבוֹשְׂמִין וּבְכֵלִים נְאִים ...

**19. Kovetz Torani Merkazi Sivan 5744 p. 23**

We need to know the reason that it is forbidden to pass up mitzvot. What is the rationale behind this? It seems that there are two possible reasons: Either it is considered a disgrace to a mitzvah to leave a mitzvah and take another in its stead – that is a disgrace to the first mitzvah. Alternatively, we might suggest that the reason is that we must perform mitzvot with zest at the first possible time and place.

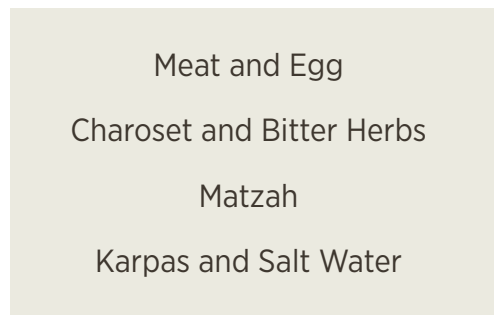
דְּהֵנָּה הָא דְאִין מְעַבְרִין עַל  
הַמִּצְוֹת טַעֲמָא בְּעֵי מַה זֹאת?  
וְנִרְאָה דִּישׁ לֹמַר שְׁנֵי טַעֲמִים  
בְּזֶה, אִו דְּהוּי בּוֹזֵי מִצְוָה, דְּיִמְנִיחַ  
מִצְוָה זֶה וְלֹקַח עֲצָמוֹ לְשִׁנְיָה הוּי  
בְּזִיוֹן מִצְוָה הַקּוֹדֶמֶת, אִו דִּישׁ  
לֹמַר מִשּׁוֹם דְּזִרְיִין מְקַדְיָמִין  
לְמִצְוֹת בְּזִמְנוֹ וּבְמָקוֹם, וְלָזֶה אִין  
מְעַבְרִין.

**SECTION V Common Applications of Ein Ma'avirin al HaMitzvot****A. The Seder Plate****20. Rema, Shulchan Aruch Orach Chayim 473:4**

The Seder Plate should be arranged in a way that will prevent passing over a mitzvah [enabling a person to physically encounter the performed mitzvot in chronological order]. That is, the karpas (vegetable to be dipped in the beginning of the Seder) should be closest (to the person leading the Seder) of all, and the vinegar (salt water) closer to it than the matzah. The matzot should be closer than the marror and charoset, and they should be closer than the meat and egg.

וְיִסְדֵּר הַקְּעָרָה לְפָנָיו בְּעֵינָיו  
שְׂאֵינֵנו צָרִיד לְעָבוֹר עַל הַמִּצְוֹת.  
דְּהֵינֵנו - הַפְּרָפֶס יְהֵא לְמַעַלָּה  
מִן הַכֵּל, וְהַחֲמִץ סָמוּךְ לוֹ יוֹתֵר  
מִן הַמַּצָּה, וְהַמִּצְוֹת מִן הַפְּרֹדֶר  
וְהַחֲרוֹסֶת, וְהֵם יְהִיוּ יוֹתֵר  
קְרוֹבִים אֵלָיו מִן הַבֶּשֶׂר  
וְהַבֵּיצָה.

The Seder Plate arrangement, according to the Rema.



## B. The Shabbat Challah

### 21. Shulchan Aruch and Rema, Orach Chayim 274:1

One recites the blessing over two (whole) loaves. This is done by holding both in his hands and cutting the bottom one. Note [of the Rema]: This refers specifically to Shabbat night (this is the Rema's own approach), but on Shabbat day or Yom Tov night, one cuts into the top challah (Kol Bo and Hagagot Maimoniot, Laws of Chametz and Matzah, Ch. 8). The reason is rooted in the Kabbalah (the Jewish mystical tradition).

