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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

POINT BY POINT OUTLINE OF THE DAF

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1) IF ONE CAN THROW AND THE OTHER CAN LOWER

- (a) **Question (against Rav - Mishnah):** If Bnei Chatzer forgot to be Me'arev with Bnei Mirpeses, anything 10 Tefachim tall is to the Bnei Mirpeses. Anything less is to the Bnei Chatzer.
1. We are thinking that the Bnei Mirpeses live in an Aliyah (a second story 10 Tefachim above the Mirpeses, which is 10 Tefachim above the ground). They are called Bnei Mirpeses because they get to their apartments via the Mirpeses;
 2. (Anything 10 Tefachim above the ground is 10 below the Bnei Mirpeses.) The Bnei Chatzer can throw and the Bnei Mirpeses can lower, yet the Bnei Mirpeses are permitted [like Shmuel]!
- (b) **Answer:** Rav Huna answered [elsewhere], it is permitted to Bnei Mirpeses who live [in apartments whose openings are directly to] the Mirpeses. The same answer applies here. (They are only 10 above the ground. Anything this tall is convenient for them to use.)
- (c) **Question (Seifa):** Anything less is [permitted] to the Bnei Chatzer.
1. It is convenient for (i.e. less than 10 from) both of them. Both should be forbidden!
- (d) **Answer:** Indeed, it means that it is *also* [accessible] to the Bnei Chatzer, therefore it is forbidden to both.
- (e) **Support (Seifa):** This is if these are near the Mirpeses. If they are far away, even if they are 10 tall, they are to the Bnei Chatzer;
1. **Question:** What is the meaning of 'they are to the Bnei Chatzer'?
 - i. It cannot mean 'they are permitted to the Bnei Chatzer', for they are inconvenient for both of them!
 2. **Answer:** It means that they are *also* [accessible with difficulty] to the Bnei Chatzer, therefore they are forbidden to both.
 3. Also in the Reisha it means that it is also to the Bnei Chatzer, therefore it is forbidden to both!
- (f) **Question (Mishnah):** If a rock or Chulyah of a pit is 10 Tefachim tall, it is permitted to the Bnei Mirpeses. If it is less, it is permitted to the Bnei Chatzer.
1. [We are thinking that the Bnei Mirpeses live on the second story. They can lower and the Bnei Chatzer can throw, yet the Bnei Mirpeses are permitted [like Shmuel]!
- (g) **Answer (Rav Huna):** They are permitted to Bnei Mirpeses who live on the Mirpeses.
- (h) **Question:** This answers regarding a rock (it is convenient for Bnei Mirpeses). However, [people draw from the bottom of a pit;] even Bnei Mirpeses use a pit [with difficulty, i.e.] by lowering!
- (i) **Answer #1 (R. Yitzchak brei d'Rav Yehudah):** The case is, it is full of water. (They draw from the top, which is within 10 of them.)
1. **Question:** Once they draw some water, it is no longer full, and they use it by lowering!
 2. **Answer:** Since it is permitted when it is full, it is permitted even when it is not full.
 3. **Rejection:** No! Since it is forbidden when it is not full, it should be forbidden even when it is full [lest people take the water]!

- (j) **Answer #2 (Abaye):** Rather, it is full of produce.
 (k) **Question:** Once some are removed, it is not full!
 (l) **Answer:** The produce is Tevel. (One may not move it on Shabbos.)
 (m) **Support:** The pit is taught together with a rock. (It does not get diminished.)
 (n) **Question:** Why must the Mishnah teach about a pit and a rock?
 (o) **Answer:** Had it taught only about a rock, which is never diminished, one might have thought that we decree to forbid a pit [even full of Tevel] due to a pit that can be diminished, e.g. it is full of Chulin.

2) QUESTIONS AGAINST SHMUEL

- (a) **Question (against Shmuel - Beraisa):** If Bnei Chatzer forgot to be Me'arev [together] with Bnei Aliyah, the Bnei Chatzer may use the bottom 10 Tefachim of the wall [of the house facing the Chatzer]. The Bnei Aliyah may use the top 10 Tefachim;
1. If a ledge juts out from the wall below 10 Tefachim, the Bnei Chatzer may use it;
 2. If it is above [the height that is] 10 Tefachim [below the Aliyah], the Bnei Aliyah may use it.
 3. **Inference:** (We are thinking that the Aliyah is more than 20 Tefachim tall.) If the ledge is in between (more than 10 Tefachim above the ground, and more than 10 Tefachim below the Aliyah), it is forbidden to both [even though the Bnei Chatzer use through throwing and the Bnei Aliyah by lowering. This is like Rav!]
- (b) **Answer (Rav Nachman):** No, the wall is only 19 tall. It is convenient for one and inconvenient for the other. (Indeed, the middle Tefach is convenient for both, so both are forbidden. Rashi - we do not establish it to be 20 tall, for then the above inference would apply to the exact middle.)

