



## Woman dies after getting trapped inside Toronto clothing donation bin - 680 News, January 8, 2018

A woman is dead after getting partially trapped inside a clothing donation bin in the city's west end. Toronto police were called to Bloor Street and Dovercourt Road just before 2 a.m. Tuesday. The donation box is located behind an apartment building. It is unclear how the woman, who is in her 30s, became trapped in the bin. She was found unconscious and pronounced dead at the scene. Firefighters had to use a saw to cut a couple of metal bars that hold the front drawer of the bin in place. The design allows for items that are placed inside the tilting drawer to be dropped inside the bin. Police say the woman appears to have died after a medical episode, so the exact cause of death is not yet known. Neighbours say this new bin was dropped off last week to replace [sic] a previous one that was damaged from previous break-ins. This is the eighth death related to people getting stuck inside donation bins in Canada since 2015 — five of these deaths were in British Columbia. Last week, one of the largest manufacturers of clothing donation bins across Canada said it is open to making changes in order to prevent similar deaths from occurring in the future.

### 1. Talmud Bavli Bava Kamma 49b-50a (Davidson Edition translation)

מתני' החופר בור ברה"י ופתחו לרה"ר או ברה"ר ופתחו לרה"י ברה"י אחר חייב: גמ' ת"ר החופר בור ברה"י ופתחו לרה"ר (ברה"ר ופתחו לרה"י) חייב וזהו בור האמור בתורה דברי ר' ישמעאל ר"ע אומר הפקיר רשותו ולא הפקיר בורו זהו בור האמור בתורה אמר רבה בבור ברה"ר כ"ע לא פליגי דמיחייב מ"ט אמר קרא (שמות כא, לג) כי יפתח וכי יכרה אם על פתיחה חייב על כרייה לא כל שכן אלא שעל עסקי פתיחה ועל עסקי כרייה באה לו לא נחלקו אלא בבור ברשותו ר"ע סבר בור ברשותו נמי חייב דכתיב (שמות כא, לד) בעל הבור בבור דאית ליה בעלים קאמר רחמנא ור' ישמעאל סבר בעל התקלה

MISHNA: One who digs part of a pit on private property and opens its entrance in the public domain, or digs a pit in the public domain and opens its entrance on private property, or digs a pit on private property and opens its entrance on another person's private property, is liable for damage caused by the pit in each case. GEMARA: The Sages taught in a baraita: One who digs a pit on private property and opens its entrance in the public domain, or who digs a pit in the public domain and opens its entrance on private property is liable, and this is the case of Pit that is stated in the Torah; this is the statement of Rabbi Yishmael. Rabbi Akiva says: With regard to one who renounced ownership of his property but did not renounce ownership of his pit located in the property, this is the case of Pit that is stated in the Torah. In explanation of this dispute, Rabba says: With regard to a pit that a person digs or opens into the public domain, everyone agrees that he is liable for damage that occurs as a result. What is the reason? The verse states: "And if a man shall open a pit," and it also states: "If a man shall dig a pit" (Exodus 21:33), which raises the question: If one is liable for opening a pit by removing the cover of a pit that has already been dug, then is it not all the more so obvious that he should be liable for digging a new pit? What, then, does the latter phrase add? Rather, the interpretation of the verse must be that the responsibility for the pit comes to him by engaging in opening the pit and by engaging in digging the pit. Although he does not own the area itself, he is liable for creating a public hazard. They disagree only in the case where one dug the pit on his own property and then renounced ownership of the surrounding area. Consequently, the entire area except for the pit is now open to public passage. In this case, Rabbi Akiva maintains that one who digs a pit on his own property is also liable, not only when the pit is located in the public domain, as it is written: "The owner of the pit shall pay" (Exodus 21:34). Clearly, the Merciful One is referring to a pit that has an owner. Therefore, the owner of the pit pays even if it is located on private property. And Rabbi Yishmael maintains that "the owner of the pit" means that the one responsible for the hazard is liable even if he dug the pit in the public domain and then renounced ownership of it. But one who digs a pit on his own property is not liable.

