

OVERVIEW of the Daf

1) An area accessible by throwing or lowering (cont.)

The Gemara continues to try and find support for either Rav or Shmuel in their disagreement regarding an area that is accessible from one chatzer by throwing, and from a second chatzer by lowering.

2) Two areas separated by a height of less than ten tefachim

Abaye, in his refutation of one of the Gemara's failed attempts to find support for Rav or Shmuel, proposed a theory. The theory is that if less than ten tefachim height separates two areas, they restrict one another even if one has easier access to the common area than the second.

Abaye suggests a proof to this principle.

R' Pappa refutes the proof. ■

REVIEW and Remember

- As far as height is concerned, what is the difference between a balcony and a second story?

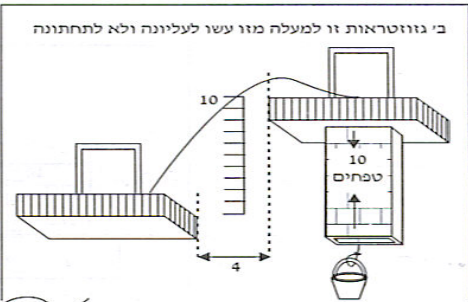
- Why does the Mishnah teach two cases, the case of the pit and the case of the rock?

- Explain the chiddush of the case of the two balconies according to Abaye.

- What is Abaye's rule concerning two areas separated by a height of less than ten tefachim?

Daf DIAGRAM

שתי גזוזטראות זו למעלה מזו עשו לעליונה ולא עשו לתחתונה שתייהן אסורות עד שיערבו



If two balconies, one higher than the other, extend over a body of water and a partition was built for the higher balcony but not for the lower balcony, since both residents have rights to use the upper balcony to

draw water, they prohibit one another from carrying unless they join together in an eiruv. ■

Gemara GEM

Head Covering

בכומתא וסודרא -

פרש"י — שרגילין לתת עליו בחול כובעין ומעפורת ותשמיש נוחה והגון הוא להם למשאוי קל כזה, ואף על פי שאינו ראוי להם לכיתוף משאוי כבד, כדאמר ביציאות השבת (שבת ח, א) תשעה מזו לכתף, אבל עשרה לא הני מילי למשאוי כבד, ומיהו, לכומתא וסודרא חזו, כשבני אדם עייפין בימות החמה נוטלין כובעיהן וסודרן מראשיהן עד שיפוח הרוח בהן

Rashi writes that when people are tired in the summer, they remove their hats and their yarmulkes from their heads until the breeze cools them down.

The Bechor Shor (to Shabbos 118b), who is very meticulous when it comes to men covering their heads, writes that when a person does remove his head coverings for this purpose, he should not walk more than four amos.

Accordingly, writes Teshuvos Minchas Yitzchok (4:30), we can understand the ruling of the Beis Yosef (Orach Chaim §301), that a person may wear a hat out in a public thoroughfare on Shabbos even if it sits loosely on his head. This would seem difficult – why are we not concerned that it will blow off his head and that he might come to carry it four amos in the reshus ha'rabbim? However, according to the Bechor Shor, this is not a concern, because people are careful not to go four amos bareheaded – even though most authorities hold that covering the head is only a “trait of the pious (מדת חסידות).”

In fact, Teshuvos Shevus Yaakov (3:5; cited in Gil-yonei HaShas here) proves that even in the Beis HaMikdash there was no prohibition to go bareheaded. Hence, when the Shulchan Aruch (Orach Chaim 91:3) writes that one must protest against a person who enters a shul bareheaded, that is only a function of middas chassidus. Indeed, Teshuvos Maharshal (§72) proves that there is technically no prohibition to read the Shema and daven bareheaded (although the Taz, Orach Chaim §8, disputes this, asserting that it is prohibited because it mimics the practice of non-Jews [נבחוקותיהם לא תלכו]). Therefore, if a duke or great ruler visits a shul, and for some reason could not be convinced that Jews do not remove their head coverings in shuls, and that their leaving them in place evinces no lack of respect – it is permitted to remove one's head covering even in the shul. ■

HALACHAH Highlight

Remaining bareheaded

כשרבים מכתפין עליו בכומתא וסודרא

Perhaps the people would remove their hats and kerchiefs

The Poskim discuss the obligation for a man to cover his head. Darkei Moshe¹ cites numerous authorities who maintain that there is not an actual obligation for one to cover his head, and it is rather done as an act of piety (midas chassidus). Beis Yosef² cites the Zohar, amongst other sources, that indicates that there is an actual obligation for a man to cover his head. Maharshal³ was asked whether someone suffering from a headache is permitted to eat with his head uncovered. He began his response by noting that he does not know the source of the obligation for a man to cover his head. Were he not hesitant to disagree with positions adopted by halachic authorities of previous generations he would maintain that one may recite a berachah without covering his head and it should even be permitted for one to read shema with his head uncovered. He further cites a Midrash that implies that there is no obligation for a

man to have his head covered, but nevertheless, since authorities in earlier generations accepted that there is such a restriction, he will not dispute their ruling.

