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Shmuel does not give the same explanation as Rav<sup>1</sup> since it was not stated that the ceiling was slanting.<sup>2</sup> Rav, on the other hand, does not give the same explanation as Shmuel,<sup>3</sup> for in that case<sup>4</sup> the house would in this respect have been in the same legal position as a portico,<sup>5</sup> and Rav follows his view that it is permitted to move objects in all the interior of a portico, for it was stated: If a portico was situated in a valley, Rav ruled, it is permitted to move objects within all its interior; but Shmuel ruled: Objects may be moved within four amos only. Rav ruled that it was permitted to move objects in all its interior because we apply the principle: The edge of the ceiling descends and closes up. But Shmuel ruled that objects might be moved within four amos only because we do not apply the principle: The edge of the ceiling descends and closes up. (94b)

[Where a breach was not wider than] ten amos there is no divergence of opinion between them.<sup>6</sup> They only differ where [the breach was] wider than ten amos. Others read: Where it was wider than ten amos there is no divergence of opinion between them, and they only differ [where it was not wider

than] ten amos. With reference, however, to Rav Yehudah's ruling that a cross-beam of the width of four tefachim effects permissibility<sup>7</sup> in a ruin and that of Rav Nachman who, citing Rabbah bar Avuha, ruled that a cross-beam of the width of four tefachim<sup>8</sup> effects permissibility<sup>9</sup> in the case of water, whose view is represented there? According to the version which reads 'where [a breach was not wider than] ten amos there is no divergence of opinion' [these would be a case where the cross-beam was no longer than] ten amos and would represent the unanimous opinion; while according to the version which reads, 'They only differ where it was not wider than ten amos', these would represent the view of Rav.

Must it be assumed that Abaye and Rava differ on the same principles as those on which Rav and Shmuel differed? For it was stated: If a portico<sup>10</sup> that had side-posts<sup>11</sup> was covered with schach, it<sup>12</sup> is valid as a sukkah; but if it had no side-posts, Abaye ruled, it is still valid while Rava ruled It is invalid. Abaye ruled that it was valid because the edge of the ceiling is deemed to descend and to close up, while Rava ruled that it was invalid because he does not uphold the principle that the

<sup>1</sup> That the breach referred to in our Mishnah was not wider than ten amos and that the ceiling was in a slanting position.

<sup>2</sup> And ordinary ceilings are flat. Breaches, on the other hand, may well assume any shape.

<sup>3</sup> That the breach in the walls of the house might be wider than ten amos and that the ceiling presented a four sided breach.

<sup>4</sup> That four walls had to be supplied on the principle of the downward extension of a ceiling.

<sup>5</sup> Where also four walls have to be supplied on the same principle.

<sup>6</sup> Rav and Shmuel. Both agree that no restrictions are to be imposed, since the gap may be treated as a doorway and the question of the principle of the downward extension of the edge of the ceiling does not arise

<sup>7</sup> Of the movement of objects under it; because its four edges are deemed to descend and to form four walls.

<sup>8</sup> That lay on its wide side across the mouth of a cistern between two courtyards.

<sup>9</sup> In the use of the water. The tenants of both courtyards may freely use the water as if a proper division had actually separated the water of the one courtyard from the water of the other.

<sup>10</sup> With only two walls that met each other in the shape of an L.

<sup>11</sup> Each attached to the end of either wall and less than three tefachim but no less than one tefach wide.

