

This month's Daf Digest is dedicated
L'iluy Nishmas Mrs. Yenta Weiss, Rivke Yenta bas Asher Anshel & Yosef ben Chaim HaCohen Weiss
By Mr. and Mrs. Manny Weiss
L'iluy Nishmas **שרגא פייוול דוד בן קמואל**
By the Abramowitz family

OVERVIEW of the Daf

1) Clarifying Tanna Kamma's opinion (cont.)

Rabbah and R' Yosef suggest that the dispute in the Mishnah is related to whether the closet is a utensil, which may be demolished on Shabbos, or whether the closet is a structure, which may not be demolished on Shabbos.

Abaye refutes this explanation.

Abaye and Rava explain that the point of dispute is whether a knife may be moved for its non-primary purpose, i.e. to cut the rope.

2) MISHNAH: The Mishnah discusses the validity of an eruv which was destroyed or in some other way rendered inedible.

3) Clarifying the Mishnah

Rava explains: The Mishnah's ruling that an eruv that rolled beyond the techum before Shabbos is invalid applies only if it went more than four amos outside of the techum.

In order to explain the Mishnah in a fashion consistent with Rabbi the Gemara suggests that the Mishnah's case of rubble that fell onto the eruv refers to a circumstance where a hoe and pick will be necessary to excavate the eruv.

The necessity for the Mishnah's four cases is explained.

4) Clarifying the opinion of R' Meir

Assuming the anonymous Tanna in the Mishnah is R' Meir, it would seem his position is to be strict in cases of doubt. This is inconsistent with his ruling in a different case where in a case of doubt he ruled leniently.

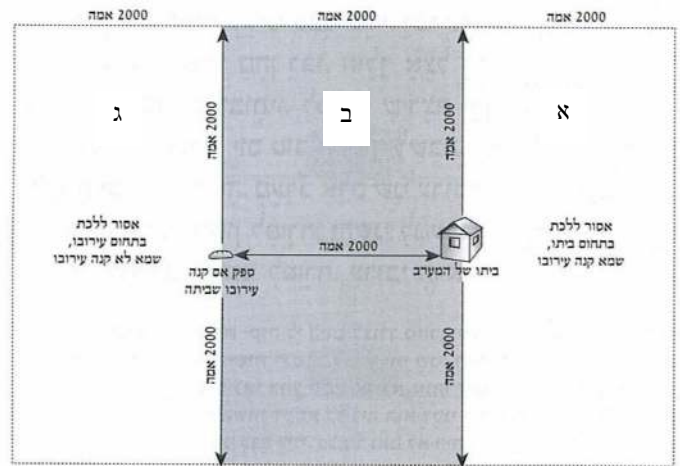
The Gemara explains: R' Meir is of the opinion that the laws of techum are Biblical and regarding Biblical matters involving a doubt he rules strictly.

The Gemara unsuccessfully challenges the assertion that R' Meir holds that the laws of techum are Biblical.

The Gemara challenges the assertion that regarding cases of doubt on Biblical matters R' Meir rules strictly from a case where he ruled leniently

R' Yirmiyah with an additional explanation from Rabbah and R' Yosef distinguish between the two cases. ■

Daf DIAGRAM



הרי זה חמר גמל

If the bread placed for the eruv is valid, the owner can carry in areas **ב** and **ג**. If the eruv is not valid, he can carry in areas **א** and **ב**. Consequently, due to the doubt, the only area in which he may carry for certain is the shaded area, **ב**. ■

REVIEW and Remember

1. Do the prohibitions of building and demolishing apply to utensils?

2. According to Rava, why is an eruv valid if it rolled less than four amos out of the techum?

3. Under what conditions does R' Meir rule strictly in cases of doubt?

4. Explain the measuring method called מקדרין.

Today's Daf Digest is dedicated
In loving memory of our grandfather
צבי מאיר בן יהודה
by the Karp family, Far Rockaway, NY

HALACHAH Highlight

Establishing the day of death

נגע באחד בלילה ואינו יודע אם חי אם מת

If one touched someone at night and one does not know whether he was alive or dead

The Gemara presents a dispute concerning someone who touched a friend in the middle of the night and in the morning the friend was found to be dead. R' Meir rules that one who touched his friend is tahor since he has a presumption of being tahor. Chachamim rule that he is tamei since we address uncertainties of tum'ah based on present circumstances, and since the person was discovered to be dead it is assumed that at night he was already dead.

