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Eiruv Daf 36

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Daf Notes is currently being dedicated to the neshamah of

**Tzvi Gershon Ben Yoel (Harvey Felsen) o"n**

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

### **Rabbi Yosi's Position**

The *Gemora* asks how Rabbi Yosi can be lenient about an eruv which may have become invalid before *Shabbos*, while he is strict about a doubt whether one immersed in a valid *mikvah*.

The *Gemora* offers the following answers:

1. Rabbi Yosi is strict with impurity, since it has a source in the Torah, but he is lenient about *eiruv*, since the prohibition of leaving the *techum* is Rabbinic. (Rav Huna bar Chinena)
2. Rabbi Yosi's position about *eiruv* is not his position, but that of his Rebbe. The *Gemora* supports this from the *Mishna*, in which Rabbi Yosi cites Avtulmos as the source for his position.
3. Rabbi Yosi is strict in the case of *mikvah*, since we must assume the person who immersed remains in his original state of impurity, while in the case of *eiruv*, we assume that it remained in its original valid state. The *Gemora* asks why we don't instead assume that the *mikvah* remained in its original valid state when the person immersed, and answers that the case is when the *mikvah* was never originally measured to determine it had enough water.

The *Gemora* cites a *Mishna* which explains in which cases Rabbi Yosi says we assume an *eiruv* remains valid. If one used *terumah*, but is unsure if it became impure before or after *Shabbos* began, or if one used produce, but is unsure whether *terumah* was taken before or after

*Shabbos*, it is valid. However, if one used *terumah*, but we are not sure if it is impure, or produce which may not have had *terumah* removed from, it is not valid.

The *Gemora* asks why Rabbi Yosi permits an *eiruv* from produce if we're not sure when *terumah* was taken. Just as we assume the *terumah* retained its original pure state until *Shabbos* began, we should assume the produce retained its original state of not having *terumah* taken.

The *Gemora* answers by amending the case to be produce from which *terumah* was already taken, but which became invalid when other invalid produce fell in. (36a)

### **Pure and Impure Loaves**

Rav Shmuel bar Rav Yitzchak asked Rav Huna about one who had two loaves, one pure and one impure, but doesn't know which is impure. If he makes an *eiruv* with the pure loaf, whichever one it is, is it valid? Even according to Rabbi Meir, who says an *eiruv* is invalid if it may have become invalid, perhaps this *eiruv* is valid, as one loaf is definitely pure. And even according to Rabbi Yosi, who says that an *eiruv* is valid even if it may have become invalid, perhaps this *eiruv* is invalid, as he doesn't know which loaf is impure. He answered that according to both this is invalid, as an *eiruv* must be edible when *Shabbos* begins, and neither of these are. (36a)



## Consecrating a Loaf on One Day

Rava asked Rav Nachman about one who said that a loaf should become consecrated when *Shabbos* begins and used it for an *eiruv*. Rav Nachman answered that it is valid. He then asked about making an *eiruv* with a loaf which he said should be consecrated today, but redeemed when *Shabbos* begins, and he answered that it is invalid. When he asked him the reason for the different rulings, Rav Nachman explained that we assume that the transition to or from consecration only occurs at dark, when *Shabbos* has definitely arrived. Therefore, in the first case, it remains edible throughout twilight, while in the second case, it remains consecrated throughout. (36a)

## When does an Eiruv take Effect?

The *Gemora* cites a *Mishna* which states that if one filled a jug which was immersed today with *ma'aser* and then designated this to become *terumas ma'aser* at nightfall, when the jug will be fully pure, it is valid. If he used it as an *eiruv*, it isn't valid.

Rava says that we learn from here that an *eiruv* takes effect at the end of the day before *Shabbos*, since the contents of the jug are edible once *Shabbos* begins, yet it isn't valid. Rav Pappa deflects this, saying that even if an *eiruv* takes effect at the start of *Shabbos*, the *eiruv* must be edible before *Shabbos*. (36a – 36b)

## Conditional Eiruv

The *Mishna* says that one can place an *eiruv* with a condition, deciding on *Shabbos* how or if it should take effect.

