

## לא אפשר ולא מיכוין כולי עלמא לא פליגי –

### When it is not possible and he has no intent no one argues

#### Overview

The הנאה הבאה לאדם בע"כ concerning אב"י ורבא מחלוקת between אב"י ורבא. According to the first opinion, אב"י ורבא are arguing in a case of <sup>1</sup>לא אפשר; however in a case of <sup>2</sup>לא אפשר 'everyone' agrees that it is מיכוין; however in a case of <sup>3</sup>לא אפשר 'everyone' agrees that it is מיכוין. According to the second opinion, אב"י ורבא are in a case of מחלוקת between אב"י ורבא; however by <sup>3</sup>לא אפשר 'everyone' agrees that it is מיכוין. Our תוספות will first explain who the 'everyone' is referring to. תוספות will also explain that in all cases there is no פסיק רישיה. In addition תוספות will clarify what is the meaning of <sup>3</sup>לא אפשר.

-----  
לשינא קמא נראה<sup>3</sup> לפרש דכולי עלמא קאי אב"י ורבא –

According to the first view in the גמרא, the proper explanation of the term **לא אפשר** would be referring to אב"י ורבא; that they do not argue (but not that there is total agreement [even] between ר"י ור"ש) concerning מיכוין ולא אפשר –

ולא פליגי דשרי היינו לרבי שמעון –

And the expression 'they do not argue, and agree that it is permitted', this means that אב"י ורבא agree that it is permitted according to ר"ש (only) –

דברי יהודה אסור –

For ר"י would prohibit in a case of מיכוין ולא אפשר. Therefore it is necessary to explain **לא אפשר** to mean that אב"י ורבא both agree that מיכוין is permitted according to ר"ש.

(at least by אב"י ורבא) **לא אפשר** ולא מיכוין by אסור is ר"י. תוספות will now explain how we know that ר"י is אסור by אב"י ורבא:

דהא רבא מוקי פלוגתא דרבי יהודה ורבי שמעון בלא אפשר ולא מיכוין –

For רבא establishes the dispute between ר"י ור"ש (concerning מיכוין) in a situation of **לא אפשר** ולא מיכוין (where ר"י maintains that it is אסור) –

ר"י ור"ש מחלוקת between רבא establishes the dispute between ר"י ור"ש. תוספות continues to explain how we know that רבא establishes the dispute between ר"י ור"ש by **לא אפשר** ולא מיכוין:

---

<sup>1</sup> **לא אפשר** means that it is possible to take an alternate action which would not lead to a possible איסור.

<sup>2</sup> **לא אפשר** seemingly means that there is no alternative but to take this action which can lead to an איסור. See however later in this תוספות.

<sup>3</sup> See פנ"י who comments that the word נראה (which indicates that there is no irrefutable proof) is referring to what תוספות says later concerning the דאמרי; however according to the ל"ק it (is not merely a נראה, for it) cannot be any other way, עיי"ש. See footnote # 5 & 6.

**דבאפשר קאמר דמודה רבי שמעון דאסור –**

**For by ר"י that it admits to ר"ש that it maintains that רבא, אפ"ר (ולא מיכין) is אסור.** Therefore the מחלוקת between ר"י ור"ש cannot be by אפ"ר ולא מיכין; it must therefore be by אפ"ר ולא מיכין (according to רבא), and ר"י maintains that it is אסור. This forces us to conclude that when the גמרא states כ"ע לא פליגי דשרי ר"ש refers to אב"י ורבא according to ר"ש.