Poskim debate whether the rationale of Chachamim applies to other areas of the halachah as well. It happened once that someone died and one of the deceased's relatives was uncertain whether the relative had died within the past thirty days, whereby he would be obligated to sit shiva, or whether more than thirty days had passed since the relative's death, whereby he was not obligated to sit shiva. Maharam Mintz¹ ruled based on the Gemara on Gittin (28a) that one who is delivering a get from a husband who is old or sick should deliver the get assuming

that the husband is yet alive since a living person is presumed to be alive until evidence to the contrary is produced. In this case as well the deceased relative is assumed to have been alive for as long as possible and thus halachah instructs the living relative to sit shiva assuming that the deceased died within the last thirty days.

Taz² rejected Maharam Mintz's ruling from Tosafos in Pesachim³ who explains that the principle established in the Gemara Gittin is limited to where we have no evidence that the person died. In such a case the person is assumed to be alive. If, however, the person in question is found to be dead, our Gemara teaches that it is assumed that he has been dead since the last time he was seen alive. As such in our case as well it should be assumed that the person died sometime shortly after the last time he was known to be alive, which would be more than thirty days ago, and thus the relative is not obligated to sit shiva. Noda B'Yehudah⁴ supports Maharam Mintz's position and explains that the principle in our Gemara is limited to questions dealing with tum'ah and taharah, but in other areas of halachah the person in question is assumed to be alive until the last possible moment before the uncertainty arises. ■

1. שו"ת מהר"ם מינץ סי' צ"ה.

2. ט"ז יו"ד סי' שצ"ז סק"ב.

3. תוס' פסחים צ"א. ד"ה שהיה.

4. שו"ת נודע ביהודה מהדו"ק אה"ע סי' ל"א. ■

Distinctive INSIGHT

Safek in Eiruvei Techumin

אמר רבי דוסתאי בר ינאי משום רבי מאיר שמעתי שמקדרין בהרים

Since our 2000-amos limit on Techum Shabbos is a rabbinic stricture (according to Torah law the techum extends to 12 mil, or 24,000 amos according to those who say that there is also a Torah prohibition of Techum Shabbos), the law is that in measuring the techum we "bore into the mountains" – i.e., we measure the distance as it would be were the land in the area completely flat; we do not take the distance that the slope of a

mountain adds into account.

A Mohel measured the distance to the city in which he had a Bris Milah to perform on Shabbos. Without "boring into the mountains," the distance was slightly more than an eiruv techumin would allow. Teshuvos Achiezer (3:59) was asked whether the Mohel could rely on the assumption that the more lenient manner of measuring the distance would render the case permissible.

Achiezer initially suggests that since our measure of techum is a rabbinic decree, we may employ the principle that ספק דרבנן לקולא – in a case of doubt that concerns a rabbinic decree we incline towards leniency. He then rejects this suggestion, as the

principle is that in any case of doubt in which the matter may be clarified (איכא לבירורי) we do not incline towards leniency – and here, it is possible to measure the distance more accurately.

Achiezer ultimately rules leniently for several reasons. Among them is his rejection of the above objection: From Tosafos to 5b above d.h. V'Safek it is clear that where the clarification of the matter in doubt is very difficult – in the case in question it was winter and very snowy – it is not necessary to take extraordinary measures to clarify the matter, and hence one may rely on the principle of ספק דרבנן לקולא. ■