



Volume 4. Issue 14

Torah Education

Properties that open onto a shared area (a courtyard - *chatzer*) are ripe grounds for disputes. One case is where the activities of one occupant in that area disturbs another. The *Mishnah* (2:3) discusses activities about which other occupants can rightly object:

... [If] a stall is opened in a *chatzer*, [the other occupants] can object and say, "We cannot sleep from the noise of the people coming and going." If someone however makes utensils in their property he must go out and sell them in the market. However [the other occupants] cannot object that they cannot sleep from the sound of the hammer, the sound of the mill, or the sound of the children.

The *Gemara* (21a) asks what is meant by the "sound of the children". Its initial assumption that it refers to children coming into the *chatzer* to enter a shop located there is problematic as the *Mishnah* itself prevents opening a shop in the *chatzer*. *Rava* explains that the sound of the children refers to the sound of the children coming to learn *Torah* in a school or *cheder* "after the decree of *Yehoshua ben Gamla*". The *Gemara* continues stating that were it not for his decree, the *Torah* may have been forgotten from *Yisrael*.

What is the decree of *Yehoshua ben Gamla*? The *Gemara* explains that initially, parents educated their children. However, an orphan would be left uneducated. Recognising this problem, they first instituted schools in *Yerushalaim* – "*ki mitzion tei'tze Torah*". Yet once again, those who could not travel to *Yerushalaim* missed out. So they instituted that their would be schools in each province. Since these schools were not in every city, students would only join at the ages of sixteen or seventeen. This had the problem that if the *Rebbe* tried to discipline, the students would just leave. *Yehoshua ben Gamla*

therefore enacted that every city must have a school and children would begin learning there at the ages of six and seven.

The question one may ask is why did *Rava* state explicitly that the *Mishnah*'s reference to the sound of children refers to *cheders* "after the decree of *R' Yehoshua ben Gamla*". What did the decree change?

A simple understanding is that since the decree enforced the availability of schooling everywhere, any complaint about noise was overruled.

Another understanding is the decree reframed our understanding of educating another's children. After the decree it became a *mitzvah*. Once categorised as a *mitzvah* the other occupants could not object. This is perhaps the understanding of the *Tifferet Yisrael* who explains that just as one cannot complain about this *cheder* "it is also the law regarding any matters pertaining to a *mitzvah*."

The *Bartenura* however, when explaining why one cannot object, explains that "it is because [of the concept] 'magnify *Torah* and make it glorious' (*yagdil torah veyadir*)". No mention is made however of the *takanah*. Why?

Perhaps one can suggest another fundamental understanding of what *R' Yehoshua ben Gamla* introduced. The common denominator of the first two understandings is that the other occupants may complain, but their complaints are overruled. Perhaps one can suggest that what *R' Yehoshua ben Gamla* revealed is the absolute essential importance of giving every child a *Torah* education – of *yagdil Torah ve'yadir*. The sound generated by the students or by one that is endeavouring to fulfil this is not defined even as noise. There is no complaint. *Yagdil Torah ve'yadir!*

David Bankier

Revision Questions

בבא מציעא י"ה-י"ו

- If someone's fence collapses into another's property, can he tell his neighbour to keep the stones instead of removing them? (י"ה:)
- If the neighbour accepts, can the original owner pay him the removal costs and demand the stones? (י"ה:)
- What other case brought has the same ruling as the previous two questions? (י"ה:)
- Can one use the public domain when engaged in construction? (י"ה:)
- What are the three opinions regarding the ownership of vegetables that grow out of a steep incline in between two properties? (י"ו:)

בבא בתרא א' - ב' - ג'

- Explain how a fence is to be constructed when dividing a property that had joint ownership. (א':)
- How do they determine which material should be used for the fence work? (א':)
- Regarding which property is one not able to force his partner to construct a fence? (א':)
- According to *R' Yosi*, if one neighbour constructed a fence, what would the other neighbour have done such that we can now obligate him to share in the construction cost? (ג':)
- What is the maximum height of the fence that members of a shared-courtyard are obligated to contribute to the construction cost? (ד':)
- What other feature of a courtyard is debated as to whether the cost can be placed on all members? (ה':)
- What qualifies a person to be a citizen of a city? (ה':)
- How large must a shared courtyard be before it can be subdivided? (ו':)
- How large must a shared field be before it can be subdivided? (ו':)
- How large must a shared garden be before it can be subdivided? (ו':)
- What item can never be divided? (ו':)
- What must one do if he wishes to dig a hole near the hole of his neighbour? (ז':)
- What other three things must be distance from the fence at that same distance? (ז':)
- What are the restrictions placed on the installation of an oven? (ז':)
- Can the residents of a shared courtyard prevent another from: (ז':)
 - Opening a shop?
 - Producing pottery?
 - Opening a *cheder*?
- Are there any restrictions when building a wall near a neighbours window? (ח':)
- What other case brought in the *Mishnah* has a similar ruling? (ח':)
- How far must one distance his ladder from his neighbour's dovecote? (ח':)
- Is there a restriction on the construction of a dovecote in one's property? What is *R' Yehuda's* opinion? (ח':)
- How does one determine the ownership of a stray *gozal*? (Include both scenarios.) (ח':)

Local Shiurim

Sunday -Thursday
Between mincha & ma'ariv
Mizrachi Shul

Friday & Shabbat
10 minutes before mincha
Mizrachi Shul

Audio Shiurim on-line!

- 613.org/mishnah.html
- www.shemayisrael.com/mishna/

www.mishnahyomit.com

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
26 th August י"ב אלול	27 th August י"ג אלול	28 th August י"ד אלול	29 th August ט"ו אלול	30 th August ט"ז אלול	1 st August י"ז אלול	1 st September י"ח אלול
Bava Batra 2:7-8	Bava Batra 2:9-10	Bava Batra 2:11-12	Bava Batra 2:13-14	Bava Batra 3:1-2	Bava Batra 3:3-4	Bava Batra 3:5-6