<sup>12</sup> Since either side-post might be deemed to be extended horizontally and to form a third wall. A Sukkah that has three walls is valid.

edge of the ceiling is deemed to descend and to close up. Now must it be assumed that Abaye is of the same view as Rav while Rava is of the same view as Shmuel? According to the view of Shmuel there is no divergence of opinion between them.<sup>13</sup> They differ only on the view of Rav. Abaye, of course, holds the same view as Rav, while Rava maintains that Rav upheld his view only there because the walls<sup>14</sup> were expressly made for the portico, but not here where the walls were not expressly made for the sukkah.<sup>15</sup> (94b – 95a)

Rabbi Yosi ruled: If they are permitted. The question was raised: Did Rabbi Yosi intend to add restrictions<sup>16</sup> or to relax them?<sup>17</sup> — Rav Sheishes replied: To add restrictions; and so too said Rabbi Yochanan: To add restrictions. So it was also taught: Rabbi Yosi ruled: As they are forbidden on future Shabbasos so are they forbidden on that Shabbos.

It was stated: Rav Chiya bar Yosef ruled: The halachah is in agreement with Rabbi Yosi, but Shmuel ruled: The halachah is in agreement with Rabbi Yehudah. But could Shmuel have given such a ruling seeing that we have learnt: ‘Rabbi Yehudah ruled: This applies only to eiruv of Shabbos limits but in the case of eiruv of courtyards one may be prepared for a person irrespective of whether he is aware of it or not, since a benefit may be conferred on a man in his absence but no disability may be imposed on him in his absence’; and in connection with this Rav Yehudah citing Shmuel stated: ‘The

<sup>13</sup> Abaye and Rava; sc. even Abaye must admit that Shmuel who did not accept, in the case of the Shabbos, the principle of the downward extension of the edges of a portico (though these were expressly made for that structure) could not accept that principle in the case of a sukkah (where these were not originally intended to form a part of the sukkah).

<sup>14</sup> I.e., the beams that form the edges of the roof of the portico and that are deemed to extend downwards to make up walls.

<sup>15</sup> Although in the case of proper walls it is not necessary for them to be expressly made for the sukkah, imaginary ones whose legal existence depends on a principle which is in itself a relaxation of the law cannot be regarded as valid by allowing a further relaxation of the law.

<sup>16</sup> I.e., did he, by his comparison, intend to forbid the use of the courtyard on the same Shabbos as it would presumably be forbidden on future Shabbasos?

<sup>17</sup> To permit its use on future ‘Sahabbasos as it was presumably permitted on the same Shabbos?

halachah is in agreement with Rabbi Yehudah; and, furthermore, wherever Rabbi Yehudah taught a law concerning eiruv the halachah is in agreement with him’; and when Rav Chana of Baghdad asked Rav Yehudah, ‘Did Shmuel say this even in respect of a mavoi whose cross-beam or side-post has been taken away?’ he replied: ‘Concerning eiruv did I tell you, but not concerning partitions’?<sup>18</sup> Rav Anan replied: It was explained to me by Shmuel that one statement referred to a courtyard in which a breach was made towards a karmelis<sup>19</sup> while the other referred to one in which a breach was made towards a public domain. (95a)

MISHNAH: If one builds an upper story on the top of two houses<sup>20</sup> and in the case of viaducts the movement of objects under these on the Shabbos is permitted;<sup>21</sup> these are the words of Rabbi Yehudah. But the Sages forbid this. Rabbi Yehudah moreover ruled: An eiruv may be prepared for a mavoi that is a thoroughfare;<sup>22</sup> but the Sages forbid this. (95a)

GEMARA: Rabbah stated: Do not presume that Rabbi Yehudah's reason is that Biblically two walls are sufficient but rather that the edge of ceiling is deemed to descend downwards and to enclose the space below.

Abaye raised an objection against him: ‘A more lenient rule than this did Rabbi Yehudah lay down: If a man had two houses on the two sides respectively of a public domain he

<sup>18</sup> Now, since Rabbi Yehudah in our Mishnah deals with a question concerning partitions, how, in view of the reply Rav Yehudah gave to Rav Chana, could it be maintained that Shmuel pronounced the halachah here to be in agreement with Rabbi Yehudah's ruling?

