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Bava Basra Daf 21

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Mishna

If a person opens a store in the courtyard, a neighbor can stop him as he can claim that he cannot sleep due to the noise of people coming and going. However, a person can make vessels in his house and go sell them in the marketplace. His neighbor cannot stop him with the complaint that he cannot sleep due to the noise of the hammer, grindstone, or children. (20b)

The Gemora asks: Why is the rule in the second case not the same as in the first?

Abaye replied: The second clause must refer to [a man in] another courtyard.

Rava said to him: If that is so, the Mishnah should say. ‘In another courtyard it is permissible’?

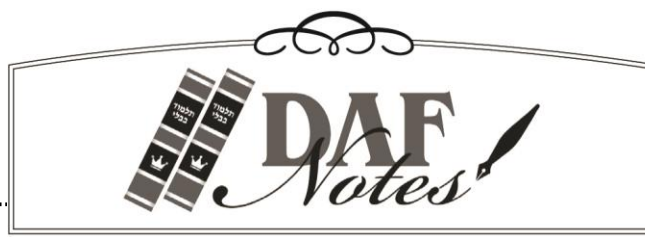
No, said Rava: The concluding words refer to school children, from the time of the regulation of Yehoshua ben Gamla, of whom Rav Yehudah has told us in the name of Rav: Indeed, the name of that man is to be blessed, to wit Yehoshua ben Gamla, for but for him the Torah would have been forgotten from Israel. For at first if a child had a father, his father taught him, and if he had no father he did not learn at all. By what [verse of the Scripture] did they guide themselves? By the verse: And you shall teach them to your children; laying the emphasis on the word ‘you.’ They then made an

ordinance that teachers of children should be appointed in Jerusalem. By what verse did they guide themselves? By the verse: For from Zion shall the Torah go forth. Even so, however, if a child had a father, the father would take him up to Jerusalem and have him taught there, and if not, he would not go up to learn there. They therefore enacted that teachers should be appointed in every province, and that boys should enter school at the age of sixteen or seventeen. [They did so] and if the teacher punished them, they used to rebel and leave the school. At length Yehoshua ben Gamla came and enacted that teachers of young children should be appointed in every district and town, and that children should enter school at the age of six or seven.

Rav said to Rav Shmuel bar Shilas: Before the age of six do not accept pupils; from that age you can accept them and stuff them with Torah like an ox.

Rav also said to Rav Shmuel bar Shilas: When you punish a pupil, only hit him with a shoe latchet. The attentive one will read [of himself], and if one is inattentive, put him next to a diligent one.

An objection was raised [from the following braisa against the answer of Rava]: If a resident in a courtyard desires to become a Mohel, a bloodletter, a tanner, or a teacher of children, the other residents can prevent him?



The Gemora answers: The reference here is to a teacher of the children of idolaters.

Come and hear (from a braisa): If two people live in a courtyard and one of them desires to become a Mohel, a bloodletter, a tanner, or a teacher of children, the other can prevent him!

The Gemora answers: Here too the reference is to a teacher of the children of idolaters.

Come and hear (from a braisa): If a man has a room in a courtyard which he shares with another, he must not rent it either to a Mohel, or bloodletter, or a tanner, or a Jewish teacher or a non-Jewish teacher!

The Gemora answers: The reference here is to the head teacher of the town [who superintends the others].

Rava said: Under the enactment of Yehoshua ben Gamla, children are not to be sent [every day to school] from one town to another, but they can be compelled to go from one synagogue to another [in the same town]. If, however, there is a river in between, we cannot compel them. But if, again, there is a bridge, we can compel them — not, however, if it is merely a plank.

Rava further said: The number of pupils to be assigned to each teacher is twenty-five. If there are fifty, we appoint two teachers. If there are forty, we appoint an assistant, at the expense of the town.

Rava also said: If we have a teacher who gets on with the children and there is another who can get on

better, we do not replace the first by the second, for fear that the second when appointed will become lax.

Rav Dimi from Nehardea, however, held that he would exert himself still more if appointed: 'the jealousy of scribes increases wisdom.'

Rava further said: If there are two teachers of whom one teaches at a fast pace but with mistakes and the other slowly but without mistakes, we appoint the one who teaches fast and makes mistakes, since the mistakes correct themselves in time.

Rav Dimi from Nehardea on the other hand said that we appoint the one who teaches slowly but makes no mistakes, for once a mistake is implanted it remains.