84b

- (c) **Question (against Shmuel - Mishnah):** [If a balcony is above water, if one makes a hole in the balcony and a Mechitzah 10 Tefachim above or below the balcony, he may draw water on Shabbos.] If two balconies are one above the other, and a Mechitzah was made only for the top one, both of them are forbidden unless they are Me'arev together. (The bottom one must throw [the bucket to the top balcony and lower it], and

the upper one merely lowers, yet both are forbidden!)

- (d) **Answer #1 (Rav Ada bar Ahavah):** The case is, the people on bottom go up [a ladder] to the top balcony to draw water.
 (e) **Answer #2 (Abaye):** The case is, the upper balcony is less than 10 above the lower one. The Mishnah teaches a bigger Chidush:
1. It is a small Chidush to forbid both when a Mechitzah was made only for the bottom one. Since they are within 10 of each other, [they are like one Reshus, so] they forbid each other;
 2. Rather, this is even when a Mechitzah was made only for the top one. One might have thought that since it is convenient for them and inconvenient for the bottom one, we give it to the top ones. The Mishnah teaches that this is not so.
- (f) This is like Rav Nachman taught;
1. **(Rav Nachman citing Shmuel):** If a roof borders Reshus ha'Rabim, it is permitted only if there is a fixed ladder (Tosfos - from the Chatzer; Rashi - from a balcony) [to the roof];
 2. **Question:** A movable ladder is not enough. What is the reason?
 3. **Answer #1:** Because they are within 10 of each other, [they are like one Reshus,] they forbid each other;
- (g) **Rejection (and Answer #2 - Rav Papa):** Perhaps Rabim rest their hats and turbans on the roof [or balcony (Rashi)]. Even if it is above 10, it is convenient for light things, in particular things worn on the head!]

INSIGHTS TO THE DAF

1) THE ARGUMENT BETWEEN RAV AND SHMUEL: "SHILSHUL" OR "ZERIKAH"

QUESTION: When one domain is shared by more than one Chatzer, the law is that the use of that domain is allotted to the Chatzer that has the least difficulty in using it. Rav and Shmuel (83b) argue about a case in which the residents of one Chatzer can use a certain domain only by throwing ("Zerikah") objects onto it, and the residents of an adjacent Chatzer can use the same domain only by

lowering ("Shilshul") objects down onto it. Whose usage of the domain is considered to be easier? Rav says that since both Zerikah and Shilshul are difficult ways to use the domain, the two Chatzeros have equal use of the area. Consequently, the residents of both Chatzeros are forbidden from carrying into the domain on Shabbos. Shmuel maintains that Shilshul is an easier way to use an area than Zerikah, and thus the Chatzer that uses the domain through Shilshul is entitled to the exclusive right to use it.

The Gemara (84a) questions the opinion of Rav from the Mishnah (83b) which states that the right to use a mound of dirt around a pit or a large rock which is ten Tefachim high is given to the residents of the balcony. Even though the residents of the balcony are able to use the top of the mound only by lowering things onto it, this is considered an easier form of usage than that of the residents of the Chatzer, who have to throw things onto the top of the mound. This seems to refute the opinion of Rav.

What is the Gemara's question? The Mishnah is discussing the use of the top of the *mound* around the pit. It is not discussing the use of the inside of the pit itself. In order to use the top of the mound, the residents of the balcony do not have to lower anything onto it, since the mound is at the same level as the floor of the balcony!

ANSWERS:

(a) The **RITVA** answers in the name of **TOSFOS** (different from the Tosfos in our Gemara) that the Mishnah cannot be referring to the mound around the pit, because an ordinary mound does not have a width of four Tefachim at the top. It cannot become forbidden, because it is like a Makom Petur and is subordinate to the domains on each side, to the Chatzer and to the balcony. The Mishnah must be referring to the inside of the pit.

(b) The **RITVA** gives a second answer. It must be permitted for the residents of the balcony to use the inside of the pit itself. If they would be prohibited from using the pit, they would also be prohibited from using the mound around it, because the usage of the mound is subordinate to the pit (since the primary area of use is the pit). It must

be that they are permitted to use the pit, even though they must lower things into it.