<sup>19</sup> The movement of objects from a karmelis into another domain or from the latter into the former is only Rabbinically forbidden. As no Biblical law would be infringed, even if an object were carried from the courtyard into the karmelis or vice versa, Shmuel adopted the lenient rule of Rabbi Yehudah in a case where the courtyard was a permitted domain when the Shabbos began.

<sup>20</sup> Situated on opposite sides of a public domain the road passing under the floor of the upper story.

<sup>21</sup> Because the edges above are deemed to descend to form walls encasing the space below.

<sup>22</sup> Since it has walls on two sides and two walls are Biblically sufficient.



may construct one side-post on one side of any of the houses, and another on the other side, or one cross-beam on one side of any of the houses and another on the other side, and then he may move things about in the space between them; but they said to him: A public domain cannot be provided with an eiruv in such a manner! — The other replied: From that ruling your contention is justified, from this one, however, you cannot derive it. Rav Ashi observed: A deduction from the wording of our Mishnah also justified [Rabbah's explanation], since it was stated: Rabbi Yehudah moreover ruled: An eiruv may be prepared for a mavoi that is a thoroughfare; but the Sages forbid this. Now if you grant his reason to be that the edge of the ceiling is deemed to descend and to enclose the space below, one can well see why the expression of moreover was used; but if you maintain that his reason is that Biblically two walls are sufficient, what is the justification for the expression moreover? This is conclusive. (95a)

#### **WE SHALL RETURN TO YOU, KOL GAGOS**

**If a person finds *tefillin* in the public domain on *Shabbos*, there is an argument in the *Mishna* regarding how he can bring them to safety.**

The first opinion in the *Mishna* is that he should wear them one set at a time into the city. [*In other words, he should put the shel rosh on his head and the shel yad on his arm, and in this fashion carry them to safety. This is not considered carrying, but rather as if he is wearing them.*] Rabban Gamliel holds that he may do so while wearing two pairs at a time. This applies to old ones, but in the case of new ones, he is exempt (*from bringing them to safety*). [*This is because they might be amulets and not tefillin; the Rabbis therefore did not want to take the risk that the finder will desecrate the Shabbos by wearing them in a public domain.*] If he found them arranged in pairs or tied up in bundles, he shall wait with them until it is dark, and then bring them in. In a time of danger, however, he shall cover them and proceed on his way. Rabbi Shimon said: He shall pass them to his fellow and his fellow shall pass them to his fellow, and so on, until the outermost courtyard (*of the city*) is reached. The same procedure is to be followed in the case of a child of his (*who was born in a field*), he passes him to his fellow and his fellow

passes him to his fellow, and so on, even though they are as many as a hundred men. Rabbi Yehudah ruled: A man may pass a barrel to his fellow and his fellow may pass it to his fellow even beyond the *Shabbos* limit. They, however, said to him: This must not go further than the feet of its owner. (95a – 95b)

The *Gemora* asks: Only one pair at a time, but not more! Must it then be assumed that we learned here an anonymous *Mishna* that is not in agreement with Rabbi Meir? For if it were to be maintained that it was in agreement with Rabbi Meir, it can be asked: Didn't he say that a man may put on all the clothes that he can put on and he may wrap himself in all things that he can wrap around himself? For we learned in a *Mishna*: And to there (*to a courtyard near the burning fire*), he may carry out all the utensils he is in the habit of using, and he may put on all the clothes that he is able to put on and he may wrap himself in all things that he can wrap around himself.

The *Gemora* cites a proof that that anonymous *Mishna* represents the view of Rabbi Meir, since in connection with that it was stated in a *braisa*: He may put on clothes and carry them out, and there remove them, and then he may again put on clothes and carry them out and remove them, and so on, even all day long; these are the words of Rabbi Meir.