In summation:

The גמרא states that the מחלוקת between אב"י ורבא is in a case of אפ"ר ולא מיכין, and רבא maintains that it is אסור even according to ר"ש who (generally) maintains that לא מיכין is מותר, for רבא maintains that it is only by אפ"ר ולא מיכין that ר"ש maintains that it is מותר (not by אפ"ר ולא מיכין). We must therefore conclude that the מחלוקת between ר"י (who maintains that לא מיכין is אסור) and ר"ש (who maintains that אין מיכין is [only] in a case of אפ"ר ולא מיכין) agrees [according to רבא] that (for by אפ"ר ולא מיכין) it is אסור. When the גמרא states that by אפ"ר ולא מיכין everyone agrees that it is מותר, this 'everyone' cannot be referring to ר"י, for he maintains that [even] אפ"ר ולא מיכין is אסור (that is his [only] argument with ר"ש [according to רבא]). We must conclude that 'everyone' is referring to אב"י ורבא according to ר"ש; that אפ"ר ולא מיכין is מותר.

א"ד continues to explain 'כ"ע' according to the תוספות:

**ולאיכא דאמרי לא אפ"ר ולא מיכין לכולי עלמא דשרי –**

**And according to the 'others who say', then the phrase that 'לא אפ"ר ולא מיכין is permitted according to everyone' –**

**האי כולי עלמא היינו רבי יהודה<sup>5</sup> ורבי שמעון –**

**The term 'everyone' here refers to both ר"י ור"ש.** According to the איכא דאמרי the מחלוקת between ר"י ור"ש is (only) by אפ"ר ולא מיכין [even according to רבא]; however by אפ"ר ולא מיכין all agree (even) ר"י that it is מותר.

כ"ע continues that this differentiation of כ"ע לא פליגי between the first view (where כ"ע refers to אב"י ורבא [only] and not to ר"י ור"ש) and the א"ד (where כ"ע refers to ר"י ור"ש [as well]), will remove a certain difficulty.

**ואתי שפיר דבאיכא דאמרי לא הדר ונקיט אלא מה שמשנה מלשון ראשון –**

**And it will now be properly understood why certain cases are repeated in the איכא דאמרי and others are not, for the איכא דאמרי mentions again only those cases where the איכא דאמרי differs from the first view –**

**ולהכי לא נקט בדאיכא דאמרי אפ"ר ומיכין לכולי עלמא אסור –**

<sup>4</sup> states clearly in the גמרא that אפ"ר אפ"ר אבל היכא דאפ"ר לא אפ"ר; indicating clearly that there is no מחלוקת between ר"י ור"ש by אפ"ר ולא מיכין.

<sup>5</sup> There is no proof that ר"י maintains אפ"ר ולא מיכין is מותר, except for the following 'ואתי שפיר'. See footnote # 3 & 6.

**And therefore in the איכא דאמרי it is not mentioned** what was already stated in the לשון ראשון **אסור לכ"ע is אפשר ומיכיון** that לשון ראשון לא. However it does repeat לא **אסור לכ"ע** (according to the ל"ק it is according to the ל"ק only; however according to the א"ד it is לכ"ע literally, including even ר"י).<sup>6</sup>

(according to אפשר ולא מיכיון or by לא אפשר ולא מיכיון will clarify what is meant that by מותר ר"ש will maintain that it is (אביי לל"ק), then):

**ומיירי כגון דלא הוי פסיק רישיה<sup>7</sup> דבפסיק רישיה מודה רבי שמעון –**

**And we are discussing a situation where for instance there is no 'פסיק' פסיק<sup>8</sup> רישיה<sup>8</sup> for by פסיק רישיה (even) ר"ש admits** that אין מתכוין is אסור (whether it is (לא אפשר or אפשר).

anticipates some reluctance to accept this:

**וליכא למימר דאפילו בפסיק רישיה שרי הכא רבי שמעון –**

**And we cannot say that ר"ש permits in this case here even if it is פסיק רישיה –**

פסיק (when generally פסיק רישיה (even) by מותר here (even) explains why it should be (אסור רישיה):

**משום דהכא מיירי<sup>9</sup> בגרירה דכלים<sup>10</sup> דליכא אלא איסורא דרבנן –**

**Because here we are discussing a case of dragging utensils, where there is only an איסור דרבנן (even if a מלאכה is done on account of the רישיה).** It is only a מלאכה דרבנן, because –

**שהוא חופר כלאחר יד כדאמר בבבא מדליקין<sup>11</sup> (שבת כט) –**

<sup>6</sup> This is the support for the 'נראה' in the beginning of תוספות (see footnotes 3 & 5).

