

OVERVIEW of the Daf

1. Clarifying the dispute in the Mishnah

Abaye and R' Chinana the son's of Avin understood that R' Meir (the Tanna Kamma of the Mishnah) disagreed whether the residence of an idolater is considered a residence.

Abaye demonstrated that this is not the point of dispute. Rather, it is a decree to make it difficult to share a courtyard with a non-Jew because of the fear that one will be influenced by the non-Jews behavior. The rationale behind the decree is the assumption that the idolater will not want to rent out his rights in the chatzer.

A Baraisa relates a more detailed account of the dispute between R' Meir and R' Elazar ben Yaakov.

A contradiction is noted between this Baraisa and our Mishnah as to whether the presence of a non-Jew restricts a Jew from carrying in the chatzer.

The Gemara explains that a non-Jew restricts a Jew from carrying only if he is present on Shabbos or close enough that he could return home on Shabbos.

A disagreement is recorded regarding to what degree we follow R' Elazar ben Yaakov's opinion.

2. Issuing a psak in his teacher's vicinity

Abaye asked R' Yosef whether ruling like R' Elazar ben Yaakov violates the prohibition against issuing a ruling in the vicinity of one's teacher.

R' Yosef responded: Even ruling that an egg is permitted with kutach violates the prohibition.

Abaye responded in a similar fashion when questioned by R' Yaakov bar Abba. ■

REVIEW and Remember

1. According to R' Elazar ben Yaakov, why did Chazal not include in their decree the case of one Jew sharing a chatzer with an idolater?
2. Why would an idolater be afraid to rent out his rights in the chatzer to his Jewish neighbor?
3. Is an unoccupied residence considered a residence?
4. Explain the difference between "מנהג" and "נהגו העם"?

Distinctive INSIGHT

Can Rabbinical enactments become nullified?

והכא בגזירה שמא ילמד ממעשיו פליגי... הו יודעין ששוכרין מן העכו"ם אפילו בפחות משה פרוטה

The point of dispute is the decree lest one learn from their behavior... It should be known that it is permitted to lease rights from an idolater with even less than a perutah.

Chazal decreed that one must lease rights to the chatzer from a non-Jewish resident to make it difficult for Jews to share a chatzer with idolaters. Nonetheless, Rav Yaakov Reisher writes (שו"ת שבות יעקב ח"ב סי' ז'), "... And specifically since the decree was enacted to prevent Jews from adopting their behaviors, which is no longer relevant in our times and it is difficult for people to find a place to live... it is certainly appropriate to not be strict regarding these halachos [more than necessary]."

A similar approach is found in the halachos of lending money to non-Jews with interest. Shulchan Aruch writes (יו"ד סי' קנ"ט סעי' א') according to the Torah it is permitted to lend money to non-Jews with interest and our Sages prohibited the practice [so we won't adopt their behaviors. Shach] unless it is a person's only means of income or a scholar. Nowadays, however, it is permitted [under all conditions. Rama] Explains the Shach (סק"ב), nowadays anyone is permitted to lend money to non-Jews with interest since it is impossible to do business if one does not interact with non-Jews and the decree regarding interest no longer applies since we regularly engage non-Jews in commerce.

Rav Yaakov Breisch (שו"ת חלקת יעקב או"ח סי' קפ"ב) points out a subtle difference between the ruling of the Shulchan Aruch and Rama regarding interest and the ruling of Rav Reisher concerning leasing rights from a non-Jew. In the case of interest, even after Chazal enacted their decree they still allowed certain exceptions to the rule. Therefore, nowadays when the rationale no longer applies altogether the original decree becomes nullified altogether. On the other hand, when the decree to require leasing rights from a non-Jew was enacted Chazal did not allow for any exceptions. Since Chazal did not allow for exceptions we do not have authority to declare that since the rationale no longer applies we can nullify the decree. This is evident from the wording of Rav Reisher's comments when he stated that it is not appropriate to be more strict than necessary but he wasn't willing to dismiss the decree altogether. ■

HALACHAH Highlight

Consulting sefarim before issuing halachic rulings

מהו לאורויי במקום רבו

Is it permitted to issue rulings in the vicinity of one's rebbi

The Gemara begins a discussion of the prohibition against issuing a halachic ruling in front of one's rebbi. Shulchan Aruch¹ codifies this halachah but notes that there is a difference whether one is a full-fledged student of one's rebbi or whether one is a student who is also a colleague (תלמיד חבר). He also draws a distinction whether one is in the actual vicinity of his rebbi when he issued the ruling or not. Shvus Yaakov,² in a responsa to a rov who had quickly declared an animal to be tereifah, criticized the rov for issuing his ruling without first researching the matter in halachic works even though the matter seemed obvious to him. Since the Torah expresses concern about people's money, he should have been more hesitant to issue a ruling that would cost people money. Additionally, Chazal warned against issuing a halachic ruling in the presence of one's rebbi and in our times that applies to sefarim which stand in the place of our rebbeim.

