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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

### **Mechitzah**

Another version is that they said: What is a “*mechitzah*?” It is a division (*in half*). This is as the verse states: “*And the ‘mechtzas’ -- “half” of the congregation etc.*” The reason why either of them can be compelled (*by Beis Din*) to erect a wall (*in a case of a jointly owned courtyard*) is because they both agreed to divide the yard. From this we may infer that ‘visual trespass’ is regarded as a substantial damage (*for otherwise, the division of the yard would not mandate the building of a wall*).

The *Gemora* asks: Why don’t we say that a “*mechitzah*” refers to a wall? This is as the *braisa* states: [*One is not allowed to plant vines within four amos of someone’s grain unless there is a wall separating them.*] If a wall of a vineyard (*which is adjacent to a field of grain belonging to his fellow*) falls down, he (*the owner of the grain*) may tell him (*the owner of the vineyard*) to build the wall (*for otherwise, the new grain that grows will be prohibited as kilayim of the vineyard, and if the new growth reaches a point where it is more than one part to two-hundred parts of the permitted produce, the entire grain will become prohibited, for the new part is too large to be nullified*). If the wall fell down again, he may tell him to rebuild it again. If the owner of the vineyard abandoned the wall and did not rebuild it, he has caused his fellow’s grain to become unfit (*kilayim*) and he will be liable for the damages. [*Thus we see that the word “mechitzah” means a wall.*]

The reason why either of them can be compelled (*by Beis Din*) to erect a wall (*in a case of a jointly owned courtyard*)

is because they both agreed (*originally*); however, if they did not agree to this, he (*the partner who has no desire to build a wall*) cannot be compelled (*to erect a wall*). From this we may infer that ‘visual trespass’ is not regarded as a substantial damage (*for if it would be, one partner can tell the other, “I do not want you to see my activities”*).

The *Gemora* asks: And if “*mechitzah*” means a wall, why then does the *Mishna* say, “they build the wall”? It should have simply stated: “they must build it”? [*If mechitzah was already stated and it means a wall, it should just say it, as we already mentioned the topic of our discussion!*]

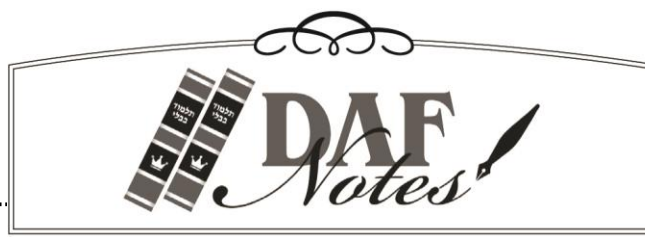
The *Gemora* therefore states: It must be that *mechitzah* in our *Mishna* means a division.

If so, the *Gemora* asks, why does the *Mishna* say, “partners wish to make a division”? It should have said, “partners wish to divide”?

The *Gemora* answers: This is similar to the terminology used by people when they say, “Let us make a division.” [*This is equivalent to our Mishna’s stating, “they want to make a mechitzah.”*]

The *Gemora* asks: If ‘visual trespass’ is regarded as a substantial damage, why is this only if they agreed to make a wall? Even if they did not agree, one should be able to force the other!?

Rabbi Assi says in the name of Rabbi Yochanan: Our *Mishna* is referring to a case where there is no law that



one can force the other to divide the yard (*as it is less than eight cubits*). Therefore, this is only because they agreed to divide the yard.

The *Gemora* asks: What is the *Mishna* teaching us? Is it teaching us that they can split the yard if they agree to do so? We learned in another *Mishna* that one cannot force the other to divide (*by a small property*) if they both do not agree. However, if they both want to divide a yard, they may do so, even if the yard is less (*than eight cubits*)!?

The *Gemora* answers: If this was the sole source for this teaching, we would think that that a mere boundary marker is sufficient (*once they agree to divide the yard*). This is why our *Mishna* teaches us that they can force each other to put up an actual wall.

The *Gemora* asks: If this is the teaching of our *Mishna*, why did the *Mishna* later have to mention that if they agree, they can split a yard of less than eight cubits?

The *Gemora* answers: The true novel teaching in the end of that *Mishna* is that they cannot split holy writings (*i.e. a sefer torah*) even if they both want to do so (*for it would be dishonorable*).