<sup>7</sup> The entire phrase is פסיק רישיה ולא ימות; meaning can you remove the head and it will not die! It will certainly die! Similarly if one is doing an action (which is מותר) but it will inevitably and certainly cause an מעשה איסור, that is considered a פסיק רישיה. You cannot disassociate the act of היתר with the inevitable איסור that will follow (just as you cannot disassociate the פסיק רישיה from the ultimate מיתה). Even ר"ש who maintains that אין מתכוין is מותר; however if it is a פסיק רישיה, it is אסור.

<sup>8</sup> This would seemingly mean that in the case of ע"ז הנת ריח (which use as an example of ריח ע"ז; the odor is not always that strong that it is inevitable that he will smell it (or he can close his nostrils [see footnote # 19])).

<sup>9</sup> It seems that according to [the 'ליכא למימר' of] תוספות the issue of הנהא הבאה לאדם על כרחו is in a case of גרירת כלים (see following footnote # 10); not like רש"י (בד"ה ה"ג) who interprets it in a case of ע"ז הנת ריח.

<sup>10</sup> The גורר אדם מטה וכו' ובלבד שלא יתכוין לעשות of היתר is usually exemplified in the case of חריץ (מלאכת חופר [בונה]), as long as he has no intention of making a furrow. One may drag a bed, etc. over an earthen floor (even though it is possible that he may make a furrow in the ground; which would be considered חופר). According to תוספות this may be the case which we are discussing in this גמרא. (See previous footnote # 9.) אפשר would mean it is possible to move the bed without dragging it; by carrying it, and לא אפשר would mean that there is no other way to move the bed; only by dragging it.

<sup>11</sup> This is amended to read (ב,מו) בפרק כירה.

**He is digging in an indirect manner,**<sup>12</sup> which is אסור only as the **states in במה מדליקין** גמרא. When it will only be an אסור דרבנן then (perhaps) **maintains that it is מותר** even if it is פסיק רישיה, since he is מתכוין ר"ש.<sup>13</sup>

rejects the approach of the abovementioned 'ליכא למימר'. We cannot say that we are discussing a case of פסיק רישיה [by an אסור דרבנן] -

**דהא בשמעתא מייתי עלה מידי דאורייתא כגון מעילה<sup>14</sup> וכלאים<sup>15</sup> ופסול פרה<sup>16</sup> -**

**For in the ensuing discussion,** the גמרא **cites issues** which are אסור **such as כלאים<sup>18</sup>, מעילה<sup>17</sup>, פסול פרה**. This proves that we are not discussing an אסור דרבנן, but rather דאורייתא, where ר"ש maintains that it is פסיק רישיה is אסור.<sup>19</sup>

Based on the above תוספות continues:

**וצריך לומר דכל הנהו דמייתי לא הוי פסיק רישיה<sup>20</sup> -**

**So therefore it is necessary to assume that all these issues which** the גמרא **cites are not cases of פסיק רישיה** (for if it were פסיק רישיה all would agree that it is (לא מתכוין or מתכוין, לא אפשר or אפשר regardless whether it is אסור).

continues to elaborate on a different issue:

**ולא אפשר דכולי שמעתא נראה לרבינו יצחק דלא אפשר כדרכו אלא בטורח גדול<sup>21</sup> -**

**And it is the view of the ר"י that in the entire discussion when לא אפשר is mentioned it means it is not possible** [to avoid the action which may cause

<sup>12</sup> If one would intentionally dig a furrow by dragging a bed, it would not be אסור מדאורייתא since this is not the ordinary manner in which one digs a furrow. Digging is אסור only כלאחר יד.