The *Mishna* lists the following examples:

1. If non-Jews are coming to the city from an unknown direction, and he wants to escape, he

can place one *eiruv* in either direction, and stipulate:

- a. If they are in the west, my *eiruv* to the east should take effect.
  - b. If they are in the east, my *eiruv* to the west should take effect.
  - c. If they came from both sides, I can choose which *eiruv* should take effect.
  - d. If they didn't come at all, neither will take effect, and I will remain centered in my city.
2. If a sage is coming to the city from an unknown direction, and he wants to go to his lesson, he can place one *eiruv* in either direction, and stipulate:
    - a. If he is in the west, my *eiruv* to the west should take effect.
    - b. If he is in the east, my *eiruv* to the east should take effect.
    - c. If two sages came, one in either direction, I can choose which *eiruv* should take effect.
    - d. If none came, neither will take effect, and I will remain centered in my city.

Rabbi Yehudah says that if one of the sages is his teacher, the *eiruv* in that direction takes effect, while if both are his teachers, he can choose which one he wants. (36b)

## Coming or Going?

When Rabbi Yitzchak came from *Eretz Yisroel*, his version of the *Mishna* reversed the relative directions in the cases of the non-Jews and sages.

The *Gemora* explains that the cases of non-Jews and Sages are different ones. The non-Jews in our *Mishna* are who are collecting taxes, and therefore people want to avoid them, while those in Rabbi Yitzchak's version are of the local government, who the residents want to greet. The case of the sages is when the sage in one direction is



teaching Torah lessons, while the one in other direction is teaching children davening. People prefer to go to the sage who teaches Torah lessons, and therefore he will choose his *eiruv* in that direction. Our *Mishna* refers to the sage teaching Torah lessons, while Rabbi Yitzchak's version refers to the one teaching children. (36b)

### ***Rebbe vs. Colleague***

The *Gemora* explains that the Sages dispute Rabbi Yehudah's assumption that the *eiruv* in his teacher's direction should take effect, since sometimes one prefers to learn from one who is a colleague rather than his teacher. (36b)

### ***Rabbi Yehudah's Position on Bereirah***

Rav says that we don't accept the *Mishna's* statement that Rabbi Yehudah accepts the concept of *bereirah* – *retroactively clarifying an action later*, since Ayo taught a *Mishna* which cites Rabbi Yehudah not accepting *bereirah*.

The *Gemora* cites Ayo's *Mishna* in which Rabbi Yehudah says that one cannot place two *eiruvim* and tomorrow decide which one he wants, but he can stipulate that his *eiruv* in the direction of the sage should take effect. Rabbi Yochanan explains that the case which Rabbi Yehudah allows is only when the sage already arrived before *Shabbos*, but the person just didn't know yet. Since he already arrived, there is no clarification necessary, but simply a discovery of known facts.

The *Gemora* asks why Rav rejected the *Mishna* instead of rejecting Ayo's *Mishna*, and answers that we have another *Mishna* which indicates that Rabbi Yehudah doesn't accept *bereirah*. The *Mishna* discusses one bought wine from Cutheans, but has no utensils into which to place *terumah* and *ma'aser*. Rabbi Meir says that one may state that he is taking *terumah* and *ma'aser*

now, stipulating that he will designate the actual wine for each later, and immediately drink the wine, while Rabbi Yehudah, Rabbi Yosi, and Rabbi Shimon say that one may not, indicating that Rabbi Yehudah does not accept this form of *bereirah*. (36b – 37a)

## **INSIGHTS TO THE DAF**

### ***Meduma – Mixture of What?***

The *Mishna* limits Rabbi Yosi's position about an *eiruv* which became invalid to a case of fruits which were tithed, but which then had invalid fruits mixed into them.

