



3 Nissan 5773  
March 14, 2013

Eiruvin Daf 6

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### Tzvi Gershon Ben Yoel (Harvey Felsen) o'h

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Rav Chanan bar Rava said in the name of Rav: If a *mavoi* was breached on its side wall, as long as the breach was ten *amos* or less, the breach does not nullify the partition (*for up to ten amos it is regarded as an entrance and not as a gap*). If it was breached in its front wall (*that partially closes off the entranceway*), the breach would have to be under four *tefachim* not to nullify the entranceway.

The *Gemora* asks: Why does a side wall differ (*from the front wall*) that (*in the case of the former*) a gap of ten *amos* is allowed? Presumably it is because one can say that the gap is an entrance, but then could not one say as well that when it is made in the front wall that it is an entrance?

Rav Huna the son of Rav Yehoshua said: This refers to a case where the *mavoi* was breached in a corner, and then a breach of four *tefachim* would nullify the entranceway, because people are not accustomed to fashioning entrances in the corner. [*If, however, the breach would be completely in the front wall, the enclosure would not be disrupted unless the gap was more than ten amos.*]

Rav Huna (*disagrees with Rav Chanan bar Rava in the name of Rav, and*) said: Whether this (*in the front wall of the mavoi*) or whether this (*in the side wall*), four *tefachim* nullifies the enclosure.

The *Gemora* notes: And so, in fact, did Rav Huna say to Rav Chanan bar Rava: Do not disagree with me, for Rav once happened to visit Damcharya, and actually gave a decision in accordance with my view (*that one cannot*

*carry in a mavoi when its side wall was breached four tefachim*).

Rav Chanan replied: Rav found an open field and put a fence around it. [*The people of Damcharya were ignorant and careless in the observance of the Shabbos laws, and, in order to distance them from any semblance of a transgression, additional stringencies were imposed upon them. Elsewhere, however, a breach of up to ten amos might be allowed.*]

Rav Nachman bar Yitzchak remarked: Rav Huna's opinion is more reasonable, for it was stated: A bent *mavoi* (*one in the shape of an "L," each arm opens out into a public domain*): Rav said: It is subject to the same law as one that is open on both sides. [*The side of each arm that opens out into the public domain must be furnished with a lechi or a korah, while the opposite side terminating in the bend where the two arms meet must be furnished with a tzuras hapesach (the shape of a doorway). This is the law by an open mavoi, one which is opened on both sides into a public domain: one side needs a lechi or a korah, and the other side needs a tzuras hapesach.*] Shmuel, however, said: It is subject to the law of a closed one (*and each side requires a lechi only*).

Now, what are the circumstances of the case that we are dealing with here? If it be suggested that the passage through the bend is wider than ten *amos*, would Shmuel in such circumstances rule that it is subject to the law of a closed one? [*Obviously not! It would certainly be regarded as a continuous mavoi that bends in the middle;*

*this should be treated as an open mavoi!] It must be conceded that the width of the passage is ten amos or narrower, and yet Rav ruled that it is subject to the same laws as one that is open on both sides. It definitely follows that a breach in a side wall of a *mavoi* – even if it only four *tefachim*, renders carrying in this *mavoi* prohibited. [Now, if a breach in a side wall can even be up to ten amos (and it would still be permitted to carry inside that *mavoi*), why would a bent *mavoi* such as this (less than ten amos in width) be treated as an open *mavoi*? It should be regarded as two closed *mavois*, with a breach in their side wall!?!]*

The Gemora notes that Rav Chanan bar Rava would maintain that there it is different, since many people travel through it (*when it is opened on both sides, and therefore even a smaller opening, one which is only four tefachim wide, is regarded as a thoroughfare, and not merely an entrance*).

The Gemora asks: This implies then that Rav Huna is of the opinion that even if not many people travel through it (*a breach of no more than four tefachim is allowed*), but why should this be different from the ruling of Rabbi Ami and Rabbi Assi (*concerning a mavoi that was breached from its side next to its entrance; they ruled that if there is a board four tefachim wide between the korah and the breach, then one can still carry even if the breach is up to ten amos*)?