<sup>13</sup> The 'ליכא למימר' assumes that since he is not מתכוין to make a חריץ, even though it is a פסיק רישיה that a חריץ will be made, nevertheless it is מותר לר"ש, since even if he intentionally made a חריץ in this manner it would only be an אסור דרבנן, so where it is מתכוין it is totally מותר. According to this 'ליכא למימר' the only instance where ר"ש maintains that פסיק רישיה of an מתכוין is אסור is in a case where if he would be מתכוין it would be אסור מדאורייתא.

<sup>14</sup> This is referring to the various ברייתות mentioned on כו,א including היו פתוחין (יושב בצלו של היכל), לולין היו פתוחין, etc.

<sup>15</sup> This is referring to the various משנה cited on כו,ב concerning מוכרי כסות. The גמרא asks there וכו' וכי והא הכא דאפשר וכו' כי אסור where דאורייתא is an כלאים for פסיק רישיה a case of פסיק רישיה; לא מכין שרי'.

<sup>16</sup> This is referring to the תוספתא cited on כו,א concerning הכניסה לרבקה (see תוספות there הכניסה).

<sup>17</sup> Everyone agrees that by אסור דאורייתא is אסור by פסיק רישיה even according to ר"ש.

<sup>18</sup> The proof from מעילה ופרה may be that the גמרא asks there, והא הכא דלא אפשר וקא מיכוין and it is forbidden; indicating that if it would be לא מכין it would be מותר, even though מעילה ופסול פרה are דאורייתא. This proves that it cannot be a case of פסיק רישיה.

<sup>19</sup> See החמה.

<sup>20</sup> In the case of אומנין, they can avoid looking; in the case of פרה, there is a possibility than none of the grain will be threshed; and by כלאים it is possible that this extra garment provides him with no benefit; (see קובץ שיעורים אות קטז וברכת אברהם and תוספות הרשב"א).

<sup>21</sup> In the case of ע"ז; the term לא אפשר means that it is necessary for the person to pass by the ע"ז. It is always possible for him not to take this route (or not to travel altogether). However that would cause undue hardship, therefore his passing by the ע"ז is called לא אפשר; it is impossible to do it differently (easily).

an איסור] **if it is done in the usual manner; only if great effort** is exerted, then it is possible to avoid the איסור.

תוספות proves that לא אפשר is not to be taken literally that it is impossible to avoid the action that may lead to the איסור, but rather it is very difficult to avoid the action (but not impossible):

**דהא שילשול האומנין בקופות חשיב לא אפשר<sup>22</sup> –**

**For the case of lowering the craftsmen in containers** (which is done in order to avoid the craftsmen of deriving הנאה from the הקדשים), **is considered as a case לא אפשר**, for they must repair the קה"ק. Therefore we can conclude that whenever the גמרא states לא אפשר it does not mean that this action which may cause an איסור is an absolute necessity with no alternatives, but rather, the action needs to be taken, otherwise it will cause great hardship.

לא אפשר anticipates a difficulty with his assumption that according to the א"ד, then: **לר"י** even; מותר לכ"ע is ולא מיכוין

**והא דאמרינן בכתובות (דף ה,ב) גבי מהו לבעול בתחלה בשבת<sup>23</sup> –**

**And that which the גמרא states in כתובות; concerning the query whether one is permitted to make the initial בעילה on שבת –**

**דקאמר לרבי יהודה דאסור משום דבר שאין מתכוון<sup>24</sup> –**

**Where the גמרא states that according to ר"י it is אסור since it is a דבר שאין מתכוין** (which is אסור according to ר"י). This concludes the citation from כתובות.

תוספות concludes the question:

**אף על גב דהוי לא אפשר<sup>25</sup> ולא מיכוין –**

**Even though it is a case of מיכוין ולא אפשר**, and (according to the א"ד) if it is even ר"י agrees that it is מותר. Why does the גמרא in כתובות rule that according to ר"י it is אסור?!

