

## OVERVIEW of the Daf

### 1) Launderer's pool

R' Nachman in the name of Rabbah bar Avuha distinguishes between a soaking pool that only requires three tefachim and the scrubbing pool that requires four amos.

A Baraisa is cited that supports this distinction.

Another version of this teaching is presented.

### 2) Plastering the wall

The Gemara questions whether one must leave a distance of three tefachim and plaster the wall or may he leave a distance of three tefachim or plaster the wall.

Two unsuccessful attempts are made to resolve this question.

### 3) Materials that generate heat

It is noted that there are discrepancies between the list of materials that generate heat in our Mishnah and a Mishnah that also presents a list of materials that generate heat.

R' Yosef offers an explanation.

Abaye rejects this explanation and suggests an alternative explanation.

Rava rejects this resolution and suggests another.

Rava's explanation is unsuccessfully challenged.

### 4) Distancing seeds and a plow from a neighbor's wall

The reason it is necessary for the Mishnah to discuss the distance for seeds and the plow separately is explained.

The reason the Mishnah mentioned seeds even though water was mentioned is explained.

The damaging effect that seeds could have on a wall is described.

### 5) Urinating on a neighbor's wall

Rabbah bar bar Chana rules that it is permitted to urinate on a neighbor's wall.

This ruling is challenged from our Mishnah.

The Gemara differentiates between urinating which is permitted and pouring urine on a wall which is not permitted.

Rabbah bar bar Chana's ruling is successfully challenged and the Gemara offers another explanation for the pasuk he cited.

### 6) Reducing the size of a window

R' Tuvi bar Kisna in the name of Shmuel ruled that a wafer does not reduce the size of a window.

The reason Shmuel specified a wafer is explained.

A number of unsuccessful challenges to Shmuel's ruling are presented.

The Gemara clarifies a point in the Mishnah cited to refute Shmuel. ■

## Distinctive INSIGHT

*Lining the pit in addition to maintaining a three-tefach distance*

וסד בסיד תנן או דלמא או סד בסיד תנן

The Gemara asks whether the instructions in the Mishnah are that a pit must be dug three tefachim away from a pre-existing pit *and* that it must also be lined with lime, or whether either precaution is adequate on its own. In other words, is the stipulation to line the pit with lime to insulate it an additional requirement beside maintaining a proper distance, or is it an independent option which is adequate in and of itself? This question hinges on whether the term "סד בסיד" is preceded by the letter 'ו, which is the conjunction "and," or if this term is introduced with the word "or." Although our text clearly has a 'ו, Rashi seems to say that the Gemara realized that the actual text was dubious, and we do not know whether the correct text had a 'ו or the word או. Rabeinu Yona explains that the doubt is based upon the text later in the Mishnah which reads "או סד בסיד," so the Gemara wondered whether the text earlier in the Mishnah was the same. Tosafos (17a, "ד"ה וסד) holds that the text is clearly "וסד בסיד" both in the beginning of the Mishnah as well as later in the Mishnah. The question was merely the intent of this phrase, as sometimes the term 'ו can mean "or" and sometimes "and".

This question is not resolved in the Gemara. Rosh (סימן ד) explains that once a person implements either of these precautions he cannot be forced to do more. K'tzos HaChoshen (155, #7) understands that Rosh means that the one digging the pit really should use both precautions, maintain a distance of three tefachim and line the pit, but if, for example, he only lined the pit, we cannot force him to do more. However, Beis HaLevi (ח"ב מ"ו, ב) proves from Tur, in the name of Rosh, that the intent is that even לכתחילה the one digging the new pit may choose to either maintain a distance or to line the pit.

Rambam (שכנים ט: א) writes that both precautions are required when digging a new pit. Magid Mishnah explains that Rambam determined his conclusion based upon the Gemara's statement that it felt it was obvious that sealing the pit is required in addition to maintaining a distance—פשיטא "פשיטא" דוסד בסיד תנן. Although this approach turned out to be inconclusive, the bold and confident nature of the presentation of the Gemara in introducing this proof (פשיטא) indicates that the Gemara believed this to be true. Ritva also mentions this consideration, and he adds that the fact that the text as it appears in all versions of the Mishnah we have features the reading as "וסד בסיד" is itself an indication that this is the correct understanding of the halacha. ■

# HALACHAH Highlight

## Matters of doubt concerning damages

איבעיא להו וסד בסיד או דלמא או סד בסיד תנן

The question was asked: Does the Mishnah mean "and apply plaster" or perhaps it means "or apply plaster."