The *Gemora* asks: Is our *Mishna* indeed discussing a case where the yard cannot be divided by force because it is less than eight cubits? If so, let the person who does not want to be a wall retract his willingness to divide the yard (*and he will not have to build this wall*)!?

Rabbi Assi answers in the name of Rabbi Yochanan: The case is where a *kinyan* was made between them obligating each other to divide the yard.

The *Gemora* asks: Even so, why should this make a difference? The *kinyan* was regarding words alone (*and therefore should not be valid*). [*A kinyan, such as chalifin,*

*effects tangible transactions, such as sales and presents, and transfers items from one person's possession to another. However, here no such transaction occurred, and therefore the kinyan should not make this agreement binding.*]

The *Gemora* answers: The *kinyan* involved who would get which part of the yard. [*It therefore is a kinyan that transferred part of the yard to one person's domain, and the other part to the other, instead of them having joint ownership over the entire yard.*]

Rav Ashi says: The case is where each made a *kinyan* of *chazakah* (*by improving the land in some manner*) on his land (*that they each agreed should belong solely to him*). (3a)

### **Building Materials**

The *Mishna* says that in places where the custom is to build etc.

The *Gemora* says: "*G'vil*" is stone that is not sanded, and "*gazis*" is stone that is sanded. This is as the verse states, "All of these are precious stones like the measurement of sanded (*gazis*) stones."

"*K'fisin*" are half bricks, while "*l'veinin*" are whole bricks.

Rabbah, the son of Rava, said to Rav Ashi: How do we know that *g'vil* refers to stone that is not sanded down, and the extra *tefach* (*in the Mishna*) is because of the parts of the stone that jut out? Perhaps *g'vil* is half of a *gazis*, and the extra *tefach* is for the plaster that goes in between the two halves. This is similar to *k'fisin* and *l'veinin*, where the extra *tefach* by *k'fisin* is due to the plaster in between the half bricks?

Rav Ashi replied: According to you, how do we know that *k'fisin* are half bricks? We know this because it was passed

down as a tradition. This is also how we know the definition of *g'vil* as stones that are not sanded down.

Other says that Rav Acha, the son of Rav Avya, said to Rav Ashi: How do we know that *k'fisin* are half bricks, and the extra *tefach* (in the *Mishna*) is due to the plaster? Perhaps *k'fisin* are stones that are not sanded, and the extra *tefach* is due to the stone jutting out? This is as we say that *g'vil* are stones that are not sanded and *gazis* are stones that are sanded. The extra *tefach* for *g'vil* is because of the stones that jut out!?

Rav Ashi replied: According to you, how do we know that *g'vil* are stones that are not sanded? We know this because it was passed down as a tradition. This is also how we know the definition of *k'fisin* as half bricks.

Abaye says: We see from here that whenever filling is used between two half-bricks, it must be a *tefach*. This is only if pure mud is used. However, if a mixture of pebbles and mud are used, more is required. Some say: This is only if a mixture of pebbles and mud are used. If mud alone is used, less is also acceptable.

The *Gemora* asks: This implies that when one builds with *gazis* and builds a wall four cubits tall (as stated on 5a), it must be five *tefachim* wide, or it will not stand. However, the wall (*amah traksin*) that King Shlomo built to separate between the *Heichal* and *Kodesh Kodoshim* (Holy of Holies) was also made of *gazis*, and it was only one cubit wide (six *tefachim*) despite being thirty cubits tall!?

The *Gemora* answers: Being that it was one extra *tefach* wide, it was able to stand.

The *Gemora* asks: Why wasn't this divider (*amah traksin*) also established with the same measurements in the second *Beis Hamikdash*?

The *Gemora* answers: This wall could only stand (with only a one-cubit width) up to thirty cubits, not more. [The second *Beis Hamikdash* was higher (40 or 100).]

The *Gemora* asks: How do we know that it was higher?

The *Gemora* answers: The verse states: "The honor of this later House will be greater than the first." Rav and Shmuel, and some say Rabbi Yochanan and Rabbi Elozar, argue regarding the meaning of this verse. One says that this was referring to its height. One says it refers to the amount of years that it lasted. The first *Beis Hamikdash* lasted four hundred and ten years, while the second lasted four hundred and twenty years. The *Gemora* concludes that both are correct.

The *Gemora* asks: Why didn't they build a dividing wall that was thirty cubits tall (like the first *Beis Hamikdash*), and have the rest divided with a curtain?