This can be shown from the Scripture. It is written: For Yoav and all Israel remained there until he had cut off every male in Edom. When Yoav came before David, the latter said to him: Why have you acted this way [i.e. killed only the males]? He replied: Because it is written: You shall blot out the males [zachar] of Amalek. Said David: But we read, the remembrance [zecher] of Amalek? He replied: I was taught to read zachar. He [Yoav] then went to his teacher and asked: How did you teach me to read? He replied: Zecher. Thereupon he drew his sword and threatened to kill him. The other asked: Why do you do this? He replied: Because it is written: Cursed be he that does the work of the Lord negligently. He said to him: Be satisfied that I am cursed. To which Yoav rejoined: [It also says]. Cursed be he that keeps back his sword from blood. According to one report he killed him; according to another, he did not kill him.

Rava further said: A teacher of young children, a vine planter, a [ritual] slaughterer, a bloodletter, and a town



scribe are all liable to be dismissed immediately [if inefficient]. The general principle is that anyone whose mistakes cannot be rectified is liable to be dismissed immediately [if he makes one].

Rav Huna said: If a resident of an alley sets up a handmill and another resident of the alley wants to set up one next to him, the first has the right to stop him, because he can say to him, "You are interfering with my livelihood."

May we say that this view is supported by the following: Fishing nets must be kept away from [the hiding-place of] a fish [which has been spotted by another fisherman] the full length of the fish's swim. And how much is this? Rabbah son of Rav Huna says: A parsah.

The Gemora notes: Fish are different, because they look about [for food].

Ravina said to Rava: May we say that Rav Huna adopts the same principle as Rabbi Yehudah? For we have learned: Rabbi Yehudah says that a shopkeeper should not give presents of parched corn and nuts to children, because he thus entices them, to come back to him. The Sages, however, allow this!

The Gemora disagrees: You may even say that he is in agreement with the Rabbis as well, for the ground on which the Rabbis allowed the shopkeeper to do this was because he can say to his rival, "Just as I make presents of nuts so you can make presents of almonds;" but in this case they would agree that the first man can say to the other, "You are interfering with my livelihood."

An objection was raised [against Rav Huna's ruling from the following:] A man may open a shop next to another man's shop or a bath next to another man's bath, and the latter cannot object, because he can say to him, "I do what I like in my property and you do what you like in yours."

The Gemora answers: On this point there is a difference of opinion among Tannaim, as it can be demonstrated from the following braisa: The residents of an alley can prevent one another from bringing in a tailor or a tanner or a teacher or any other craftsman, but one cannot prevent another [from setting up in opposition]. Rabban Shimon ben Gamliel, however, says that one may prevent another.

Rav Huna the son of Rabbi Yehoshua said: It is quite clear to me that the resident of one town can prevent the resident of another town [from setting up in opposition in his town] not, however, if he pays taxes to that town — and that the resident of an alley cannot prevent another resident of the same alley [from setting up in opposition in his alley].

Rav Huna the son of Rabbi Yehoshua then raised the question: Can the resident of one alley prevent the resident of another [from competing with him]?

The Gemora leaves this unresolved.

Rav Yosef said: Rav Huna agrees that a teacher cannot prevent [another teacher from setting up in the same alley], for the reason mentioned, that the jealousy of scribes increases wisdom.

INSIGHTS TO THE DAF

Using "pirate" minivans instead of public transport



People waiting at a money-changer who choose to make their own deals: A person waiting in line at a money-changer suddenly got a bright idea. Instead of giving his shekalim to the changer for dollars and paying a commission, he could find someone in the queue wanting to exchange dollars for shekalim and avoid the fee. Does halachah allow such behavior in the light of our sugya?

The gemara asks if someone is allowed to open a business next to one offering the same wares or services, such that the existing business would lose profits. The halachah is that if a fisherman baits his net in a body of water, others must keep their nets at least a parsah away. (A parsah equals 8,000 cubits, i.e., according to the Chazon Ish, 4,616 meters or, according to Rav A. Ch. Naeh, 3,840m). Apparently, then, one must not harm another's livelihood and a proprietor of an existing business may ban others from opening an identical business where it could detract from his profits. The gemara, though, rejects this proof, claiming that fish are different as they recognize the place they saw food. The Rishonim offer three interpretations of this distinction. Rashi (s.v. Shani dagim) holds that other fishermen harm the first's assured livelihood as a fish when spying bait swims to it immediately and is bound to be caught. He may therefore prevent others from taking his catch. People, though, choose where to buy. We can never surely predict that they would patronize the existing business, and Shulchan 'Aruch rules accordingly (C.M. 156:5). Rav Yosef Migash explains that, in his opinion, the first fisherman wants to catch a certain big fish and leaves bait where that fish is usually seen. Before venturing into open water, the big fish sends out smaller ones to detect danger and he may keep others from casting nets nearby to

prevent the small fish from warning the big one (see Ramban).