Sefer Yosef Ometz³ references these comments of Shvus Yaakov and then adds the statement of R' Yehonasan Eibishutz who wrote that whenever a question is not absolutely clear he is careful to research the matter inside since "letters make one wise - אותיות" and it is essential nowadays since people have such a strong tendency to forget. Yosef Ometz then adds that if R' Eibishutz was careful to look at the halachah inside before issuing a ruling and he was well known for his phenomenal memory, certainly the rest of us should take note and be particular to research question before responding to halachic questions. Aruch HaShulchan⁴ however, disagrees with the assertion that one must consult sefarim before issuing a ruling in the same manner that one must consult his rebbi. Issuing a ruling in the presence of one's rebbi is a sign of disrespect but has nothing to do with the concern that

Gemara GEM

Sensitivity when Teaching Torah

והא שלח ר' יצחק ברבי יעקב בר עיורי משמיה דר' יוחנן הווי יודעין ששוכרין מן העכו"ם אפילו בפחות משה פרוטה וא"ר חייא בר אבא א"ר יוחנן בן נח נהרג על פחות משה פרוטה וכו'

Didn't R' Yitzchak the son of R' Yaakov bar Giyori send in the name of R' Yochanan: You should know that one may lease rights from an idolater with a payment of even less than the value of a perutah. And R' Chiya the son of Abba said in the name of R' Yochanan: A Noahite is executed for stealing an object worth less than the value of a perutah...

Rav Tzadok of Lublin (אוצר המלך הל' יסודי התורה ספ"ה) notes that the second quote from R' Yochanan, namely, "a Noahite is killed for stealing less than the value of a perutah," was not related by R' Yitzchak the son of R' Yaakov bar Giyori. The reason, suggests Rav Tzadok, is that R' Yochanan never taught this halachah to R' Yitzchak, because he was descendent of converts, i.e. bar Giyori - the son of a convert. The reason R' Yochanan withheld from teaching this halachah to R' Yitzchak is because the Gemara in Sanhedrin states: One should not degrade a non-Jew in front of a descendent of a convert even if the conversion was ten generations earlier. Therefore, R' Yochanan refrained from teaching this halachah to R' Yitzchak for fear that he would be offended that a Noahite is executed for stealing even less than the value of a perutah because they can not overlook the loss of even less than the value of a perutah. ■

one may have forgotten the halachah. Therefore, since ruling without consulting one's sefarim will not be a sign of disrespect there is no obligation to do so if one knows the halachah. ■

1. שו"ע יו"ד סי' רמ"ב סעי' ד'.

2. שו"ת שבות יעקב ח"ב סי' ס"ד.

3. שו"ת יוסף אומץ סי' מ"ז.

4. ערוה"ש יו"ד סי' רמ"ב סעי' ל"ה. ■

Gemara GEM

Non-Jewish Residents and Owners

דכולי עלמא דירת עובד כוכבים לא שמה דירה

From The Contemporary Eruv:

The Gemara explains that, strictly speaking, the domain of a non-Shomer Shabbos resident should not prevent a fellow resident from carrying on Shabbos within the enclosed area that they share. The halachah remains that whenever a single Jewish individual or family shares the enclosed area with any number of non-Jews, it is not necessary to rent their space from

them for Shabbos. For example, in the case of a triplex, there are several possible configurations: a) Three Jewish families; b) Two Jewish (Shomer Shabbos) families and one non-Jewish family; c) One Jewish family and two non-Jewish families. In the first configuration only eruvei chatzeiros among the three families is required. In the second configuration we would require the two Jewish families to make an eruvei chatzeiros between themselves and to contract a sechiras reshus from the non-Jewish family as well. In the third configuration we would require no additional procedures at all. The solitary Jewish family needs make neither eruvei chatzeiros nor sechiras reshus. We

can easily apply the principles that we have just outlined to apartment buildings and other situations where more people reside together within an enclosed area.

A potential consequence of this halachah applies if one has the misfortune to land in an airport (outside the State of Israel) after Shabbos has begun. If, as often happens, one can walk within an uninterrupted enclosed area from the airplane, through the terminal, to an attached hotel, one may carry one's luggage the entire way. Different authorities might own these areas. Since, however, their status is one of exclusive non-Jewish ownership, no rental of the domain is necessary to carry from one area to another. ■

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