The Gemara asked the question whether the Mishnah intended to teach that one digging a pit in his yard must take two precautionary measures or only one. Is it necessary to leave a distance of three tefachim from the wall of his neighbor's pit and additionally he must apply plaster to the walls of his pit, or is he obligated to take only one precautionary measure; distance or plastering the walls of his pit. The Gemara does not arrive at a definitive conclusion on the matter. Rambam<sup>1</sup> rules that one is required to take both precautionary measures when digging a pit. Magid Mishnah<sup>2</sup> explains that although the Gemara was unsuccessful at proving that position correct, we nevertheless maintain that the Gemara was merely rejecting the proof but accepts that position as correct in halacha. Rosh<sup>3</sup> writes that since the uncertainty was never resolved we cannot obligate someone to take both steps and if he takes only one of those precautionary measures it is sufficient.

At first glance, one may assume that the issue under dispute is whether in cases of doubt one must adopt a strict approach to avoid damaging others – according to Rambam it is necessary and according to Rosh it is not. Beis Halevi<sup>4</sup> suggests that Rosh agrees with Rambam that it is necessary to adopt a stringent approach so as not to damage the property of a neighbor. The reason in this case Rosh disagrees is that there is uncertainty whether or not this constitutes damage.

# REVIEW and Remember

1. Why does the scrubbing pool require a greater distance than a soaking pool?  
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2. Explain the meaning of the phrase יגיד עליו ריעו.  
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3. According to the Gemara's conclusion, what is it that urinates against a wall?  
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4. What size window allows tumah to pass through?  
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When, however, the act is a damaging act and the question is whether one should be strict Rosh would agree that it is required.

Vilna Gaon<sup>5</sup> suggests another explanation of the dispute. He explains that Rambam and Rosh disagree about how to categorize doubtful matters of damages. Rambam adopts the perspective that doubtful matters of damages are treated as doubtful matters of איסור, since it is prohibited to damage the property of others and thus one must assume a stringent position. Rosh disagrees and asserts that doubtful matters of damages are in the category of doubtful monetary matters and thus we can not obligate the possible damager to pay any more than his minimal obligation. ■

1. רמב"ם פ"ט מהלי שכנים ה"א.
2. מגיד משנה שם.
3. רא"ש פ"ב סי' ד.
4. שו"ת בית הלוי ח"ב סי' מ"ו.
5. גר"א חו"מ סי' קנ"ה אות ג'. ■

# STORIES Off the Daf

## Buried in garbage

"אין טומנין... לא בזבל"

Not too long ago, spending time at a health spa—a retreat at a natural spring, at the seaside, or in the mountains—was one of the more popular ways to improve one's wellbeing. Even today, one of the most effective ways to convalesce is in the healing atmosphere of such a site. Of course, spiritually such places were a great challenge since one could easily get caught up in whatever entertainment was presented for the guests

and completely forget about learning Torah or serving Hashem.

Once, when the Yismach Yisrael of Alexander, zt"l, was at such a spa, he and his entourage went for a walk to get a little air in between his lengthy rigorous learning sessions. They noticed a certain person with excellent yichus seemingly absorbed in the orchestra that the spa provided for its clients to listen to in the serene woodland environment.

The people with the Yismach Yisrael tried to judge this "b'nan shel kedoshim" favorably. "He is probably trying to hide his great spiritual attainments by hanging around where the music plays like any simpleton," they postulated.

The Yismach Yisrael knew however that this person was simply wasting his time, so he quipped, "We see from Bava Basra 19—which we learned not long ago—that this young man is not merely hiding his holiness by seeming engrossed in the music."

When it was clear that no one understood what he was talking about, he explained, "It says there clearly, 'אין אין טומנין... לא בזבל'. Although this literally means that one may not wrap food in refuse to keep it warm on Shabbos, we may also infer another meaning: one does not hide – טומנין – his holiness by immersing himself in garbage!"<sup>1</sup> ■

1. דברות קודש, וארא תשס"ב, ע' ד' ■