The Gemora answers: There, the ridges of the broken wall remain (*and public travel is impeded*), but here, there are no ridges (*and since it is relatively easy for the public to travel through it, a breach of four tefachim prohibits carrying in that mavoi*).

The Gemora cites a braisa: How do we adjust a public domain (*one that has over 600,000 people travelling through it*)? The shape of a doorway is made at one end, and a *lechi* and *korah* are fixed at the other. Chananyah, however, stated: Beis Shammai ruled: A door is made at

one end of the street as well as at the other, and it must be closed as soon as one goes out or enters, and Beis Hillel ruled: A door is made at one end and a *lechi* and a *korah* at the other.

The Gemora asks: May an adjustment, however, be lawfully provided for a public domain? Was it not in fact taught in a braisa: Even more than this (of a case where a public domain had two walls (one on each side) which supported a roof above it; R' Yehudah ruled that one is permitted to carry in such a place, for there is a principle of '*pi tiktrah yoreid v'so-seim*' – 'the edge of the roof extends downwards and closes up'; it is viewed as if it is surrounded by four walls) did Rabbi Yehudah say: If one has two houses on the opposite sides of a public domain, he can make a *lechi* on one side and a *lechi* on the other side, or a *korah* on one side and a *korah* on the other side, and then he may pick things up and place them down between them. [R' Yehudah holds that two walls facing each other render the space between a private domain by Biblical law. The outside walls of the houses are two such walls.] The Sages said to him: A public domain cannot be made fit (for carrying) in this manner.

And should you reply that it (*a public domain*) cannot be adjusted in such a manner (*as described by R' Yehudah*), but that it may be provided with one by means of doors, surely this cannot be, for Rabbah bar bar Chanah stated in the name of Rabbi Yochanan that in Jerusalem (*its public roads stretched from one end of the town to the other and it had all the other characteristics of a public domain*), were it not that its doors were closed at night, one would have been liable for carrying in a public domain; and Ulla too has stated that in the city gateways of Mechoza, were it not for the fact that their doors were closed at night, one would have been liable for carrying in a public domain?

Rav Yehudah said: It is this that the braisa meant: How do we adjust a *mavoi* that is opened at both ends into a

public domain? The shape of a doorway is made at one end, and a *lechi* and *korah* are fixed at the other.

It was stated: Rav said: The *halachah* is in agreement with the first *Tanna*, and Shmuel said: The *halachah* is in agreement with Chananyah.

The question was raised: According to Chananyah's ruling in the name of Beis Hillel (*that a mavoi opened at both ends into a public domain must have a door made at one end and a lechi and a korah at the other*), is it necessary to close the single door or not?

The *Gemora* resolves this from that which Rav Yehudah said in the name of Shmuel: It is not necessary to close it; and so also said Rav Masnah in the name of Shmuel: It is not necessary to close it.

Some there are who said: Rav Masnah stated: I myself had such a case and Shmuel told me that there was no need to close the door.

Rav Anan was asked: Is it necessary to close the door of the *mavoi* or not? He replied: Come and see the gateways of Nehardea, which are half buried in the ground, and the master Shmuel continually went in and out through these gates, and yet, he never raised any objection.

Rav Kahana said: Those were partially closed.

The *Gemora* relates: When Rav Nachman came (*to Nehardea*), he ordered the sand to be removed (*so the doors could close completely*).

The *Gemora* asks: Does this then imply that Rav Nachman is of the opinion that these doors must be closed?

The *Gemora* answers: No; provided that they are capable of being closed - even though they are not actually closed.

The *Gemora* records: There was a certain bent *mavoi* (*in the shape of the letter "ches," meaning that there actually were two bends in it*) in Nehardea upon which were imposed the stringency of Rav and the stringency of Shmuel, and doors were required (*to be fixed at its bends, besides a lechi or korah at the openings into the public domain*).

