

OVERVIEW of the Daf

1) Clarifying the Mishnah

The Gemara thought it could deduce proof from our Mishnah to Rava's ruling that one who transports an object four amos in a public domain and in the process lifted the object more than ten tefachim from the ground is liable.

The proof, however, is rejected.

A second version of this discussion is recorded.

2) Urinating and spitting

R' Yosef ruled that one who urinates or spits into another domain violates a Torah prohibition.

This ruling is unsuccessfully challenged.

Rava asks whether regarding this halachah we follow the body, where the urine becomes dislodged or the place where it exits the body. The issue is not resolved.

A discrepancy is noted between our Mishnah, that rules that one is liable for transporting saliva as soon as it collects in a person's mouth, and a Baraisa that rules that one is not liable unless he first swirls the saliva around in his mouth.

R' Yochanan and Reish Lakish suggest different resolutions to the discrepancy but Reish Lakish's resolution is rejected.

Reish Lakish warns against the vulgar act of spitting in front of one's teacher.

3) **MISHNAH:** The Mishnah discusses the guidelines for standing in one domain and drinking in another.

4) Clarifying the Mishnah

R' Yosef resolves an apparent inconsistency between our Mishnah and the previous Mishnah.

Abaye and Rava dispute whether the Mishnah's decree would apply with regard to a karmelis.

Rava unsuccessfully challenges Abaye and a disagreement concerning the last case of the Mishnah emerges from that discussion.

5) **MISHNAH:** Guidelines for collecting water from a gutter and drainpipe are presented.

6) Clarifying the Mishnah

The reason it is not permitted to collect water directly from the gutter, explains R' Nachman, is because the Mishnah is discussing a gutter that is within three tefachim of the roof and it appears as if one is transferring the water from a private domain to a public domain.

A Baraisa teaches, concerning the case of the drainpipe, that if it four tefachim wide it is prohibited to drink directly from it because it has the status of a karmelis.

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Distinctive INSIGHT

Drinking while straddling the border

לא יעמוד אדם ברשות הרבים וישתה ברשות היחיד, ברשות היחיד וישתה ברשות הרבים אלא אם כן מכניס ראשו ורובו למקום שהוא שותה

Rashi explains the reason why it is prohibited to stand in the private domain and to drink in the public domain is that we are afraid that the person may bring the cup from which he drinks to where he is standing. This would be a Torah violation of transporting from one domain to another. Ritva also indicates that the suspicion is that the person may bring the cup to where he is standing, being that the cup is a utensil which people often need.

Meiri explains that the problem is that the person planning to drink will bring the water to where he is standing. Apparently, Meiri argues with Rashi and Ritva, because the cup was originally lifted for the sake of being held in the public domain, and even if the person would then decide to bring it to the private domain, this would no longer be a Torah violation, as his original intent in his עקירה was lacking in wrongful action. Nevertheless, the words of the Meiri can be reasonably read to be in agreement with Rashi and Ritva, because the same deficiency in intent can be said about the water itself, as well as the cup.

Rabeinu Chananel (Shabbos 11b) points out that the reason we only allow the person to drink when he places his head and most of his body into the public domain, is that we are concerned that he will not necessarily finish drinking the water. The Achronim explain the words of Rabeinu Chananel in different ways. Rosh Yosef says that if the person stands in the private domain and drinks in the public domain, he might drink more than he needs, and he will spit out the remainder that is in his mouth back into the public domain. If only his head is there, his head is legally considered to be where his body stands, and this ejecting of the water into the street is הוצאה. If his head and most of his body is in the רשות הרבים, this deposit of water from his mouth would be permitted, because both are in the public area.

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REVIEW and Remember

1. Why is a person liable for urinating into another domain if it was not dislodged from a place that measures four by four tefachim?
2. What are the two explanations for the Mishnah's case concerning the winepress?
3. How does R' Huna explain the Mishnah's case of drawing water from the well?
4. Why did Rabbi refuse to issue a ruling when asked?

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אהרן דוב בער בן אפרים הלוי.
By their children Shlomy and Shelley Berger

HALACHAH Highlight

Inserting a key into a lock

ורק חייב חטאת

Or one who spits is liable to bring a Chatas

R' Yosef teaches that one who spits from one domain to another has violated the Biblical prohibition of transferring. The Gemara challenges this ruling based on the principle that for one to Biblically transfer something it has to be uprooted from a place that is four tefachim wide and must come to rest on something that is four tefachim wide, and the place from which the saliva originates is not four tefachim wide. The Gemara answers that if one considers something to be important it is as if it is four tefachim wide. Teshuvos She'ilas Shaul¹ wonders whether it is permitted for a person standing in the public domain to insert a key into a lock that has a hole that is open even on the inside of the house. Seemingly, in such a circumstance the lock should have the status of **היחיד רשות**—the sides of a private domain, and it should be prohibited to transfer a key from the public domain to the lock. Although the lock is smaller than four tefachim, he entertains the possibility that this would constitute a Biblical prohibition based on our Gemara that teaches that one's intent could give importance to a place as though it was four tefachim wide. After his analysis he concludes that it is likely that it would only violate a Rabbinic prohibition and if one was standing in a karmelis rather than a public domain it would be altogether permitted.