(c) The **GA'ON YAKOV** answers that the Gemara understands that when the Mishnah mentions "the mound around a pit," it must be referring to the *inside* of the pit. If the Mishnah is referring only to the actual mound around the pit, then the Mishnah would not have to mention both that case and the case of a large rock, because the case of the mound around the pit would be the same as the case of a large rock.

2) A LEDGE TEN TEFACHIM HIGH ON THE WALL BETWEEN A CHATZER AND AN ALIYAH

QUESTIONS: The Beraisa says that when a wall separates a Chatzer from an Aliyah (a second story), the residents of the Chatzer may use the bottom ten Tefachim of the wall, and the residents of the Aliyah may use the top ten Tefachim. The Beraisa explains that this Halachah applies when there is a ledge that protrudes from the wall. When the top of the ledge is within ten Tefachim of the bottom of the wall, the residents of the Chatzer may use it. When the top of the ledge is within ten Tefachim of the top of the wall, the residents of the Aliyah may use it. This implies that when the top of the ledge is exactly between the bottom ten and top ten Tefachim of the wall, both the Chatzer and the Aliyah are forbidden to use it.

This Beraisa seems to contradict the opinion of Shmuel, who says that when one domain (the Aliyah) can use the ledge through Shilshul (lowering objects down onto it), and the other domain (the Chatzer) can use it only through Zerikah (throwing objects onto it), the Aliyah has the exclusive right to use the ledge. The Beraisa, however, implies that the ledge may not be used by either domain, as Rav says.

The Gemara answers that the Beraisa is referring to a wall that is 19 Tefachim high, where there is no space between the top ten Tefachim and the lower ten Tefachim. Accordingly, we cannot infer from the Beraisa anything about a case where one domain can use the ledge through Shilshul and the other through Zerikah.



(a) Suppose the wall is 19 Tefachim high. If the ledge is 9 1/2 Tefachim from the ground, it is still within the Aliyah's ten Tefachim. In such a case, both the Aliyah and the Chatzer are within ten Tefachim of the ledge, and thus the ledge should be forbidden to be used because it is shared by two domains. Why, then, does the end of the Beraisa state, "If the ledge is below ten Tefachim, it goes to the *Chatzer*"? The ledge should have to be below *nine* Tefachim for the Chatzer to be permitted to use it!

(b) Similarly, why does the *beginning* of the Beraisa say, "The residents of the Chatzer may use [the ledge when it is within] the lower ten Tefachim, and the residents of the Aliyah may use [the ledge when it is within] the upper ten Tefachim"? This is not accurate -- they may each use the ledge only if it is within *nine* Tefachim, because the tenth is shared by both (since it is within ten from above and within ten from below)!

ANSWERS:

(a) The **MAHARSHA** answers that when the Beraisa says the Chatzer may use the ledge when it is below ten Tefachim, it does not refer to the ten Tefachim at the bottom of the wall. Rather, it refers to when the ledge is below the ten Tefachim immediately under the *Aliyah*. None of this area is a shared area. In contrast, when the Beraisa says that the Aliyah may use the ledge when it is above ten Tefachim, it means above ten Tefachim from the *ground*. If the ledge is located between the ninth and tenth Tefach from the ground, it may not be used by the residents of the Chatzer or the residents of the Aliyah.

This, however, does not answer the second question, because the *beginning* of the Beraisa states explicitly that the residents of the Chatzer may use the "*lower* ten Tefachim."

(b) The **RASHASH** answers the second question. When the first part of the Beraisa says that the residents of the Chatzer use the lower ten Tefachim, it does not mean that they are *permitted* to use the lower ten Tefachim on Shabbos. Rather, it means merely that they *tend* to use the lower ten Tefachim during the week. Similarly, the residents of the Aliyah *tend* to use the upper ten Tefachim. The Beraisa is not presenting a Halachah, but it

is merely introducing the case. Because they both tend to use the tenth Tefach during the week, both are indeed prohibited from using a ledge that is in the tenth Tefach on Shabbos without an Eruv.

3) A ROOF USED BY RESHUS HA'RABIM

QUESTION: The Gemara teaches that two partially overlapping surfaces at different heights are considered the same surface if they are within ten Tefachim of height of each other. The Gemara demonstrates this from a statement of Rav Nachman in the name of Shmuel regarding a case of a roof next to Reshus ha'Rabim. Shmuel said, "A roof next to Reshus ha'Rabim requires a permanent ladder to permit it [to be used by those in the Chatzer]."

