

# KIDDUSHIN 42B\*

*THERE IS NO AGENT FOR WRONGDOING.*

It has been taught: One who causes a fire to break out through the agency of a deaf-mute, an insane person, or a minor is not liable by human law, but is liable by Heaven's laws. If one caused it through the agency of a person in possession of all his faculties, the person in possession of all his faculties is liable. Why is this so? Can we not say that a person's agent is considered like the person? That case is different, for there is no agent for wrongdoing, as we say: "The words of the Master, and the words of the disciple: Whose words do we obey?"

*The heresh (deaf-mute), shoteh (insane person) and katan (minor) are three groups of people who, because of their limited intellectual capacity, are not held responsible for their actions and are not obligated to perform the mitzvot. Heresh is someone who can neither speak nor hear. The Rabbis bring examples of the behavior that characterizes a shoteh: going out alone at night, sleeping in a cemetery, ripping his clothing, and loosing all personal possessions. A katan is someone who has not reached the age of maturity, thirteen years and one day.*

## CONTEXT

The Gemara begins by quoting a Mishnah (Bava Kamma 6:4) that lays down who is responsible for damage done by fire to someone else's property. In the first case, someone of diminished mental capacity blows hot coals and causes a fire. The person who gave the coals is not legally responsible ("by human laws"), though morally liable ("by Heaven's laws") for the damage. But if the person given the coals is of normal mental capacity, that person (and not the one who gave him the coals) is legally responsible for any damage.

The question is raised in relation to the second case: Why blame the one given the coals? Why not blame the person who gave the coals in the first place? Isn't *that* person ultimately responsible for the fire and for the damage done? This line of reasoning follows the legal principle "a person's agent is considered like the person." The Talmud rejects this approach, relying on another principle, "there is no agent for wrongdoing." The person given the coals, being of sound mind, knew right from wrong and knew the potential damage that hot coals could do. Therefore once that individual had possession of the coals, the responsibility for them and for destruction done to any property falls on the recipient, not on the one who gave them. Blame or liability cannot be shifted.

In the final question, the "words of the Master" refer to God's teaching; the "words of the disciple" are instructions given to us by human beings (in our case, the potentially dangerous order to take hot coals through a neighbor's property). The moral imperative to do the right thing takes precedence over anything else someone may tell us to do."

## QUESTIONS

1. What does the Talmud mean when it declares "there is no agent for wrongdoing?"
2. When do we try to place blame for our actions on other people, circumstances or things? Give examples.
3. What parallel situations might we see in a classroom setting? How does this text help us understand how to respond to those situations?

\*Excerpted from *Swimming In The Sea of Talmud*, by Michael Katz & Gershon Schwartz, JPS Publishing, 1998, pp. 218-19. Resource provided by Rabbi Laura Novak Winer.