The *Gemora* answers: Even the thirty cubits that the wall was able to reach in the first *Beis Hamikdash* was only a result of their being a ceiling on top of it, which weighed down the wall and helped keep it in place. Without this, it would not have stood.

The *Gemora* asks: Why didn't they make what they could with a wall, and for the rest, use a curtain?

Abaye said: They had a tradition to either make everything with a wall or a curtain. Everything with a wall was what was done in the first *Beis Hamikdash*, and everything with a curtain was what was done in the *Mishkan*.

They (people of the *yeshiva*) inquired: Are the amounts in the *Mishna* counting the stones and the plaster, or just the stones (in the width)?



Rav Nachman bar Yitzchak answers: It is logical that it is measuring the stones and the plaster. If it would not include the plaster, it should state the real amount! It therefore must be including the plaster.

The *Gemora* says: No. It is possible that it is without the plaster. Being that the plaster does not add much, it is not stated.

The *Gemora* asks: Doesn't the *Mishna* say that if they are making a wall of *l'veinim*, each gives one and a half *tefachim*? [*This shows that it even counts a half tefach. It should therefore also state the small amount of plaster!*]

The *Gemora* answers: It says they each give a half *tefach*, as together, it adds up to a whole *tefach* (*but it does not add small amounts that together would not add up to a tefach*).

The *Gemora* attempts to answer the question from a *Mishna*. The *Mishna* states: A beam (*used to make an eruv to permit carrying on Shabbos in a mavuy – an alley*) must be wide enough to hold an *ariach*, a half a brick. A half-brick is half of a three-*tefachim* brick. [*The korah therefore has to be a tefach wide that would hold a half-brick by its width. This means that the half-brick is three tefachim by one and a half tefachim, and will be placed on the korah and the brick will extend over both sides of the korah a quarter-tefach on each side. This shows that the whole brick itself is three tefachim, and that our Mishna is not including plaster!*]

The *Gemora* answers: That *Mishna* is talking about a large brick (*which is three tefachim, even without the plaster*). This can even be proven from the *Mishna* itself that specified a brick of three *tefachim*. This implies that there is a smaller type of brick as well. (3a – 3b)

### ***Destroying a Shul to Build a New One***

Rav Chisda says: A person should not break down a synagogue (*to use for the building of another synagogue*) until he has already built the other synagogue. Some say the reason is that he might not ending building the other synagogue, and some say it is because he won't have a place to pray during the construction (*of the second synagogue*). What is the difference between the two answers? The difference is if there is another synagogue in the neighborhood. [*The second reason would not apply, as he could still pray there.*]

Mereimar and Mar Zutra would do construction and change their summer synagogue into their winter synagogue for the winter, and do the opposite for the summer (*as they had a temporary place in the meantime*). [*One of the reasons was that they wanted only a few windows in the winter, and a lot in the summer (there is some argument regarding the exact case in the Rishonim).*]

Ravina asked Rav Ashi: Is there any suspicion if the money for the building of the other synagogue is already collected and in the hands of the caretaker?

Rav Ashi answered: Perhaps a case of redeeming captives will come up, and they will use the money for that.

He further asked: If the bricks are already stacked up and the ceiling tiles and beams are already at the site, is there a suspicion?

Rav Ashi answered: Perhaps a case of redeeming captives will come up, and they will sell these things and use the money for that.

Ravina asked: If so, even if the new synagogue is already built, the old one should not be destroyed, as a case of redeeming captives might come up and they will sell the new synagogue to redeem the captives!?



Rav Ashi answered: A person does not sell the place where he dwells.

The *Gemora* continues: We only say that we do not allow the old synagogue to be knocked down until the new one is built if we do not see any fault in the construction of the old one. However, if it is rickety and going to fall, we allow it to be destroyed and a new one built.

This is similar to the incident where Rav Ashi realized that the synagogue in the town of Machasya was going to fall. He had them break it, but he brought his bed in to sleep there until they rebuilt it and even completed the gutters. [*He did this to ensure it would indeed be rebuilt quickly.*]

The *Gemora* asks: How could Bava ben Buta have advised Hurdus (*Herod*) to destroy the *Beis Hamikdash* (and then rebuild it)? Didn't Rav Chisda say: A person should not break down a synagogue (to use for the building of another synagogue) until he has already built the other synagogue?

