

OVERVIEW of the Daf

1) Is there a minimum size for the place of removal or placement? (cont.)

The Gemara continues to search for the opinion that would not require that the object transported be lifted from or placed onto an area of significance.

Finally, Rava answers that our Mishnah agrees that the area must be a significant size, and the reason there is liability in the Mishnah is because the Mishnah is of the opinion that a person's hand is as significant as an area of four tefachim by four tefachim.

R' Yochanan is quoted as also subscribing to the view that a person's hand is considered a significant area. The Gemara quotes a second ruling from R' Yochanan which indicates that he holds that a person's hand is considered an area of significance and explains the novelty of the second ruling.

2) Throwing objects

R' Yochanan rules that if one person throws an object and a second person catches the object without having to move his body the first person is liable but if the second person had to move there is no liability. This ruling is supported by a Baraisa.

R' Yochanan asks what the halacha would be if the first person threw the object, moved and caught the object. Do we consider the two acts to be separate and there is no liability, or are they linked together and there is liability. The Gemara does not resolve the issue.

3) Liability for floating objects

R' Yochanan rules that if one extends his hand into his neighbor's yard and gathers rain he is liable for transporting the rain.

The Gemara questions this ruling and Rava concludes that R' Yochanan was referring to a case where the person gathered water from a pit in his friend's yard and the novelty of the ruling is that the water is considered at rest and not floating.

Rava asks about liability if one transports a nut that was in a utensil which was itself floating on water. Do we follow the nut which was at rest in the utensil or do we follow the utensil that was floating on the water and the Gemara leaves the question unanswered.

The Gemara states that oil floating on wine would be a disputed issue whether we consider the oil to be floating on the wine or at rest on the wine.

4) Intent to bring the object to rest

R' Yochanan rules that if a person lifted an object with the intent of transporting it to another corner of the room and changed his mind and carried it in and out all day he is not liable until he stands still. Abaye adds that there would only be liability if he stood to rest as opposed to standing to adjust the load.

The Gemara questions the necessity of this ruling since R'

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Gemara GEM

The Mishnah is still inconclusive

אמר רבא: איכפל תנא לאשמעינן כל הני

At this point in the discussion of the Gemara, we were trying to determine whether the עקירה and הנחה had to be off of a place which measures at least four handbreadths by four handbreadths or not. It would seem that our Mishnah would be an outright proof that it is unnecessary, because we find the violation of Shabbos occurring when the object is taken or placed into a person's hand. In order to avoid this as being conclusive, the Gemara makes several suggestions in understanding the Mishnah as being non-standard. Finally, the Gemara even suggests that the Mishnah is dealing with a case where the person is bent over, and he caught the object below three tefachim of the ground. Alternatively, it might be discussing a case where the person is standing in a pit, or where he is a midget. At this point, Rava joins the discussion, and asks, "Is it possible that the Mishnah uses such unlikely scenarios to illustrate the law of transferring objects between domains?"

What is it exactly that is bothering Rava? Doesn't the Gemara often use extended interpretations to understand a Mishnah? Rashi explains that it would have more sense for the author of our Mishnah to choose circumstances which were straightforward and clear. This is the best way to teach the laws of הוצאה and that the object must be lifted off and placed onto a position which is 4 by 4. If the only way to avoid this conclusion is if the Mishnah has to be twisted to such an extent, this itself indicates that this convoluted case is not the intent of the Mishnah.

Ramban (and later, Rabbi Akiva Eiger) point out that although the case of the Mishnah is quite extreme, there is a solid

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REVIEW and Remember

1. Is there liability for transporting an object in a roofed public domain? Why?
2. What was the novelty of R' Yochanan's second ruling regarding a person's hand being considered an area of significance?
3. What is the halachic difference between standing to rest and standing to adjust a load?
4. Why does Ben Azai exempt a person from liability if he transports an object from a private domain to a public domain by going through a karmelis?

HALACHAH Highlight

Substantiating a custom that children are asked to carry

אמר רבי יוחנן המעביר חפצים מזוית לזוית, ונמלך עליהן והוציאן פטור, שלא היתה עקירה משעה ראשונה לכך.

It was said in the name of Rabbi Yochanan that someone who moves items from one corner of a private domain to another corner of the private domain, without initially having the intent to transfer them to a public domain, and then changed his mind and took them out to the public domain, is exempt because the initial lifting was not with the intent of taking the items out to the public domain.

