

6 Sivan 5773
May 15, 2013



Eiruv Daf 68

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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

Rabbah son of Rav Chanan asked Abaye: How can it be that in a *mavoi* in which two great men like you (*Rabbah and Abaye*) reside, there should be neither *eiruv* nor *shituf*?

Abaye replied: What can we do, seeing that it would not be becoming for the master (*Rabbah - to collect the tenants' contribution for the shituf*), and I am too busy with my studies, and the other tenants do not care. And were I to transfer to them the possession of a share of the bread in my basket (*for the shituf; something that would require no effort at all*), since if they would ask me for (*their portion of*) the bread I would not give it to them (*for I could not afford to*), the *shituf* would be invalid; for it was taught in a *braisa*: If one of the residents of a *mavoi* asked for some of the wine or the oil, and they refused to give it to them, the *shituf* is thereby rendered null and void.

Rabbah son of Rav Chanan countered: Couldn't the master transfer to them (*the other tenants in the mavoi*) the possession of a quarter of a log of vinegar in a barrel (*which would suffice for the entire year*)?

It was taught in a *braisa*: Commodities stored (*that are not specifically designated for the eiruv or shituf*) may not be used for *shituf*. [*In the case of a barrel of vinegar, for instance, no portion of it may be*

designated for the purpose, because no one could possibly distinguish between the quantity that had been so designated and the general contents of the barrel; and any quantity that one may happen to use at any time might be assumed to be the quantity that had been designated for the shituf which in consequence would cease to exist.]

The *Gemora* notes a contradiction from a different *braisa* which states that they may be used for *shituf*!?

Rav Oshaya replied: It is no contradiction, since one view is that of Beis Shammai and the other is that of Beis Hillel, for we learned in a *Mishna*: When there is a corpse in a house and the house has many doorways, all the utensils in the doorways are *tamei*, as we do not yet know through which doorway the corpse will be taken out. If one of them was opened, that one is *tamei* and the rest are *tahor*. If all the doors are closed and one decided to take the corpse out through one of the doorways or through a window that is at least four *tefachim* by four *tefachim*, then all the doorways are saved from contracting *tumah*, because we assume that one will take the corpse out through the doorway that he designated. Beis Shammai maintains that this is only said when he decided to use that doorway before the person died, and Beis Hillel holds that this is said even if he decided to use that doorway after the person died. [*Intention, in their opinion, is effective retroactively. Similarly, in the*

case of shituf with a non-identified quantity - according to Beis Hillel the shituf is valid, since any quantity of the contents that remain in the barrel may be retroactively regarded as the original quantity assigned for the shituf, while according to Beis Shammai it cannot be so regarded and the shituf is consequently invalid.]

The *Gemora* relates: There was once a certain child (who was to be circumcised on the Shabbos) whose hot water (that had been prepared before the Shabbos and kept warm for the circumcision) was spilled out. Rava said: Let us ask his mother and if she requires any, a gentile may warm some for him indirectly through his mother. Rav Mesharshiya told Rava: His mother is already eating (cold) dates (and obviously has no need for cold water). Rava replied: It is quite possible that it was merely a stupor that had seized her (and she does not realize what she is doing). [Therefore, if she expressed a desire for hot water, it is permitted to request a gentile to warm some for her, and so, indirectly, for the child as well.]

The *Gemora* relates: There was once a child whose hot water was spilled out (and there was some in a neighboring courtyard). [No joint eiruv for the two courtyards had been prepared, but they had a common door between them.] Rava instructed: Remove my things from the men's quarters (who had a supply of hot water in his own courtyard, which was adjacent to that in which the child was kept) to the women's quarters (which, for the sake of privacy, were behind the men's quarters, and consequently inaccessible from the courtyard except by way of the men's quarters) and I will go and sit there, so that I may renounce my rights in this courtyard in favor of the tenants of the child's courtyard.

Ravina said to Rava: But didn't Shmuel say that no renunciation of one's right in a courtyard is permitted where two courtyards are involved?

Rava replied: I hold the same view as Rabbi Yochanan who ruled that it is permitted to renounce one's right in a courtyard even where two courtyards are involved.

Ravina asked: If the master doesn't hold the same view as Shmuel, let him remain in his usual quarters and renounce his right in his courtyard in their favor and then let them renounce their right in the master's favor, for didn't Rav rule: Relinquishing may be followed by relinquishing?

Rava answered: On this point I am of the same opinion as Shmuel, who ruled that relinquishing may not be followed by relinquishing.

The *Gemora* asks: But aren't both rulings based on the same principle, since why indeed shouldn't relinquishing be allowed to follow relinquishing? Is it not because a person, as soon as he relinquishes his right, he completely eliminates himself from that place and assumes the status of a tenant of a different courtyard and no relinquishing is valid between two courtyards? How then could the master renounce his right?

