



Volume 10. Issue 15

Keeping our Cities Clean

The second chapter of *Bava Batra* discusses restrictions on personal activities or construction that can cause damage to other private or public property. A number of the *Mishnayot* deal with things that must be placed a distance from the edge of the city. We will focus on a few.

The *Mishnah* teaches that a dovecote cannot be placed any closer than twenty-five *amot* to the edge of the city. *Rashi* explains that the concern is that any closer and the doves will cause a loss the seeds in the nearby vegetable patches (*ginot*). The *Tosfot* however explain that the concern was regarding produce that was spread on the roofs for drying. They however flatly dismissed that the concern would be regard produce in the fields since fields were situated at a distance of one thousand *amot* from the city. In *Arachin* (33b) we learn that the first thousand *amot* were left as an open expanse (*migrash*). Beyond that the area was cultivated (*sadeh*). This law maintains that aesthetic beauty of the city while ensuring the agricultural sustainability. One was not allowed to convert any of these zone, e.g. *migrash* to *sadeh* or *sadeh* to *migrash*. Consequently, that close to the city there would have been no field nearby.¹

With this in mind a later *Mishnah* requires some thought. The *Mishnah* (2:7) teaches that trees must be distanced from the city twenty-five *amot*. The *Gemara* explains that this is also to maintain the aesthetic beauty of the city. The *Gemara* question whether trees can be planted at all in this area; as we explained earlier it is meant to be *migrash*, an open expanse. It answers that while it is true that fields of produce may not be planted in a *migrash*, tree can.

The *Gemara* continues by bringing proof that there is a distinction between produce and tree. Those learning *daf yomi* will recall that one is allowed to carry on *Shabbat* in a large enclosure (*karpaf*) that was designated for residential use. If it was not designated as such, then in order carry

within it, it must small – less than two *beit se'ah*. The *Beraita* (*Eiruvim* 23b) teaches that if one converted a majority of a large *karpaf* to a vegetable patch, then it is prohibited to carry inside it since it is no longer fit for dwelling. If however one planted trees in a majority of a large *karpaf* it is still considered a large *karpaf* that is designated for dwelling since one is able to stroll amongst the trees and it is permitted to carry in its borders. Consequently we find that planting trees in an area does not change the status of that area; it would still be considered a *migrash* since people would be able to walk there (*Ritva*). The distance of twenty-five *amot* is still however required in our case, for that sake of the city's beauty.

In our *Mishnah* however, there is another opinion. *Abba Shaul* argues that only fruit bearing trees can be twenty-five *amot* from the city. Non-fruit bearing trees however must be at a distance of fifty *amot*. The *Rambam* in his commentary to the *Mishnah*, rules like *Abba Shaul*. The *Chatam Sofer*, based on a comment of the *Ramban* explains that there are two reasons why one would think to distance trees from a city. The first, as explained by *Ulla* is for the beauty of the city. The second is that if planted in close proximity, they can eventually cause damage. The *Chatam Sofer* explains that the *Rambam* understood that the *Tana Kama* and *Abba Shaul* were engaged in a more substantive debate about the nature of the prohibition. The *Tana Kama* was concerned about potential damage and there should be no different whether the tree concerned bears fruit. *Abba Shaul* however understood that the prohibition was related to the maintaining the beauty of the city. Consequently, the entire discussion that follows in the above quoted *Gemara* was according to the opinion of *Abba Shaul*. Since the focus of the *Gemara* according to this understanding was on *Abba Shaul*, the *Rambam* ruled according to his opinion.²

Yisrael Yitzchak Bankier

¹ The *Tosfot Yom Tov* notes that the *Bartenura* explains that like the *Tosfot*. He suggests that the version of *Rashi* that the *Bartenura* had access two read *gagot* instead of *ginot*.

² The *Chatam Sofer* continues that since the *Rambam* brings that the reason for distancing fruit trees from a city is because of the city's beauty, the *Rambam* must of retracted from his ruling in his commentary in the *Mishnah*.

Revision Questions

בבא בתרא ב' א' י"ד

- What must one do if he wishes to dig a hole near the hole of his neighbour? (ב' א')
- What other three things must be distanced from the fence at that same distance? (ב' א')
- What are the restrictions placed on the installation of an oven? (ב' ב')
- Can the residents of a shared courtyard prevent another from: (ב' ג')
 - Opening a shop?
 - Producing pottery?
 - Opening a *cheder*?
- Are there any restrictions when building a wall near a neighbour's window? (ב' ד')
- What other case brought in the *Mishnah* has a similar ruling? (ב' ד')
- How far must one distance his ladder from his neighbour's dovecote? (ב' ה')
- Is there a restriction on the construction of a dovecote in one's property? What is *R' Yehuda's* opinion? (ב' ה')
- How does one determine the ownership of a stray *gozal*? (Include both scenarios.) (ב' ו')
- Is there a limit on where trees can be planted outside a city? (ב' ז')
- Which trees have a greater restriction? (ב' ז')
- Is the city required to pay the owners of the trees when clearing them from the outskirts of the city? (ב' ז')
- What are the restrictions on building a threshing floor? (ב' ח')
- What are the restrictions on the location of a cemetery? (ב' ט')
- To which side of the city must a tannery be built? (Include both opinions.) (ב' ט')
- If one wishes to plant leeks, what must he be careful that he does not plant it near? (ב' י')
- If someone wants to plant a tree, how far must he distance it from his neighbour's hole? (ב' י"א)
- What are the two opinions regarding a case where one dug a hole and his neighbour planted a tree near by? (ב' י"א)
- In what situation can one plant a tree in his property very close to his friend's field? (ב' י"ב)
- How deep can a person dig in his field in order to destroy the root's of his neighbour's tree that have entered his field? (Include two cases.) (ב' י"ב)
- Is one allowed to cut the branches of his neighbour's tree that hang over into his field? (Include three cases.) (ב' י"ג)
- If a person's tree hangs over into the public domain, to what height is it trimmed? (ב' י"ד)

Local Shiurim

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
Beit Ha'Roeh
Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday
Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
26 th May י"ז סיון	27 th May י"ח סיון	28 th May י"ט סיון	29 th May כ' סיון	30 th May כ"א סיון	31 st May כ"ב סיון	1 st June כ"ג סיון
Bava Batra 3:1-2	Bava Batra 3:3-4	Bava Batra 3:5-6	Bava Batra 3:7-8	Bava Batra 4:1-2	Bava Batra 4:3-4	Bava Batra 4:5-6