Rava replied: It may be said to be in agreement even with Rabbi Meir, for there the Rabbis have allowed a procedure similar to one's habit of dressing on a weekday and here as well they have allowed a procedure similar to one's way of wearing *tefillin* on a weekday. There, where on a weekday a man can wear as many clothes as he desires, the Rabbis have permitted him to do so also for the purpose of saving; but here, where even on a weekday a man may wear only one pair but no more, he was for the purpose of saving he was also permitted to wear only one pair but no more. (95b)

The *Mishna* had stated: Rabban Gamliel holds that he may do so while wearing two pairs at a time.

The *Gemora* asks: What is the view he upholds: If he holds that *Shabbos* is a time for wearing *tefillin*, a man should be



permitted to wear only one pair but no more; and if he holds that *Shabbos* is not a time for *tefillin*, but that for the purpose of saving them the Rabbis have permitted him to wear them in the manner of an attire, why shouldn't he be permitted to wear even more than one pair?

The *Gemora* answers: The fact is that he holds that *Shabbos* is not a time for the wearing of *tefillin*, but when the Rabbis have permitted to wear them in the manner of an attire for the purpose of saving, they limited that to the spot prescribed for the position of the *tefillin*.

The *Gemora* asks: If so, shouldn't one pair only be allowed, but not more?

Rav Shmuel bar Rav Yitzchak says: There is enough area on the head for two pairs of *tefillin*.

The *Gemora* asks: This is a satisfactory explanation regarding those of the head; what explanation, however, can be given in respect of those of the hand?

The *Gemora* answers: The same as that which Rav Huna gave, for Rav Huna explained: Sometimes a man comes from the field with his bundle on his head when he removes them from his head and binds them on his arm.

The *Gemora* asks: It might still be contended that Rav Huna only intended that they should not be treated with disrespect; did he, however, say that it was the proper manner of wearing them like that?

The *Gemora* answers: The explanation rather is this: Just as Rav Shmuel bar Rav Yitzchak stated that there is room enough on the head for laying two *tefillin*, so we may here also submit that there is room enough on the hand for laying two *tefillin*. (95b)

A *braisa* was taught in Menashe's Academy: *On your arm* refers to the biceps muscle (*this is where the arm tefillin shall be placed*). *Between your eyes* refers to the *kadkod* (*this is where the head tefillin shall be placed*). In Rabbi Yannai's

Academy, they explained this to mean the place where the skull of an infant is soft (*the fontanel*).

The *Gemora* asks: Must it be assumed that they differ on the principle of Rav Shmuel bar Rav Yitzchak, as the first *Tanna* (*of the Mishna*) disagrees with the view of Rav Shmuel bar Rav Yitzchak (*and therefore, he allows only one pair at a time*), while Rabban Gamliel upholds it?

The *Gemora* answers: No, all may hold the view of Rav Shmuel bar Rav Yitzchak, but the point at issue between them is whether the *Shabbos* is a time for *tefillin*, as the first *Tanna* maintains that *Shabbos* is a time for *tefillin*, while Rabban Gamliel maintains that *Shabbos* is not a time for *tefillin*.

And if you prefer I might reply that all agree that the *Shabbos* is a time for *tefillin*, but here the point at issue between them is whether the performance of a *mitzvah* requires intention, as the first *Tanna* holds that in order to discharge the obligation of a *mitzvah*, intention is not necessary (*and therefore, if a man puts on tefillin he automatically performs the mitzvah; consequently he may wear only one pair at a time, for should he wear more than one pair, whatever his intention, he would be transgressing the prohibition against adding to the commandments*), while Rabban Gamliel holds that intention is necessary (*and therefore it is possible to wear two pairs of tefillin as ornaments without transgressing the prohibition against adding to the commandments*).

And if you prefer I might reply that all agree that the discharge of the obligation of a *mitzvah*, requires no intention, but here it is the question of transgressing against the injunction of 'you shall not add' that is at issue between them, as the first *Tanna* holds that in order to commit a transgression against the injunction of 'you shall not add,' no intention is necessary, while Rabban Gamliel holds that in order to commit a transgression against the injunction of 'you shall not add,' intention is necessary.