תוספות responds:

<sup>22</sup> The craftsmen were lowered into the קה"ק (to do repairs) in containers so they would not derive הנאה from the beauty of the קה"ק (it may constitute בהקדש רבא. argues that this proves מיכוין וקא אפשר is לא אפשר. For if it would be מותר why is it necessary that they be lowered with קופות?! It is לא אפשר! They have no choice but to repair the קה"ק. This proves, says תוספות, that even though it is not a case of pure לא אפשר, for we can prevent them from looking by lowering them into קופות, nevertheless since this option is a טורח גדול, it is considered as לא אפשר.

<sup>23</sup> The concern is that by a חבורה (which is מוציא דם) is made. אסור is חובל בשבת.

<sup>24</sup> He has no intent of making a חבורה (to be מוציא דם); making this act a מתכוין דבר, which is (nevertheless) אסור לר"י.

<sup>25</sup> The husband needs to be בועל her. Even though it is possible to postpone the ביאה for after שבת, nevertheless that would be considered a טורח גדול, which therefore allows it to retain the status of לא אפשר. This is the connection between this question and that which precedes it in this תוספות.

**וצריך לומר דההיא סוגיא כרבי ירמיה דבמה מדליקין –**

**And it will be necessary to maintain that the סוגיא in כתובות follows the view of ר' ירמיה in פרק במה מדליקין** – rules - where ר' ירמיה maintains that

**דאסור לרבי יהודה לא אפשר ולא מיכוון –**

**That is אסור according to ר"י. And -**

**אף על גב דאיתותב במאי דאמר קטנים אסורים<sup>26</sup> אפילו לר"ש (איתותב) –**

**Even though ר"י was refuted concerning that which he said that small objects are forbidden to be dragged even according to ר"ש –**

**מכל מקום במאי דאסור אפילו בגדולים<sup>27</sup> לרבי יהודה לא איתותב:**

**Nevertheless concerning that which he forbade to drag even large objects according to ר"י, he was not refuted.** This proves that ר' ירמיה maintains that אסור is לא אפשר ולא מיכוון (even) according to ר"י. It is according to this ר"י that the גמרא rules in כתובות that it is אסור even though it is לא אפשר ולא מיכוון.

### Summary

According to the ל"ק in a case of לא אפשר ולא מיכוון then אב"י ורבא agree that ר"ש (רבא אסור according to ר"י) and מתיר is ר"י. According to the א"ד both ר"ש and ר"י agree that לא אפשר ולא מיכוון is מותר. In the entire סוגיא there is no פסיק רישיה. The term לא אפשר means it is very difficult not to do it (but not that it is impossible not to do it).

### Thinking it over

maintains that we are not discussing a פסיק רישיה case, for then it would be אסור even according to ר"ש. Perhaps we can differentiate between the case of ר"ש concerning גורר אדם וכו' to the case of בע"כ. In the case of גורר the person who is גורר is doing the מלאכה of בונה (albeit שלא במתכוין). Therefore if it is a פסיק רישיה it is אסור (because it is considered as if he is doing it במתכוין). However here in the case of בע"כ (for instance ריח ע"ז) where the איסור is happening on its own (the odor comes from the ע"ז; it is nothing that the person is doing [his walking is not causing the odor, and is not causing him to smell the odor.<sup>28</sup> The odor is there regardless.]), in this case perhaps even a פסיק רישיה is מותר if he is מתכוין.

<sup>26</sup> ר"י maintains that one is not permitted to drag small objects across the ground even according to ר"ש because there is the option of carrying them, which is not that difficult since they are small objects.

<sup>27</sup> Large objects cannot be carried (from place to place) but need to be dragged, nevertheless in the opinion of ר' ירמיה this is forbidden according to ר"י even though it is לא אפשר (one must drag them) (to make a חריץ).

<sup>28</sup> By גורר the question is whether he can be גורר, since the גרירה causes the חריץ directly. Here the question is whether he can walk; the walking is not an act of smelling. It merely enables one to smell in the place where he is walking.