Rashi offers two explanations of the case:

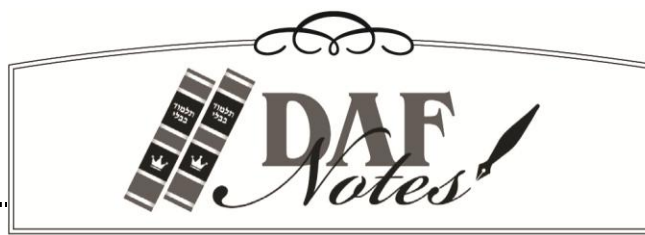
1. *Terumah* fell in, and this *Mishna* follows Sumchus, who says that a non-Kohen may not use *terumah* for an *eiruv*.
2. *Tevel* – untithed produce fell in, which is unfit for everyone, including *Kohanim*.

Tosfos (36a safek) supports Rashi's second explanation, even though the term used (*dimua*) usually connotes a *terumah* mixture, since the *Mishna* itself uses *terumah* which became impure at an unknown time as an example of Rabbi Yosi's position, implying that *terumah* is valid for an *eiruv*.

### ***Bereirah – Depending on Whom?***

Rav rejects the *Mishna's* statement that Rabbi Yehudah accepts *bereirah*, since he has a *Mishna* of Ayo which says that Rabbi Yehudah does not accept *bereirah*. The *Gemora* explains that Rav followed Ayo's *Mishna* since we have another *Mishna* (about wine of kutim) in which Rabbi Yehudah rejects *bereirah*.

Tosfos (36b lo) challenges this reasoning, as there are two more *Mishnayos* in which Rabbi Yehudah does seem to accept *bereirah*:



1. The *Mishna* in Gittin discusses one who gives his wife a get, which will take effect a moment before he dies. Rabbi Yehudah discusses her status until he dies, implying that he agrees that this get is valid, even though it is only clarified later.
2. Rabbi Yehudah says that a person can declare in the morning that whatever produce people gather today will be redeemed on his own money. This is a case of *bereirah*, since we only clarify what he is redeeming later.

Tosfos answers that Rav distinguishes between *bereirah* that depends solely on the person doing the action (e.g., *eiruv*, taking *terumah* from wine) and one that depends on external events (e.g., get, redemption). Although Rabbi Yehudah accepts the latter, we have two sources indicating that he doesn't accept the former.

Tosfos explains that the *Gemora's* subsequent modification of Ayo's *Mishna* to state that Rabbi Yehudah only accepts a conditional *eiruv* when the sage already arrived (leaving no room for later clarification, even for something dependent on someone else) is based on not making this distinction. Rav himself wouldn't need to modify this part of the *Mishna*, as he would say that Rabbi Yehudah accepts *bereirah* that depends on the sage's later actions.

## **Wine of Cutheans**

The *Gemora* cites the *Mishna* about one how one can separate *terumah* and *ma'aser* from wine of Cutheans. Tosfos (37a shnai) notes that the *Mishna* indicates that one must take all *terumah* and *ma'aser* from such wine, as opposed to wine of an *am ha'aretz (demai)*, from which one must only take *ma'aser*. Although we assume Cutheans take their own *terumah* and *ma'aser*, we are concerned that they do not take it from produce they sell others, for two possible reasons:

1. They take the prohibition of putting a stumbling block in front of the blind only literally, and therefore consider it permitted to cause someone else to sin.
2. They rely on the verse which says that you should tithe and eat, which implies that one need not tithe what he sells.

Tosfos notes that we suspect that they don't tithe even though we don't suspect that they would steal, for two possible reasons:

1. There isn't a specific person who they are withholding from, but rather a group of people (*Kohanim or Levi'im*), and they therefore don't consider it stealing.
2. They feel that until they actually separate the *terumah* and *ma'aser*, they haven't stolen anything.

Tosfos notes that we already see this situation with an *am ha'aretz*, who we suspect of not taking *ma'aser*, even though we don't suspect him of stealing.

