



## Drinking Across Domains

The *Mishnah* (10:6) taught that one is not allowed to stand in the private domain and (lean over) and drink in the public domain or stand in the public domain and drink in the private domain unless his head and a majority of his body is extended into the other domain. We shall try to understand the basis of this ruling.

The *Bartenura* explains that the *Mishnah* discusses a case where the person needs the *keilim* (utensils) that he drinking from. In that case, the *Chachamim* were concerned that he would transfer the *keilim* into the domain in which he is standing, thereby violating a biblical prohibition. The *Chachamim* therefore forbade the drinking across a domain based on this concern, unless his head a most of his body were stretched into the other domain. The *Bartenura* adds that if one did not require those *keilim* in the other domain, then the *gezeira* would not apply and one could drink from that *kli* in the other domain without stretching most of his body into that domain.

The *Tosfot Yom Tov* explains that the explanation is necessary otherwise this *Mishnah* would contradict an earlier one. We learnt (10:4) that one can stand in a private domain and move items in a public one. The *Tosfot Yom Tov* explains that that *Mishnah* must be referring to moving items that one does not need. Consequently, in that case there was no reason for the *gezeira* that applies in this *Mishnah*.

The *Tosfot Yom Tov* continues that one might think that this *Mishnah* contradicts the previous one. We learnt that one may not stand in the private domain and spit into the public domain. There the *Bartenura* explains that when spitting it considered as if one is transferring from the private domain (his mouth located in the private domain) to the public domain. The *Tosfot Yom Tov* cites *Rashi* that explains our case is different since the person's mouth is in the same domain as the *kli* from which he is drinking, and it immediately "rests" in that location.

The *Tosfot Yom Tov* continues citing the *Rosh* who explains that even though the water ends up in the persons stomach that is located in the other domain, his mouth is considered a *makom patur* and since the water rests there momentarily, it is permitted. To explain, one is allowed to transfer items between a private or public domain and *makom patur*. Consequently, no *melacha* has been performed. This is also how the *Tosfot* understand *Rashi's* explanation.

The *Tosfot* (20a, s.v. *lo*) however notes that even though one can transfer items to and from a *makom patur* the *Chachamim* forbade one from transferring items between a private and public domain via a *makom patur* out of concern that one would transfer the item directly from the private to public domain. Consequently, in this case, the fact that we consider the mouth as being a *makom patur* should not help since the water is ultimately being transferred from the public to private domain. The *Tosfot* answer that in this case since there is no way of avoiding the water resting in one's mouth momentarily, that *gezeira* does not apply.

If we are considering one's mouth as being a *makom patur* then we must one again return to the earlier *Mishnah* that forbade one from spitting from the private domain to the public one. If one's mouth is considered a *makom patur* there would be no reason to forbid this practice. The *Tosfot* answers that one's mouth is only considered a *makom patur* if it is in a different domain to his body.<sup>1</sup> The *Tosfot* therefore explains that according to this reasoning, one would be able to stretch his head into the public domain and spit.

The *Ritva* however explains *Rashi* differently. He explains that the mouth is considered like the domain in which it is located. Consequently, when drinking in the public domain, it is as if the water rested in the public domain. Even though the water will then travel into the person's stomach in the private domain, that is happening by itself. When the person did *akira* (lifting) and *hanacha* (placing) it was all in same domain which is permitted.

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<sup>1</sup> It is only when they are in the same domain, that the *Gemara* explains one's *machshava*, e.g. want to remove the spit, makes the

mouth considered as if it is a place of significance, a place of four-by-four *tephachim*.

## Revision Questions

עירובין י' ב' – ט"ו

- What is *R' Shimon's* solution to the above described problem? (י' ב')
- *R' Yehuda* argued that *R' Shimon's* solution could be applied to transfer a barrel of water to people outside the *techum*. What was the *Chachamim's* response? (י' ב')
- If a scroll, being read by someone sitting on the roof, unravels, when can he retrieve it by rolling it back up? (Include all three opinions) (י' ג')
- Can one, standing in the private domain, make use of a peg overhanging the public domain? (י' ד')
- Can one stand in the public domain and move objects about within the private domain? (י' ד')
- Can one spit from the private domain to the public domain? (י' ה')
- What additional law does *R' Yehuda* add regarding the previous question? (י' ה')
- When is a person standing in the private domain allowed to drink water from the public domain? (י' ו')
- Describe the case where there is a water-hole in the public domain outside someone's window and they would be allowed to draw water from it into their house. (י' ו')
- When would the area under a tree be defined as a private domain? (י' ח')
- When is one prohibited from sitting on the roots of a tree and why? (י' ח')
- What concern is cited in the *Mishnah* regarding unlocking doors and what is the remedy presented? (י' ט')
- Explain the debate regarding whether one can use a latch with a weighted ball at the end to bolt a door shut. (י' י')
- Where does *R' Yehuda* permit the use of a latch (*neger*) that is attached (but not hanging) to the door by a chain? (י' י"א)
- Which door hinge does the *Tana Kama* permit to be fixed in the *Beit Ha'Mikdash* and why? (י' י"ב)
- Which door hinge does *R' Yehuda* permit to be fixed outside the *Beit Ha'Mikdash* and why? (י' י"ב)
- Are the *levi'im* allowed to fix the strings on their musical instruments in the *Beit Ha'Mikdash* on *Shabbat*? (י' י"ג)
- What other two cases appear in the same *Mishnah* that share the same laws as in the previous question? (י' י"ג)
- On what condition can a *kohen* working in the *Beit Ha'Mikdash* on *Shabbat* place a bandage on his finger? (י' י"ד)
- What did they place on the ramp (*kevesh*) to prevent the *kohanim* from slipping? (י' י"ד)
- Explain the debate regarding the preferable means of removing a dead *sheretz* found in the *Beit Ha'Mikdash* on *Shabbat*. (י' ט"ו)
- List the two opinions regarding where in the *Beit Ha'Mikdash* it was appropriate to apply the solutions described in the previous question? (י' ט"ו)

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10 minutes before *Mincha*  
Mizrachi Shul  
Melbourne, Australia

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10 minutes before *Mincha*  
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*Shiur in English*

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## Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
18 June כ"ד סיון	19 June כ"ה סיון	20 June כ"ו סיון	21 June כ"ז סיון	22 June כ"ח סיון	23 June כ"ט סיון	24 June ל' סיון
Pesachim 1:1-2	Pesachim 1:3-4	Pesachim 1:5-6	Pesachim 1:7-2:1	Pesachim 2:2-3	Pesachim 2:4-5	Pesachim 2:6-7