בוֹצֵעַ עַל שְׁתֵּי כִפּוּרֹת  
(שְׁלֵמוֹת) שְׂאוּחֵזוּ שְׁתֵּיהֶן בְּיָדוֹ  
וּבוֹצֵעַ הַתְּחִתּוֹנָה: הִגָּה וְדוֹקָא  
בְּלִילֵי נֶשֶׁבֶת (דַּעַת עֲצָמוֹ) אֲבָל  
בְּיוֹם הַשַּׁבָּת אוֹ בְּלִילֵי יוֹם  
טוֹב בּוֹצֵעַ עַל הָעֲלִיוֹנָה (כֹּל בּוֹ  
וְהַגְהוֹת מִיִּמּוּנֵי פ"ח מֵהַלְכוֹת  
חֲמִין וּמִצָּה) וְהַטַּעַם הוּא עַל  
דְּרָדָה הַקְּבָלָה.

The Mishnah Berurah shows how earlier commentators dealt with the issue of ein ma'avirin al hamitzvot:

### 22. Mishnah Berurah, Orach Chayim 274:5

Bach (Rabbi Yoel Sirkes, author of Bayit Chadash) pointed out the difficulty with cutting the bottom challah, because [passing up the upper challah] contravened the principle of not passing over a mitzvah, ein ma'avirin al hamitzvot [and he therefore ruled that you should always make the blessing over the top challah]. Taz (Rabbi David Halevi, author of Turei Zahav) found a way of circumventing this problem; he had the practice of placing the bottom challah closer to himself than the top one, so he would encounter the bottom one first, and not pass over the top one. Alternatively (the Magen Avraham's solution), one could take the challah that was uppermost at the time of making the Hamotzi blessing, place it below the other challah, and only then cut it (thus, one never "passes over" the top challah).

הַתְּחִתּוֹנָה - הַב"ח תַּמָּה  
דְּאִין מַעֲבִירִין עַל הַמִּצְוֹת.  
וְהַט"ז תִּיקֶן זֶה, וְנִהְיָ לְהַנִּיחַ  
הַתְּחִתּוֹן קְרוֹב אֵלָיו יוֹתֵר מִן  
הָעֲלִיוֹן, וְנִמְצָא שֶׁפּוֹגֵעַ תְּחִלָּה  
בַּתְּחִתּוֹנָה. אוֹ לֹקְחִין הָעֲלִיוֹנָה  
בְּשַׁעַת בְּרַפְתּוֹ הַמוֹצֵיא, וּמְנִיחִין  
אוֹתָהּ לְמִטָּה וּבוֹצֵעִין עָלֶיהָ.

## AFTERWORD Relating to Mitzvot; Relating to God

- A. "Mitzvot are not bundled up." – אין עוֹשִׂין מִצְוֹת חִבְלֹת חִבְלֹת.
- B. "Beautification of mitzvot." – הִידוּר מִצְוָה.
- C. "Performing mitzvot with joy." – שְׂמֵחָה שֶׁל מִצְוָה.
- D. "Mitzvot should be done in groups and not as individuals." – יַעֲשֶׂה בַּחֲבֵרָה וְלֹא בְּיַחֲד.

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**ADDITIONAL English  
RESOURCES**

“Which is the Most Important Mitzvah?” Part 1 of Rabbi Binyamin Blech, Understanding Judaism: The Basics of Deed and Creed, pp. 2-24. Chapter 1, “If You Had to Choose Only One Mitzvah,” deals with the question presented to the Radbaz.

“Not Bypassing Mitzvah Opportunities / Zealotry for Mitzvot,” on Mordechai Torczyner’s WebShas online at <http://www.webshas.org/kelal/mitzvah/maavirin.htm>

This is a list of every place in the Talmud where related material appears.

**Hebrew**

“אין מעבירין על המצוות,” אנציקלופדיה תלמודית

“אין מעבירין על המצוות,” מנחת אשר בראשית עמודים קמא-קמב

“בית האסורים,” ודברת במ כרך ד, עמודים 16-18