The *Gemora* answers: He saw that there were cracks there. Alternatively, a king is different, as he does not change his mind (and therefore there is no suspicion that he would not indeed rebuild the *Beis Hamikdash*). This is as Shmuel says: If the king says to uproot a mountain (a difficult task), he will uproot the mountain and not change the order. (3b)

### ***The Story of Hurdus***

Hurdus was a slave of the house of the Chashmonaim. He desired to marry a young girl who was actually from the house of Chashmonai. One day, Hurdus heard a Heavenly voice proclaim that any servant who rebels now will succeed. He went and killed all of his masters from the house of Chashmonai, and left this girl alive. When this girl realized he planned on marrying her, she went to the rooftop and said, "Whoever says he is from the house of

Chashmonai is in fact a slave!" This was because the only one left from that house was this little girl, who then proceeded to jump to her death. Hurdus preserved her body in honey for seven years. Some say that he copulated with her body, and some say he did not. According to those who said he did, he preserved her for this reason. According to those who said he didn't, it was to show that he married a daughter from a royal family. (3b)

### **INSIGHTS TO THE DAF**

#### ***Destroying a Shul***

The *Gemora* says that one cannot destroy a synagogue until the replacement is rebuilt. The *Gemora* quotes two reasons for this prohibition:

1. Negligence - maybe an accident will occur (*Rashi*) that prevents the building of the new synagogue.
2. No place to pray - in the meantime there won't be anywhere to pray.

The *Shulchan Aruch* (152) rules like the first reason, therefore it would be prohibited even if there was another place to pray.

The *Mishnah Berurah* (5) says that when there is another synagogue in town that can fit the entire congregation, the *Taz* permits its destruction, but the *Magen Avraham* is stringent.

The *Biur Halachah* explains that one can rely on the *Taz* since we are only dealing with a Rabbinical prohibition, and many *Rishonim* allow the synagogue to be destroyed, even according to the first reason, when there is an established synagogue to pray in; not just a place to pray (*Tosfos*). Based on this, a synagogue may be destroyed in order to rebuild, so long as there are other synagogues in the community that can hold all the members of the one that is rebuilding.





The *Gemora* says that the entire prohibition only applies when the synagogue is in good condition, but if it starting to decay and therefore not functional in its present state, one can destroy it to build another.

The *Gemora* also says that the only Bava ben Buta gave Hurdus advice to destroy the *Beis Hamikash* in order to rebuild it because they began to see cracks there.

The Mishnah Berurah (2) proves from here that even if the intent is to make a much nicer synagogue, it is forbidden, so long as the first one is still functional.

However, the Taz (quoted in M.B. 9) is liberal about the definition of "rotting." The Taz holds that when the first synagogue is too far from where the community lives, such as outside the wall of the city, "there is no greater crack than this," and it can be rebuilt in a more appropriate location. Similarly, Tosfos explains that a summer synagogue in winter or vice versa, can qualify as a "crack," and it may be destroyed.

It is important to note that the entire issue of destroying a synagogue is only considered a Rabbinic prohibition because it is being done for constructive purposes, i.e. to rebuild another in its place or elsewhere. However, when the synagogue is being destroyed for a destructive purpose, it is a Biblical prohibition, at the Mishnah Berurah (11) points out that it is derived from the verse: *One should not do this to Hashem, your G-d.*

The Biur Halachah explains that this not only applies to items that are attached to the ground, but even destroying movable items, such as the *bimah* and *amud* are Biblical prohibitions.

The Maharam Padawa allows the removal of the tangible items from the synagogue, and it is not a violation of this prohibition, since it is not destroying the actual structure (*unlike the removal of bricks*).

### **Piercing a synagogue wall to install phone lines**

In the count of the 613 mitzvos preceding his Yad HaChazakah, Rambam details the 65th negative commandment: "One must not destroy the Temple, synagogues or batei midrash...as the Torah says: 'Destroy [idols or other objects worshiped by idolaters]...but do not do so to Hashem' (Devarim 12:3-4)". Poskim throughout the generations have widely discussed this statement. All agree that synagogues are holy, as we are promised: "...when I scatter them in the lands I shall be to them a temple in miniature" (Yechezkel 11:16). We must therefore treat them respectfully (Shulchan 'Aruch, O.C. 151), as demanded for the Beis HaMikdash: "...respect my holy place" (Vayikra 19:30). All agree that one mustn't even partially demolish a synagogue, even if there are others nearby, but opinions differ as to if these halachos stem from the Torah (d'oraisa) or from rabbinical decrees (derabanan):