### 2. Rabbi J. David Bleich, Contemporary Halchic Problems 6:12

Some time ago an incident occurred involving a socially inept American student who became the butt of his classmates' derisive behavior. Matters reached a point at which one of the tormentors regularly invaded the oppressed student's knapsack, stole the sandwich the latter had prepared for lunch and proceeded to eat it himself. Endeavors to enlist the aid

of fellow classmates in order to identify the thief or to prevail upon him to put an end to the practice were of no avail. Finally, the victim, who excelled academically as a chemistry student, took matters into his own hands and proceeded one day to lace his sandwich with a poison. In the midst of an afternoon lecture one of the members of the class became violently ill. In the course of the ensuing tumult the victimized student revealed what he had done explaining that he had resorted to poisoning the sandwich in order to establish the identity of the thief. Thereupon the rightful owner of the sandwich administered an already prepared antidote to counter the effect of what otherwise would have been a lethal poison. The students involved seem to have been non-Jews. However, many years later, a Jewish student who witnessed that episode, and who in the interim had become a physician in Israel as well as a participant in a periodic seminar conducted on behalf of physicians by Rabbi Yitzchak Zilberstein of Bnei Brak, asked Rabbi Zilberstein if the aggrieved student's conduct was justified in accordance with Jewish law. Surprisingly, as reported in the Israeli Torah journal, Pa'amei Ya'akov, no. 44 (Kislev 5760), Rabbi Zilberstein immediately responded, "Not only is it permissible, the matter even involves a mizvah!" In a one-line statement published in the Kislev 5760 issue of Pa'amei Ya'akov, R. Chaim Kanievsky gives a qualified endorsement to that position. Rabbi Kanievsky writes: "It appears that there is a basis (yesh makom) for the words of my brother-in-law." Later, as reported by R. Elisha Mann, Derekh Siḥah, ed. Zevi Yaron (Bnei Brak, 5764), p. 371, Rabbi Kanievsky asserted that his opinion with regard to the case of the poisoned sandwich was solicited by Rabbi Zilberstein and that he had responded that the student was fully justified in poisoning the sandwich. Rabbi Kanievsky's statement is presented in conjunction with his reply to a similar inquiry: A thief gained entrance to an upper story of a dwelling by means of a rope. In order to prevent repeated burglary, may the owner of the house replace the rope with a weaker one that will snap and cause the burglar to fall and injure himself? Rabbi Kanievsky responded in the affirmative. The same issue of Pa'amei Ya'akov as well as the following issue, no. 45 (Nisan 5760), contain a series of critiques of Rabbi Zilberstein's ruling authored by R. Sinai Meir Frankel of Yavni'el, R. Gedaliah Axelrod of Haifa, R. Mordecai Blinnov of France, R. Ya'akov Gerneirer of Bnei Brak and R. Menasheh Klein of Brooklyn as well as two responses by Rabbi Zilberstein. A further critique by R. Gedaliah Rabinowitz of Jerusalem appears in the American Torah journal, Or Yisra'el, vol. 6, no. 2 (Tevet 5761). Rabbi Zilberstein's view is also published as an article appended to Hakham Lev Yikah Mizvot, authored by R. Eliezer Roth (Bnei Brak, 5661) and appears as well in his Hashukei Hemed, Bava Kamma, p. 387 and in his Toratekha Sha'ashu'ai, no. 34. Discussions attributed to Rabbi Zilberstein of less dangerous methods of identifying and apprehending a miscreant are published in Ve-Ha'arev Na, I, 438-440 and II, 427-430. Although the rather bizarre fact pattern under discussion is unlikely to be replicated, the issues involved do have practical application in more usual situations. A classic example is the question of whether a householder who has reason to fear that his unoccupied premises may be burgled may booby-trap his house in order to protect his property by maiming or killing the miscreant. The crux of Rabbi Zilberstein's position is that a person may do as he pleases in his own home, with his own knapsack or with his own sandwich. The thief or trespasser proceeds at his own risk. Consistent with this reasoning it follows that a person may store bleach or chlorine in a whisky bottle and need not be concerned lest a burglar read the label and consume the contents believing that the bottle contains whisky. Indeed, Rabbi Zilberstein asserts that such a course of action is justified even if the householder is aware of the fact that the would-be burglar has designs upon his whisky.

### 3. Talmud Bavli Bava Kamma 47b (Davidson Edition translation)

הכניס פירותיו לחצר בעל הבית וכו': אמר רב לא שנו אלא שהחלקה בהן אבל אכלה פטור מאי טעמא הוה לה שלא תאכל אמר רב ששת אמינא כי ניים ושכיב רב אמר להא שמעתא דתניא הנותן סם המות לפני בהמת חבירו פטור מדיני אדם והייב בדיני שמים סם המות הוא דלא עבידא דאכלה אבל פירות דעבידא דאכלה בדיני אדם נמי מיחייב ואמאי הויא לה שלא תאכל אמרי הוא הדין אפילו פירות נמי פטור מדיני אדם והא קמ"ל דאפי' סם המות נמי דלא עבידא דאכלה חייב בדיני שמים ואיבעית אימא סם המות נמי באפרותא דהיינו פירי:

The mishna teaches: If he brought his produce into the homeowner's courtyard without permission, and the owner's animal was injured by the produce, he is liable. Rav says: They taught this halakha only in a case where the animal slipped on it and fell, but if it ate from the produce and was injured, he is exempt. What is the reason? The animal should not have eaten it, and it was not the owner of the fruit who acted improperly but the animal itself. Rav Sheshet said: I say that Rav stated this halakha while dozing and lying down, and it is not entirely precise, as it is taught in a baraita: One who places poison before another's animal is exempt according to human laws but liable according to the laws of Heaven. From the above statement, it may be inferred that it is specifically where he put poison before the animal that he is exempt, since it is not suitable for eating. But if he put produce before it, which is suitable for eating, and the animal dies from eating it, he is also liable according to human laws. The Gemara analyzes this ruling: But why is he liable? Here also Rav's logic can be invoked, that the animal should not have eaten it. Therefore, this baraita poses a difficulty for Rav. In

order to explain Rav's statement, the Sages said: The same is true, that even if the animal was injured by eating the produce, he would also be exempt according to human laws, and this baraita teaches us this, that even in the case of poison, which is not suitable for eating, the one who placed the poison before the animal is liable according to the laws of Heaven. And if you wish, say instead that the case where the baraita exempts from liability according to human laws the one who placed poison before the animal is referring to an item suitable for eating as well, such as *afrazta*, a type of herb that appears edible for animals but is actually poisonous. Therefore, this herb is halakhically equivalent to any other produce for which he is exempt from liability according to human laws, since, as Rav explained, the animal should not have eaten it.

#### 4. **Derech Eretz Rabbah 5:3**

...ומעשה ברבי יהושע שהשכים אצלו אדם. ונתן לו אכילה ושתיה והעלהו לגג לשכב ונטל סולם מתחתיו. מה עשה אותו האיש. עמד בחצי הלילה. ונטל את הכלים וכרכן בטליתו וכיון שביקש לירד נפל מן הגג ונשברה מפרקתו. לשחרית השכים רבי יהושע ובא מצאו כשהוא נופל. אמר לו ריקה כך עושין בני אדם שכמותך. אמר לו רבי לא הייתי יודע שנטלת את הסולם מתחתיו. אמר לו ריקה אי אתה יודע שמאמש היינו זהירין כך...

And there was a story with Rabbi Yehoshua when a man slept over [at his house]. And he gave him food and drink and led him up to the roof to sleep, and took away the ladder from him. What did that man do? He got up at midnight, took all of the vessels [on the roof, that belonged to Rabbi Yehoshua], and wrapped them in his clothes. When he attempted to descend, he fell off the roof and broke his elbow. In the morning Rabbi Yehoshua came and found that he had fallen. He said to him “Empty one! This is what people like you do!” He said to him “Rabbi! I didn't realize that you took the ladder from below me”. He said to him “Empty one! Do you not know that from yesterday we were careful about you?”

### **'I thought we were in a third-world country': Ontario emergency room wait times spike**

**- Cynthia Mulligan, City News, January 3, 2019**

If you had to go to a hospital emergency room through the holidays, chances are you had a long wait to see a doctor. CityNews has brought you many stories of overcrowding over the past few years and the latest numbers show it's getting worse – with more patients coming for treatment, and waiting longer than ever to be treated by a doctor. Shellann Wallace saw that first-hand when she took her 18-year-old daughter to Humber River Hospital on the Friday evening before Christmas. “I couldn't believe it,” she said. “I thought we were in a third-world country.” Her daughter was born with a heart condition and was having chest pains, but Wallace said they waited almost seven hours before seeing a doctor. “I couldn't believe it,” she said. “I thought we were in a third-world country. I was appalled at what was going on and there was basically nothing to be done. There was only one doctor ... he looked helpless.” “There was basically over 100 people in there,” she explained. “There were people standing, children from a few months old to senior citizens. We were left there just standing and waiting ... there were seniors there crying.” Wallace said frustrations boiled over several times throughout the night and security even had to be called. A spokesperson for Humber River told CityNews they have had the highest volume of patients on record. Numbers from the Ministry of Health and Long Term care show several other GTA hospitals are also over capacity, including North York General, Scarborough Health Network, and Mississauga Trillium. Hospitals are under increasing pressure with more patients arriving for treatment and more staying longer than they should because they are waiting for long-term care beds which have 30,000 people on the wait lists. According to Health Quality Ontario, a government appointed task force, over the past year patients waiting for alternate care make up the equivalent of 10 large hospitals' worth of space every single day and emergency room visits are up over 11 per cent over the last six years. Across the province people spend an average of 16 hours in the emergency room before getting admitted. That's more than two hours longer than three years ago. Making matters worse, walk-in and urgent care clinics are often closed when emergency rooms are at their peak. Of the 21 CityNews reviewed none were open after 8 p.m. and many had limited weekend hours. North York General told CityNews it anticipated the increase in volume over the holiday period and took extra measures — as a result they say they did not see higher wait times compared to the rest of the year. That wasn't the case at other hospitals in the GTA and across the province...