The *Gemora* explains: The stringency of Rav - who ruled that a bent *mavoi* is subject to the same law as one that is open on both sides (*and therefore, here, both bends need to be adjusted accordingly*). But Rav in fact stated that the *halachah* is in agreement with the first *Tanna* (*that an open mavoi needs only a tzuras hapesach, and not a door*)? The answer is that they also ruled in agreement with Shmuel who stated that the *halachah* is in agreement with Chananyah (*that an open mavoi needs a door at its end*). But Shmuel in fact ruled that a bent *mavoi* is subject to the same law as one that is closed (*and no adjustment is necessary by its bends*)? The answer is that they also ruled in agreement with Rav who ruled that a bent *mavoi* is subject to the same law as one that is open on both sides.

The *Gemora* asks: Do we, however, adopt the stringencies of two (*authorities who differ from one another*)? Was it not in fact taught in a *braisa*: The *halachah* follows Beis Hillel, and if one wishes, he can follow either the ruling of Beis Shammai or the ruling of Beis Hillel. One who follows the leniencies of Beis Hillel and the stringencies of Beis Shammai is wicked. One who follows the stringencies of both Beis Hillel and Beis Shammai is considered a fool. One should follow either Beis Shammai consistently, i.e. their leniencies and their stringencies, or one should follow Beis Hillel consistently.

The *Gemora* questions the *braisa*: We learned in the *braisa* that the *halachah* follows Beis Hillel, and if one wishes, he can follow either the ruling of Beis Shammai or the ruling of Beis Hillel. This is a contradiction, because if the *halachah* follows Beis Hillel, why should someone

have the choice of following either Beis Hillel or Beis Shammai?

The *Gemora* resolves this contradiction by stating that the first statement of the *braisa* that states that the *halachah* follows Beis Hillel was said after the Heavenly Voice declared that the *halachah* follows the opinion of Beis Hillel. The second statement of the *braisa* that states that one can follow either Beis Shammai or Beis Hillel was said before the Heavenly Voice declared that the *halachah* follows the opinion of Beis Hillel.

The *Gemora* offers an alternative answer to the contradiction of the two statements in the *braisa*. Both statements were said after the Heavenly Voice declared that the *halachah* follows Beis Hillel. The second statement of the *braisa*, however, that's states that one can follow the opinion of Beis Hillel or Beis Shammai follows the view of Rabbi Yehoshua who maintains that we do not pay attention to a Heavenly voice dictating who the *halachah* should follow.

Alternatively, the *Gemora* resolves the contradiction of the two statements of the *braisa* by stating that in reality, the *halachah* follows Beis Hillel and not Beis Shammai. In all other disputes amongst *Tannaim* or *Amoraim* who have disputes similar to Beis Hillel and Beis Shammai, but there is no final ruling as to whose opinion one should follow, one should be consistent and follow one opinion for both their leniencies and their stringencies.

## INSIGHTS TO THE DAF

### ***Beis Shammai and Beis Hillel***

The *Gemora* quotes a *braisa* that states that the *halachah* follows Beis Hillel, and if one wishes, he can follow either the ruling of Beis Shammai or the ruling of Beis Hillel. This is a contradiction, because if the *halachah* follows Beis Hillel, why should someone have the choice of following either Beis Hillel or Beis Shammai?

The *Gemora* resolves this contradiction by stating that the first statement of the *braisa* that states that the *halachah* follows Beis Hillel was said after the Heavenly Voice declared that the *halachah* follows the opinion of Beis Hillel. The second statement of the *braisa* that states that one can follow either Beis Shammai or Beis Hillel was said before the Heavenly Voice declared that the *halachah* follows the opinion of Beis Hillel.