- a) The sanctity of synagogues and the prohibition to tear them down are d'oraisa (Sedei Chemed, Klalim, Ma'arachah 2, 43, according to Mordechai).
- b) Their sanctity and the prohibition to tear them down are derabanan (Minchas Chinuch, mitzvah 437, according to Rambam).
- c) Their sanctity is d'oraisa but the prohibition to tear them down is derabanan (Responsa Chelkas Ya'akov, 4).
- d) Their sanctity is derabanan but the prohibition to tear them down is d'oraisa (Responsa Beis Shlomo, O.C. 64, cited in Sedei Chemed, *ibid*).

Phone lines through synagogue walls: Many halachos emerge from the above concept. For example, a synagogue gabei told the gaon of Tshubin that phone technicians asked if they could break holes in an outer synagogue wall to run wires to a nearby building (Responsa Dovev Meisharim, I, 132). The gaon quoted the Mordechai (cited in Beis Yosef, O.C. 151) who was in doubt if the sanctity of synagogues is like that of the



Temple's inner reaches (heichal), whose outer walls were holy, or like that of its outer court ('azarah) whose external walls were not holy. The answer to the gabai's question thus depends on the aforementioned difference of opinions. If tearing down a synagogue is forbidden d'oraisa, making holes for phone lines in the external wall, which might be considered destruction, is prohibited, as anything doubtfully forbidden d'oraisa is treated strictly. If tearing down a synagogue is prohibited only derabanan, making the holes is allowed as anything doubtfully forbidden derabanan is ruled leniently. The gaon ruled stringently as most Rishonim hold that the prohibition is d'oraisa but offered the gabai a previously used solution (see Avnei Nezer, Responsa O.C. 34) to sell that wall of the synagogue and thus remove its sanctity (see ibid for the appropriate method of sale).

At any rate, our sugya explains that damaging a synagogue is forbidden only if done for no purpose. One may tear it down, though, to replace it with an improved building, just as Bava ben Buta advised Hordos to dismantle the Temple to build a more magnificent building on the same site. Nonetheless one must not normally tear down a synagogue before the erection of a new one to replace it. The Gemara cites two reasons for such and the main reason, adopted by halachah, is that Chazal suspected a community might neglect building a new synagogue after demolishing an old one.

Does a substitute location for services allow demolishing a synagogue? This question affects congregations planning to build a better or bigger synagogue at the site of an old one. May they tear down the present one if they temporarily hold services in another respectable location? The Taz allows the practice if the substitute place is firmly established (O.C. 152, S.K. 1) but Magen Avraham insists (ibid, S.K. 1) that a new synagogue be built first. Some congregations obey his ruling by adding on to their old structure or building a new one around it. Their difference of opinions is based on the Rishonim who

disagree about the exact definition of Chazal's above suspicion. Rashi (s.v. Mishum peshi'usa, etc.) explains that they might never build a new synagogue and Magen Avraham therefore demands the new one to be built first. According to Ramban, Rashba and other Rishonim, Chazal were not worried that they would remain without a synagogue altogether but only feared people would be lazy in erecting a new building. It might take a long time, during which the congregants will remain without a respectable place to pray. The Taz therefore allows tearing down a synagogue before building a new one if there is a substitute Beis Knesses kavu'a.. Beur Halachah (ibid) rules that we may take the lenient approach as all agree that the Torah permits dismantling a synagogue to build a new one.

#### DAILY MASHAL

##### *Ariach and Levainah*

The *Gemora* cites a *Mishna*, which states that the beam has to be wide enough to support an *ariach*, a half-brick. We find that the term *ariach* is used in other instances, i.e. by the *Shiras Hayam*, the Song sung by the Jewish People at the Red Sea. There the Gemara mentions that the *Shirah* is written *ariach al gabei levainah*, a half-brick on top of a full brick, which means that one line of the Song is written like a half-brick, and the line beneath it is a full brick. We can interpret the terms *ariach* and *levainah* homiletically. A half-brick symbolizes that a person's heart should be contrite and broken, and by demonstrating sincere remorse for one's transgressions, Hashem will grant him atonement, as the word *levainah* connotes atonement. The word *lavan*, which is closely associated to the word *levainah*, means white, and white reflects atonement.