The Chudushei HaRim¹, Rabbi Yitzchak Meyer of Gur, endeavors to find basis for a custom that existed in his time. In some places, a child would be asked to bring the chulent from the baker's oven, where it had been placed on Friday. The child would need to carry the chulent through the streets. He quotes the Taz² that derives from a Mordechai that it is permitted to have a child carry the synagogue key, much as it is permitted to have a gentile carry the key. The Taz explains that the prohibition is Rabbinic in nature, since the streets are a karmelis. The Chidushei HaRim writes that it is obvious that the Taz would not rule against the Rambam and the Shulchan Aruch, and clearly the Taz permitted this only for a Mitzvah. Here the Chidushei HaRim adds that possibly Hotza'ah (carrying between domains) is less severe in this regard than other acts. His basis for this statement is the passage from our Gemara. From our passage it emerges that one transgresses the Torah prohibition of carrying only when the original lifting was done with the intention of placing the item in a public domain. If so, a child, who is seen to lack the ability of intentful thought,³ cannot transgress the Torah prohibition for carrying, being that his action is seen as lacking all intent (מתעסק). If so, being that the child's carrying involves two matters of Rabbinic origin: the total lack of intent (מתעסק) and the carrying in a karmelis, it is impossible under these conditions

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Yochanan already issued a ruling based upon this principle. The Gemara answers that different Amoraim explain R' Yochanan's single ruling using different circumstances.

5) Transporting an object from a private domain to a public domain through a different domain

A Baraisa records a dispute whether transporting an object from a private domain to a public domain by walking through a karmelis carries liability. R' Zaira holds there is no liability whereas the Rabanan hold there is liability. The Gemara begins to search for the rationale of the Rabanan. ■

to transgress a prohibition of Torah origin. Those who have this custom have this reasoning to rely upon. He adds that although this distinction between carrying and other prohibitions is not found in the Rishonim, and in fact from Tosafos and the Ran⁴ it would appear clearly that there is no such distinction, still there is enough here to find basis for those who have this custom of having a child carry the chulent home.

The Kuzgolover, Rav Aryeh Tzvi Fromer⁵, also writes in a similar vein to explain the custom of having children carry. He as well searches to distinguish the act of carrying from other prohibited activities on Shabbat. He derives in a different fashion that carrying is unique amongst the prohibited acts of Shabbat that it requires full and complete intent. Thus, being that a child is incapable of full and complete intent, there cannot be a prohibition of Torah origin for him to carry in our public domains.

It should be noted that this matter is contested⁶, and the intent of the Chidushei HaRim and the Kuzgolover was to substantiate the already existing custom. ■

1 תשובות הרי"ם חאו"ח סי' ג'

2 תשובות הרי"ם חאו"ח סי' ג'

3 עיי' חולין יג ע"א

4 עיי' שבת דף קנ"ג ע"א

5 שו"ת ארץ צבי ח"א סי' עה

6 עיי' שו"ת שואל ומשיב (מהדורא ג' ח"ב סי' נג). ועיי' בס' הקטן והלכותיו (פרק כ' הערה תג) בזה. ואכמ"ל. ■

Distinctive Insight

Floating is not at rest

שמן צף על גבי יין

The Sefer Yosef Da'as points out that we see from here that the custom in the time of the Mishnah was to pour a layer of oil on top of a barrel filled with wine. This apparently provided a seal to protect the wine from dirt and contamination.

He quotes from the עיונים בדברי חז"ל: "We can only guess at why this was common practice. When they did not want

to seal the barrel, they, instead, poured a layer of oil to seal in the wine. This provided an air-tight seal to protect the wine." This was also the prevalent custom in the wine markets in Italy at the time.

As far as our Gemara is concerned, the oil would therefore not be considered as firmly grounded, because it is floating, and not at rest. This is in contrast to a container filled with water, where the top layer of water is considered at rest in the container, and removing it is a legal עקירה. All the water in the bucket is one entity, and it is all at rest in the container. Here, however, the oil is not legally viewed

as being held within the barrel and resting in it, but it is rather floating and hovering above the oil. We simply look upon it as a cover for the wine. ■

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argument to explain why the Tanna would have chosen such a case. The truth is that although in terms of the melacha of transfer the case is more involved than needed, however, there are many other halachos which are learned out from this case. By using the illustration of hand, we see that within three tefachim of the ground is considered connected to the ground even by one's hand. ■