Customers must not be lured away! Still, the Chasam Sofer (Responsa, C.M. 79), Masas Binyamin (Responsa §27) and other poskim prove from our sugya that if a customer would obviously patronize a certain business, one must not lure him elsewhere, even without meaning to profit therefrom. The gemara, after all, forbids others to catch fish surely assumed to enter the first fisherman's net. If we are sure, then, that someone will buy at a certain business – being a regular client, for instance, or just before arranging the last details of an agreement – one must not direct him elsewhere. Hence, one must not offer a deal to a person waiting for a money-changer: The person clearly intends to use the changer's services and luring him away robs the changer's livelihood (Mishpetei HaTorah, III, 6, 8).

In Eretz Israel minivan drivers follow bus routes, trying – usually successfully – to attract passengers. We do not intend to discuss the legality of their business or hazards involved in such transport but only its halachic aspect. Apparently, one must refrain from such work as a passenger's waiting at a station clearly proves he wants to use a regular bus and an independent driver must not snatch away the bus company's sure profit.

The difference between a shop and a bus station: Still, HaGaon Rav Yaakov Bloy treats the issue in his Pischei Choshen (Hilchos Geneivah VaAveidah, 9, S.K. 7) and inclines to believe that we cannot equate a client meaning to buy at a shop with someone waiting at a bus station. A person coming into a shop attracts the attention of the sales staff, who hope to profit from him; he has also entered the proprietor's premises and therefore no one should lure him to buy elsewhere. A bus stop, though, is a public area just designated for



those wanting to use public transport. Moreover, the administration of the bus company does not aim to sell their service to a particular person as they can't know who is waiting at a bus stop at any given time. A van driver, then, apparently infringes no prohibition, though Rav Bloy remarks that the topic needs further research.

Members of our beis midrash add that the whole question may be superfluous: People at a station usually avail themselves of the first vehicle along such that there is no question of transgression.

The Minchat Yitzchak (4:123:19-20) refused to go that far. He was not ready to say that the talmudic understanding of the development of babies is no longer true. Of the two issues above, he only addressed the second. Even though eight-month babies are inherently less viable than others, modern medical care can help those babies survive. Since these babies become viable through medical assistance they are therefore viable. It is not that nature has changed. Rather, modern medicine has found techniques to help the non-viable survive.

DAILY MASHAL

Tzeireh or Segeil?

The gemara relates that Yoav, King David's chief of staff, killed only the male Amalekites since, as a boy, he was taught to read not "erase the memory (zeicher) of Amalek" (Devarim 25:19) but "the males (zachar) of Amalek". HaMagiah on 'Ein Ya'akov has an original suggestion (end of Vol. 5) as to how such a gross error occurred. Some bisyllabic words vocalized with two kematzim change their vowels to two segeilim in the construct case, e.g. k'eshen hakivshan (Shemos 19:8)

from 'ashan, or heder malchus (Daniel 11:30) – from hadar. The mistake was not in the vocalization but in the meaning: Yoav thought that zecher was the construct form of zachar – "male". The commentary Poras Yosef offers another explanation: certain communities called a segeil a patach katan and a tzeireh a kamatz katan (see, e.g., Rashi on Bereishis 41:35). Yoav was taught to read the word with a kamatz katan (our tzeireh) but inattentively read a kamatz, leading to his error. Therefore, concludes Poras Yosef, we should read zeicher, not zecher, as a segeil would have been called patach katan. The difference affects those using Ashkenazic pronunciation in the public reading of the Zachor portion before Purim (the custom is to read once with a tzeireh and once with a segeil) and, according to Ma'aseh Rav (Hanhagos HaGra, 28:113), every day in Ashrei in the verse zecher rav tuvecha....

The minimal size of a class obligating the maintenance of a talmud Torah

Everything is hinted in the Torah.

A town with 25 children must hire someone to teach them Torah. Commenting on our gemara, Maharsha finds this halachah hinted in the verse "Thus (koh) bless the Children of Israel: Tell them..." (Bemidbar 6:23): the numerical value of koh is 25. If the children have been blest to fill a quota of 25, "Tell them...": Hire someone to teach them.