And if you prefer I might reply: If the view had been adopted that *Shabbos* is a time for *tefillin* all would have agreed that intention is unnecessary either in respect of transgression or in respect of discharging the *mitzvah*, but the point at issue

between then here is with reference to the transgression when a *mitzvah* is performed not at its proper time. The first *Tanna* holds that no intention is required, while Rabban Gamliel holds that to commit a transgression when a *mitzvah* is performed not at its proper time, intention is necessary.

The *Gemora* asks: But if so, shouldn't even one pair be forbidden according to Rabbi Meir? And furthermore, shouldn't a man who sleeps on the eighth day (*Shmini Atzeres*) be flogged?

Rather, it is perfectly clear that the proper explanation is the one originally given. (95b – 96a\_

#### INSIGHTS TO THE DAF

##### *Pi Tikra*

The *Gemora* quotes the argument of Rav and Shmuel regarding a roof and four walls. Rav says the area is considered to have walls using the rule of "*pi tikra*," while Shmuel does not say this when there is not even one real wall. Abaye and Rava similarly argue whether or not this is a valid *sukkah* if the roof is made of *s'chach*. The *Gemora* says that even Abaye admits that Shmuel would clearly hold like Rava who says the *sukkah* is invalid.

The Ritva and others ask that if Shmuel says "*pi tikra*" for three walls but not for four walls, why doesn't it count as a valid *sukkah*? Being that a *sukkah* really only needs two walls and a *tefach*, shouldn't even Shmuel admit that we would say "*pi tikra*" here?

Rashi explains that being that Shmuel holds regarding the regular area it would not be good for *Shabbos*, even though the intent was to make such a structure, certainly it would not be good for *sukkah*, as the area was not made to be a *sukkah*. This is a reason why it should not form *sukkah* walls at all. However, the Ritva is not satisfied with Rashi's answer.

The Sfas Emes answers that when Shmuel says "*pi tikra*" works for three walls, he means that this is only when there is one real wall, not that it can only work for three walls (as the Ritva seems to have assumed). Accordingly, even for

*sukkah* there are no walls with "*pi tikra*" unless one real wall is present.

##### **Mitzvos Require Intent**

The Gemara discusses the well-known *machlokes* whether *mitzvos* require intent. That is to say, if a person performs the action of the mitzva, such as blowing shofar, without intention of doing so for the sake of the mitzva, but rather to play a tune, does he fulfill his obligation? (See Rosh Hashanah 28a).

Since this question was not resolved in the Gemara or Poskim, we must fulfill both opinions. Therefore, if a person performed a mitzva without intent, he must perform it again (in accordance with the opinion that mitzvos do require intent), but he may not recite another beracha (according to the second opinion it would be a beracha levatala, since he already fulfilled the mitzva) (Shulchan Aruch O.C. 60:4, Mishna Berura s.k. 10, see Biur Halacha).

**From where do we know that mitzvos require intent?** The Acharonim ask according to the opinion that mitzvos do require intent, is this requirement of Torah origin or of Rabbinic origin? The Imrei Bina (O.C. 14) poses this question over the course of a teshuva, which begins with the title, "From where did our Sages derive the principle that mitzvos require intent?"

**Bal tosif for two pairs of tefillin:** Our own sugya would seem to be a clear proof that according to the opinion that mitzvos require intent, this is a Torah-based condition, and not merely Rabbinic. In our Gemara, R' Shimon ben Gamliel says that if a person wears two pairs of tefillin without intending to fulfill a mitzva, he does not transgress *bal tosif*, (the prohibition against performing a mitzva beyond its specified constraints). In this case, the stringency of "mitzvos require intent" produces a leniency. Since he has not fulfilled the mitzva of tefillin, he cannot be accused of performing a mitzva beyond its constraints. Were we to assume that "mitzvos require intent" is only a Rabbinic condition, this would mean that one did fulfill his obligation according to Torah law, and therefore transgresses *bal tosif* for the second



pair of tefillin. Therefore, we must conclude that “mitzvos require intent” is a Torah-based condition.