Rava responds: There, the reason is because a Rabbinical enactment shall not assume the character of a mockery and jest. (68a – 68b)

INSIGHTS TO THE DAF

The Mitzvah to Make an Eiruv

Shlomo HaMelech and his Beis Din decreed that even if a public courtyard is surrounded by walls, and is technically a *reshus hayachid* according to Torah law, carrying there is still restricted *miderabanan*. In order to carry from a private house into the public courtyard, one must set an *eiruv chatzeiros*. Various aspects of this enactment have been discussed in previous issues of Meoros HaDaf HaYomi. This article will examine a question that was posed to several Poskim throughout the generations. Namely, is the eiruv an undesirable leniency that was permitted in order that the community not be unduly inconvenienced? If so, pious individuals should not rely on this leniency.

The Tashbatz(Teshuvos II, 37)replied quite to the contrary. Shlomo HaMelech's original enactment was not to forbid carrying in a courtyard, but rather to make carrying there contingent on an eiruv. There was never any sort of prohibition decreed or implied against carrying in a courtyard where an *eiruv chatzeiros* had been set. If a person sets an *eiruv chatzeiros*, he fulfills this enactment to its fullest.

As a proof to this, he cites our Gemara, in which we find that Rabbah bar R' Chanan asked Abaye why no *eiruv chatzeiros* had been set in the courtyard where Abaye and Rabbah lived. Abaye answered that Rabbah could not personally attend to the eiruv, since he was limited by the protocol associated with his high social standing. It would diminish the honor of the Torah if he would go around the houses of the courtyard to collect bread for the eiruv. Abaye

himself was also unable, since he was preoccupied with his studies. The other neighbors of the courtyard did not care to take the initiative, and as such the courtyard was left without an eiruv. If Rabbah bar R' Chanan posed this question, and Abaye felt forced to find excuse, clearly an eiruv is not a *bedieved* solution, but the *le'chatchilah* fulfillment of Shlomo's enactment.

Teshuva to Olisano: From a teshuva of the Gaonim (Gaoni Mizrach V'Maarav, Yemen: 26) written to the city of Olisano, we see that it is better to rely on an eiruv to carry, than to refrain from carrying altogether. The Gaonim criticized the people of Olisano, "We were astounded that great scholars such as yourselves, masters of Torah, and scrupulous observers of the mitzvos, do not set *eiruv chatzeiros*.... There are no gentiles in your city who would render the eiruv invalid. Why do you not set *eiruv chatzeiros*, as Rabba bar R' Chanan challenged Abaye?"

The Mordechai (515) and Hagahos Maimones ,1:1 citing Tosefos write that it is commendable to set an eiruv, to prevent people from accidentally transgressing an *issur derabanan* of carrying without an eiruv. The Tur (O.C. 395) and Shulchan Aruch (O.C. 366:13) rule accordingly: "It is a mitzva to set an *eiruv chatzeiros*." Although the Levush (ibid) understood this literally to mean that there is mitzva *miderabanan* to set an eiruv, the Tosefos Shabbos (369:1) understood it as a borrowed expression. Not that one fulfills a *mitzvah* by setting an eiruv, but that it is wise to do so to prevent forbidden carrying. He proves this from our Gemara. If there was truly a *mitzvah* to set an eiruv, Abaye and Rabbah would not have failed to do so.

“Reason demands an eiruv”: The Chasam Sofer (O.C. 99) writes that he was once asked to find a proof from Chazal that it is proper for each city to built *tzuros hapesach*- wires and set an *eiruv chatzeiros* to permit carrying. He declined to search the Talmud for a proof, explaining that, “This thing has no need to proven from Chazal, since it logical ... any intelligent person will realize that it is impossible to prevent children from unwittingly carrying even the smallest object out of the house on Shabbos... furthermore, how much pain and inconvenience is caused even to the adults [without an eiruv], especially in regard to carrying siddurim to shul... simple reason demands that an eiruv must be set to permit carrying. This obligation is incumbent upon the rabbis and Torah scholars of each city, and if they shirk this responsibility they will carry the sins of the community upon their shoulders.”

The Chasam Sofer continues by citing the Gemara which states that when Shlomo HaMelech developed the rabbinic enactments of *eirubin* and *netilas yadayim*, a Heavenly voice declared, “My son, if your heart is wise, My heart will also rejoice” (Mishlei 23:15). He explains that Hashem did not so much rejoice over the prohibition against carrying, as He rejoiced over the solution of *eiruv chatzeiros* that Shlomo developed. Our Sages formulated a beracha over eirubin, “Blessed are You, Hashem... Who has sanctified us with His commandments, and commanded us concerning the *mitzvah* of eiruv.” The Chasam Sofer notes that we do not recite berachos over rabbinic prohibitions. Rather, this beracha refers to “this great *mitzvah*, which protects us from the prohibition against carrying, which would otherwise be impossible to avoid.

A further proof to this is that the bread used for an eiruv is considered ,“an object used for a *mitzvah*” (Mishna Berura 394:2). For this reason the Rema writes that it is proper to use the eiruv bread for the Shabbos seudos, in order to use the same object for many mitzvos (see Meoros journal, 337).