The *Gemora* later (13b) states that Beis Hillel and Beis Shammai argued for three years, with each one insisting that the *halachah* follows their view, and the *halachah* was only decided when a Heavenly Voice declared that both views are the words of the living G-d, but the *halachah* in practice follows Beis Hillel. We see that before the Heavenly Voice declared the *halachah* to follow Beis Hillel, the *halachah* was like Beis Shammai. Only after the heavenly Voice was the *halachah* in accordance with Beis Hillel.

The *Gemora* in *Yevamos*<sup>1</sup> brings a dispute between Beis Shammai and Beis Hillel regarding a co-wife of an *ervah* and the laws of *yibum*. The *Gemora* there discusses if Beis Shammai practiced in accordance with the opinion of Beis Hillel. The *Gemora* states that Rav and Shmuel disagreed if Beis Shammai practiced like Beis Hillel or not. The *Gemora* asks that if that issue was before the Heavenly Voice ruled like Beis Hillel, then why should Beis Shammai have practiced like Beis Hillel? If it refers to after the ruling of the Heavenly Voice, then why would Beis Shammai not practice like Beis Hillel? The *Gemora* answers that if the issue being discussed was before the Heavenly Voice's declaration, then the *halachah* should have been in accordance with Beis Shammai, but if the majority ruled like Beis Hillel, then even before the declaration, the *halachah* would follow Beis Hillel. This was the opinion of the *Amora* in the *Gemora* there who held that Beis Shammai practiced like Beis Hillel. There is an opinion, however, that maintains that even with a

<sup>1</sup> 14a



majority, the *halachah* would not be like Beis Hillel, because the academy of Beis Shammai were sharper in their studies. If the issue being discussed took place after the declaration, then the opinion that held that Beis Shammai practiced like Beis Hillel maintains thus because of the Heavenly Voice.

The opinion that maintains that Beis Shammai did not practice like Beis Hillel followed the opinion of Rabbi Yehoshua who held that one does not pay attention to the dictates of the Heavenly Voice. Rabbi Yehoshua was one of the disputants in the incident regarding the legal status of a particular type of oven in regard to laws of ritual purity. (see Bava Metzia 59b) Rabbi Eliezer disagreed with Rabbi Yehoshua and Rabbi Eliezer declared that the walls of the study hall should bear witness to Rabbi Eliezer's opinion, and the walls began to lean. Rabbi Yehoshua yelled at the walls and the walls did not collapse, as they deferred to the honor of Rabbi Yehoshua, but the walls did not straighten themselves out, in deference to the honor of Rabbi Eliezer. Rabbi Eliezer then said: If the *halachah* is like my view, then it shall be proven from heaven. A Heavenly Voice then declared that the *halachah* is like Rabbi Eliezer in every dispute. Rabbi Yehoshua rose to his feet and called out, "the Torah is not in heaven." Once the Torah was given at Sinai, we do not pay attention to the dictates emanating from a Heavenly Voice. The Torah states explicitly that one follows the majority opinion.

If we hold that we do not pay attention to the dictates of the Heavenly Voice, why do we rule like Beis Hillel in a dispute with Beis Shammai even after the Heavenly Voice declared the *halachah* to be like Beis Hillel?

Tosfos here answers that perhaps in Bava Metzia, the Heavenly Voice was for the sake of Rabbi Eliezer's honor, and this prompted Rabbi Yehoshua to declare that we do not pay attention to the dictates of the Heavenly Voice. Rabbi Yehoshua himself is of the opinion that we never pay attention to the dictates of the Heavenly Voice.

Tosfos writes further that there the Heavenly Voice was against the majority opinion, and that is why Rabbi Yehoshua declared that we do not pay attention to the dictates of the Heavenly Voice. In our *Gemora*, however, Beis Hillel was the majority, and the *halachah* should really follow Beis Hillel. Since the academy of Beis Shammai were sharper in their studies, we required the Heavenly Voice to dictate that the *halachah* follows Beis Hillel, because even though Beis Shammai were sharper, Beis Hillel was the majority opinion.