**The Sages have authority to invalidate a mitzva:** The Imrei Bina challenges this conclusion. He cites proofs that the Sages have authority to attach conditions or stringencies to mitzvos. They may even stipulate that when these conditions are not met, even according to Torah law the mitzvos are invalid. The Gemara refers to this authority as “the ability to uproot aspects of the Torah” (see Yevamos 89b). For example, according to Torah law one may fulfill the mitzva of eating in a sukkah, although the table he eats from is outside the sukka. The Sages prohibited this, out of concern that a person may be drawn after his table, and come to eat outside the sukka. Tosefos (Sukka 3a) writes that if a person transgresses this Rabbinic prohibition, he has not fulfilled a mitzva of sukka at all, even according to Torah law. The Rabbinic stipulation can render the Torah mitzva invalid.

The same can be said of “mitzvos require intent.” Even if we were to assume that this stipulation is only Rabbinic, it may still render the mitzva of tefillin invalid according to Torah law. In the case of R’ Shimon ben Gamliel and the two pairs of tefillin, lack of intent would invalidate the mitzva entirely, and thus prevent the transgression of *bal tosif*.

**Two kinds of Rabbinic conditions:** The Sdei Chemed (“Mem” 61, s.v. *V’ra’isi*) rejects the comparison between eating from a table outside the sukka, and performing mitzvos without intent. Although the Sages do have authority to render a mitzva invalid even according to Torah law, they did not always choose to exercise this power. A distinction must be drawn between two kinds of Rabbinic conditions. The prohibition against eating from a table outside the sukka was instituted to prevent people from being drawn to eat outside their sukka. In this case, they saw it necessary to enforce their ruling, by declaring that if their condition is not met, the entire mitzva is invalid. The enactment that mitzvos require intent, on the other hand, was not instituted to prevent people from failing to perform the mitzvos. Rather, the Sages wished to add an important element of reverence to the mitzvos, by requiring people to perform them with intent. In this case, our Sages would not find it necessary to render the

entire mitzva invalid. Rather, we must return to our original conclusion, that the sugya of R’ Shimon ben Gamliel and the two pairs of tefillin is indeed a proof that “mitzvos require intent” is of Torah origin.

**What is the source of this condition?** Having established this, we must return to the Imrei Bina’s question; from where in the Torah did the Sages learn that *mitzvos* require intent?

The Keren Ora (introduction to Maseches Zevachim) suggests that reason alone requires us to have intention when performing the mitzvos. A mitzva performed without intent cannot properly be considered an expression of obedience to the Creator. Other Acharonim find hints from pesukim in the Torah that mitzvos require intent: “To serve Him with all your hearts” (Devarim 10:12), “This day, Hashem your G-d commands you to perform these statutes and these laws. You must guard and perform them with all your hearts and all your soul” (Devarim 10:16).

## DAILY MASHAL

### *The Three Pillars*

Each shul requires a rav to teach Torah, a *shaliach tzibur* to daven, and a *shamash* to tend to the needs of the shul. These three people correspond to the three pillars of the world: Torah, *avodah* (prayer), and *chesed* (acts of kindness), as we find in Pirkei Avos (1:2). However, it is very important that all three act without intention of their own benefit, but solely for the sake of Hashem. The first letters of the words *rav*, *chazan*, *shamash*, spell out the Hebrew word *rachash* – which means shake. With this we can understand the *possuk* in Tehillim, “My heart shakes with a good act, I give my song to the King” (45:2, see Rashi). The Torah study, prayer and good deeds of those who work with the community, must be purely for the sake of the King (Toldos Yaakov Yosef, parshas Ki Seitzei).