Shemiras Shabbos K'hilchasa² adopts a stringent position and rules that if the hole in the lock opens on both sides it would only be permitted to insert the key if the key remains attached to one's clothing. In such a circumstance it is not considered as though it was transferred since it remains attached to one's clothing. Teshuvos Minchas Yitzchok³ also maintains that it is a potential issue but writes that if one simply covers the opening on the inside of the house so that the hole does not open on both sides, the issue disappears. ■

1. שו"ת שאילת שאול ח"א או"ח סי' ס"ב.
2. שמירת שבת כהלכתה מהדו"ת פי"ח סעי' נ'.
3. שו"ת מנחת יצחק ח"ג סי' כ"ז אות ג'. ■

Gemara GEM

Spitting

אמר ריש לקיש כיח בפני רבו חייב מיתה שנאמר כל משנאי אהבו מות אל תקרי למשנאי אלא למשנאי והוא מינס אניס כיח ורק קאמרינן:

From Beis Yechezkel p. 183:

The Shulchan Aruch (Orach Chaim 151:7) permits spitting in a Shul (if he feels compelled to do so involuntarily). It is a widespread custom among Chasidim to spit during Aleynu LiShabei'ach when they recite the words SheHeim Mishtachavim LiHevel VaRik (the source of the custom is the Taz [Yoreh De'ah 179:5]). However, the Arizal

was very careful not to spit in a Shul, because of the dictum of K'avod Beis HaK'nesses (Sha'ar HaKavanos fol. 4), and the Mishnah Berurah (151:24) warns that one should never spit in front of another person who may be disgusted. This, writes the Mishnah Berurah, is not a Middas Chassidus but a true prohibition (see Chagigah 5), so the gains of "public spitters" are outweighed by their losses.

Moreover, the applicability of the Shulchan Aruch's leniency to today's times is not at all clear. The Sha'ar HaTziyun (151:15) writes that wealthy people that do not allow spitting in their homes are not allowed to spit in their shuls. Clearly, most people today do not spit on their own floors and would

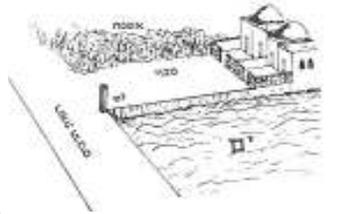
therefore be forbidden to do so in shul as well. Furthermore, it should go without saying that smokers may not toss their discarded cigarette stubs on a Shul floor. ■

(Insight...Continued from page 1)

Chasam Sofer explains that we are concerned that after drinking all he needs, he will bring his head back into the private property where his body stands, with the last mouthful of water still remaining in his mouth. If only his head was in the **רשות הרבים**, this would be considered **הכנסה**. But if his head and most of his body were in the area where he drank, it would be considered as if the water in his mouth was already consumed. ■

Daf DIAGRAM

מעשה במבוי אחד שצדו אחד כלה לים וצדו אחד כלה לאשפה ובה מעשה לפני רבי ולא אמר בו לא איסור ולא היתר



There was once a mavoi whose one side ended at the sea and whose other side ended at a trash heap. When the question concerning this mavoi was presented to Rabbi he refused to issue a ruling as to whether it was permitted or prohibited to carry in it. He hesitated to permit carrying because he feared the garbage heap would be cleared away or the sea may bring up sediment so that the partition would be nullified and he hesitated to prohibit carrying because at the time of the question the partitions were still intact. ■

(Overview...Continued from page 1)

7) MISHNAH: The Mishnah discusses the permissibility to draw water from a well situated in a public domain from a nearby window and pouring water from a window to a garbage heap that is ten tefachim high.

8) Clarifying the Mishnah

R' Huna and R' Yochanan present different explanations for the first ruling in the Mishnah.

A discrepancy is noted between the second ruling of the Mishnah concerning a garbage heap and a ruling issued by Rabbi.

The Gemara resolves the discrepancy.

9) MISHNAH: The Mishnah teaches two rulings that pertain to trees.

10) Clarifying the Mishnah

R' Huna the son of R' Yehoshua explains that carrying is not permitted under the tree if the area is larger than two beis seah since the walls formed by the branches were not made for residential purposes. ■