## **Deeds of Sale that Take Effect on Shabbos**

R' Akiva Eiger's brother, R' Bunim, sent him the following question: is it permitted to draw up a deed of sale before *Shabbos*, with the stipulation that the transaction will take effect on *Shabbos*? A similar question was raised four years ago in the Meoros Journal (#94, Gittin 38a) in regard to automatic vending machines owned by Jews, and patronized by gentiles on *Shabbos*. In essence, both questions revolve around the same inquiry into the prohibition against conducting business on *Shabbos*. Are only acts of business prohibited, or even transactions that occur automatically?

**Melachos that are begun on erev Shabbos:** The *Gemora* states that in most cases, it is permitted to begin a

*melachah* on erev *Shabbos*, even though that *melachah* will complete itself on *Shabbos*. For example, one may soak fabric in dye on erev *Shabbos*, and allow it to continue soaking on *Shabbos*. Traps may be set on erev *Shabbos*, although they may spring on their prey on *Shabbos* (*Shabbos* 18a). Although man is forbidden to work on *Shabbos*, there is no prohibition against letting one's possessions work on their own.

Nevertheless, the Avnei Nezer (O.C. 51) explains that this might not apply to business transactions. When a fabric is soaked in dye, it needs no further interaction with its owner. Even if he should die, G-d forbid, it would continue absorbing the color. The person is therefore entirely disassociated with the continued progress of the *melachah*. Therefore it is permitted to begin such a *melachah* on erev *Shabbos*. However, in a business transaction, there are two elements: the agreement, and the actual transfer of ownership. Although the agreement was reached on erev *Shabbos*, the transfer of ownership does not take place until *Shabbos*. If the person would die in the interim, the transaction would be null and void. He is still involved in the sale, even if he need make no more actions to carry it out. We may therefore pose the question: is the conclusion of a sale included in the prohibition, or only the agreement between the two sides to reach that conclusion?

The Maharam Shik (O.C. 131) rules that it is permitted to arrange a deal to take effect on *Shabbos*, while R' Akiva Eiger (159) rules that it is forbidden. One of the proofs cited to permit this stems from our sugya. As we know, it is forbidden to separate *terumos* and *maasros* on *Shabbos*. Since by separating the tithes one causes the fruit to become permitted, our Sages deemed this comparable to fixing a broken object, and forbade it. Nevertheless, we find in our *Gemora* that one may stipulate on erev *Shabbos*, that certain designated fruit should become *terumos* and *maasros* once *Shabbos* begins. Clearly, it is permitted for the tithing to take effect on *Shabbos*, provided that the actions to reach this

effect were completed on erev *Shabbos*. Presumably, the same is true with a business transaction. It is permitted for the transaction to take effect on *Shabbos*, provided that the deal was completed on erev *Shabbos*.

**Two halves of the same person:** The Avnei Nezer (ibid) rejects this proof, explaining that as a general rule, when two people perform a *melachah* together, one beginning it and one concluding it, they are both exempt from punishment. If a single person begins a *melachah* on erev *Shabbos*, and concludes it on *Shabbos*, he is also exempt from punishment based on this same principle. He performed only half the *melachah* on *Shabbos*. Although he is not to be punished, it is still forbidden *le'chatchilah* to do so. Yet, in the case of carrying in a *karmelis*, which is only a Rabbinic prohibition, it is permitted to lift up an object on erev *Shabbos*, and carry it out on *Shabbos*. So too, we may apply this distinction to tithing. Preparing the tithes for separation is half of the prohibition, performed on erev *Shabbos*, whereas the tithing taking effect on *Shabbos* is the other half. Since tithing is only a Rabbinic prohibition, it is permitted to perform half the prohibition on *Shabbos*, just like carrying in a *karmelis*.

Business transactions, however, are not merely a Rabbinic prohibition. They are based on a possuk from Tanach, "If you refrain on *Shabbos*... from pursuing your interests," (Yeshaya 58. See Rashi, Beitza 37a). Therefore, although only half the transaction takes place on *Shabbos*, it is still forbidden.