The case Shmuel discusses is not clear. What are the two surfaces that are within ten Tefachim of each other in this case? In addition, why is it that the people in Reshus ha'Rabim prohibit the residents of the Chatzer from using the roof? Why does leaning a ladder against the roof in a permanent manner permit the residents of the Chatzer to use the roof?

RASHI explains that the Gemara is discussing a building at the edge of a Chatzer. The back of the building is adjacent to Reshus ha'Rabim. The building is surrounded by a balcony which has a fence around it and an opening of less than ten Amos wide that faces Reshus ha'Rabim. Rashi explains that the roof (above the balcony) is within ten Tefachim of the *balcony*, and the balcony (above Reshus ha'Rabim) is within ten Tefachim of the *Reshus ha'Rabim*. The Gemara attempts to demonstrate that the people in Reshus ha'Rabim -- by virtue of their presence within ten Tefachim of the balcony -- are considered as though they are on the balcony. Therefore, they may carry from Reshus ha'Rabim to the roof, which is within ten Tefachim of the balcony. Even though there are more than ten Tefachim between the Reshus ha'Rabim and the roof, the people in Reshus ha'Rabim are considered to be within ten Tefachim of the roof. Since they have use of the roof, the roof is prohibited to the residents of the Chatzer.

Why does a permanent ladder permit the residents of the Chatzer to use the roof? If they erect a ladder from the balcony to the roof on the side facing the Chatzer, then those who live on the second story (where the balcony is) are able to reach the roof and use it. This is a way of establishing a claim, so to speak, to the right to use the roof, and a way of showing that they intend to use it, which should prohibit the people in Reshus ha'Rabim from using it. However, a *temporary* ladder does not show that they are claiming the roof as theirs, and therefore they need a *permanent* ladder. A permanent ladder shows that they want to use the roof on a regular basis, and thus it becomes prohibited for the people in Reshus ha'Rabim to use the roof, because they would be trespassing on private property.

The Gemara makes no mention of the balcony that Rashi includes in the case. Indeed, Rashi mentions that some understand that there is only a roof and a Reshus ha'Rabim next to it, and they are within ten Tefachim of each other (this is also how Rabeinu Tam in Tosfos learns). Rashi argues that this cannot be the case, because if the roof is within ten Tefachim of Reshus ha'Rabim, then it is a Karmelis, and no matter how many ladders are placed there, it remains forbidden to carry from the Chatzer (a Reshus ha'Yachid) to the roof (a Karmelis). Rather, it must be that there is a balcony (which the Gemara does not mention) between the roof and the ground. The roof itself is more than ten Tefachim from the ground and thus it is not a Karmelis.

Rashi explains that the *balcony* does not become a Karmelis because it has a fence around it (with a small opening). Why, then, does Rashi insist that if there had been no balcony and the roof itself was within ten Tefachim of the ground, that roof would have been a Karmelis? Rashi should have answered that there is a fence around the roof, making it a Reshus ha'Yachid and *not* a Karmelis! (**NACHAL ARAVIM**; Rabeinu Tam indeed suggests that this is the case in the Gemara.)

ANSWERS:

(a) Apparently, if the roof would have a fence, the fence itself would prevent the people in Reshus ha'Rabim from

using it, and it would establish for the residents of the Chatzer the exclusive right to the use of the roof. A fence around the roof would serve the same function as a permanent ladder. Only when a roof has no fence may the people in Reshus ha'Rabim use it. A balcony is different; even though it has a fence, the fence does not establish a claim to the *roof* for the residents of the Chatzer (but only a claim to the balcony). Even though the people in Reshus ha'Rabim do not have use of the balcony due to the fence, they are considered to be within ten Tefachim of the roof simply because they are, according to Halachah, in the same Reshus as the balcony (i.e., in a Reshus which is within ten Tefachim of the balcony). Since the balcony is in the same area as Reshus ha'Rabim, the people of Reshus ha'Rabim are considered to be within ten Tefachim of the roof.

(b) The **NACHAL ARAVIM** answers that Rashi indeed could have said that the Gemara is discussing a roof without a balcony, and that the roof has a fence around it (which removes its status of a Karmelis). However, Rashi maintains that it is improbable that the roof in this case has a fence around it, because Shmuel did not mention anything about a fence. (Even though Rashi himself says that the *balcony* has a fence around it, and Shmuel made no mention of a balcony or a fence, Rashi is explaining the Gemara's initial assumption (Havah Amina). Therefore, the Gemara may suggest that as a forced interpretation. In the Gemara's conclusion, however, Rashi prefers not to say that the roof has a fence around it, since Shmuel did not mention a fence.)