## **5. Shulchan Aruch, Yoreh Deah 336:1 (R' Torczyner translation)**

נתנה התורה רשות לרופא לרפאות. ומצוה היא. ובכלל פיקוח נפש הוא. ואם מונע עצמו, הרי זה שופך דמים

The Torah permitted a doctor to heal, and it is a mitzvah, and part of saving lives. One who refrains is spilling blood.

## **6. Rabbi J. David Bleich, Physician Strikes, Tradition 21:3 (1984)**

An interesting point regarding the level of services which must be provided is reflected in a letter addressed to the medical staff of Shaare Zedek Hospital signed by two leading rabbinic authorities and published in the Kislev 5744 issue of Assia. The signators, Rabbi Yitzchak Ya'akov Weiss and Rabbi Shlomoh Zalman Auerbach, report that it had come to their attention that the number of physicians available to treat patients fell below the number of physicians customarily on duty on Shabbat. Assuming that the Shabbat staff is the minimum necessary for purposes of pikuah nefesh, those authorities declared that the members of the medical staff are obligated to assure the presence of medical personnel "not fewer (in number) than on the holy Sabbath days."

## **7. Dr. Fred Rosner, Physicians' Strikes and Jewish Law, Journal of Halacha and Contemporary Society, Fall 1993**

Does that mean that physicians are obligated always to be available for their patients?... This question requires additional deliberation and consultation with competent rabbinic authorities.

## **8. Noam Salamon, Concierge Medicine and Halacha, Journal of Halacha and Contemporary Society, Spring 2009**

Thus, it would appear that if a physician denied a patient treatment, he would be violating a positive and (possibly) two negative Biblical precepts. It is therefore understandable that Rashi explains the statement in the Talmud "The best physicians go to hell" as pertaining to a physician who has the ability to treat a destitute individual but refuses to help the patient. This raises a number of significant questions: Can a physician take a vacation, can he retire? Must a physician answer all calls at night and while resting? How would a patient who has the funds but refuses to pay a fee be characterized? Although the physician should be treating patients as much as possible, it should not come at the expense of the quality of care that a patient receives. The more patients a physician has, the busier he will be and the less time will be available for each patient. Moreover, a physician who is overworked may lack the same focus that he would have if he worked fewer hours with fewer patients. The psychological needs of the physician should also be considered, because taking breaks and avoiding burnout may be necessary to ensure the best quality of care. Moreover, the busier a physician is, the increased chance that a mistake can occur. Even inadvertent mistakes are seen by many rishonim as having some physician liability and needing reparations. Similarly, many contemporary halachic authorities consider the accidental inappropriate injection of the wrong drug as being similar to an intentional act. Thus, an overload of patients can overburden the physician and compromise patient care, potentially leading to careless mistakes. It is plausible to suggest that setting limits on the number of patients will be beneficial for all parties. Recent halachic sources highlight that in the modern, developed world, it is uncommon for cities to have a shortage of physicians. If a physician were to refuse, either passively or actively, to respond to a sick patient, there are ample other physicians who can treat that person. Thus, Rav Shalom Elyashiv writes that if a person is not seriously ill and not in need of urgent care, if a physician is eating, sleeping, or resting, he is not obligated to tend to the patient. However, a seriously ill patient falls into a different category. The Tzitz Eliezer writes that although a physician who does not aid a seriously ill patient in a time of need may not monetarily be responsible for damages, he nevertheless has an obligation to come to the patient's aid. If he does not, he will be punished by the Heavens. The Nishmat Avraham comments that this distinction may not apply if the inactivity occurred after the physician began treating the patient. The Talmud explains that if a person delineates that he is depending on someone, then that person is liable for any loss incurred. The Shulchan Aruch applies this law even if the statement was not specifically stated but was implied and obvious (e.g., the implied relationship between a physician and a patient). Thus, the Nishmat Avraham concludes that a physician who denies treatment to an existing patient is also liable monetarily. Consequently, it would appear that a distinction is made in Jewish law regarding refusal to treat a person being dependant on the severity of sickness and where a pre-existing physician-patient relationship has already been established.