Taz⁴ famously wrote that nowadays since gentiles specifically walk with their heads uncovered, a Jew who walks around with his head uncovered is in violation of the Torah prohibition against following the ways of the gentiles. Sefer B'chor Shor⁵ adds, however, that it is permitted for a person to remove his hat in order to cool down since it is evident from his behavior that he did not remove his head covering in order to resemble the gentiles. He finds support for his assertion from our Gemara that relates that people used to place their hats and kerchiefs on pillars that stood in the public domain that were taller than ten tefachim. Sefer Megadim Chadashim⁶ questions the proof from our Gemara since it may be that in addition to the hat and kerchief they remained with a small covering on their head so that one would not be standing bareheaded. ■

¹ דרכי משה או"ח סי' ב' אות ב' וסי' ח' אות ד'.
² בית יוסף שם סעי' ב' (ב) ד"ה ומכסה.
³ שו"ת מהרש"ל סי' ע"ב.
⁴ ט"ז או"ח סי' ס"א ק"א.
⁵ ספר בכור שור שבת קי"ח: ד"ה ופשוט.
⁶ מגדים חדשים מו"ק ט"ו. ד"ה ועי' בעירובין. ■

Distinctive INSIGHT

Touching muktzeh, and indirect movement of muktzeh

הכא בבור מלא פירות עסקינן. והא חסרי, בטיבלא.

Tosafos (ד"ה כיון) points out that earlier (79a), a pile of dirt which is expected to ever be moved cannot be used to diminish the height of a wall. Yet, here we are using a pile of fruit which is only muktzeh for Shabbos alone, because it will be removed from the pit once Shabbos is over and the proper tithes are taken. Why, then, asks Tosafos, can we use this fruit to consider this pit as filled?

Tosafos explains that as far as a מחיצה is concerned, we cannot consider a pile of dirt to be a factor if it will be moved. However, as long as it will be in place the entire Shabbos, a pile of fruit may be used to determine the utility of a filled pit.

Terumas HaDeshen (1:67) analyzes the issue of muktzeh. He determines

from our Gemara that muktzeh is permitted to be touched, but not moved.

The Gemara discusses how the members of the upper level מרפסת /porch can access the area within the pit without "lowering" simply because the pit is filled with fruit. We are assured that the fruit will not be removed, thus depleting the contents of the pit, because the fruit is untithed, and it is muktzeh on Shabbos. Here, the residents of the porch will place objects upon the fruit, although it is muktzeh, while they will not move the fruit. We see, concludes the Terumas HaDeshen, that while muktzeh cannot be moved, it can be used to place things upon it. This opinion is cited as halachah by Rema (308:3).

Mishna Berura (ibid.) quotes that Pri Megadim who says that it is permitted to place something on a muktzeh item even if the muktzeh will move as a result. Causing muktzeh to move without touching it is called טלטול מן הצד—indirect movement, and it is permitted. However, touching muktzeh is only permitted if it will not cause the muktzeh to move.

Furthermore, even טלטול מן הצד is only permitted if the indirect contact of the muktzeh is for a purpose other than the muktzeh itself. For example, in our Gemara, the members of the מרפסת wish to place some objects on this pile of fruits. In this case, the placement of the objects do not service the muktzeh fruit, it is just being used as a base. However, when the object is placed on the muktzeh to cover it, this type of indirect contact would not be allowed.

שו"ת יביע אומר (ח"ז או"ח לו: א) writes that our Gemara indeed illustrates the fact that muktzeh can be touched, and that items may be placed upon it. However, the actual source of this law is a Gemara in Shabbos (151a). There, we are told that we can prepare all the needs for the dead on Shabbos, as long as we do not move any of his limbs. We see that even if the purpose of covering the muktzeh is for the muktzeh itself, it is permitted, as long as there is no possibility of moving it. ■

