בשלמא לבן עזאי מהלך כעומד דמי – The ruling of בן עזאי is understandable, for he maintains that **מהלך כעומד דמי**

Overview

בן עזאי maintains that if one carries from a (מקום פטור) רה"י לרה"ר דרך כרמלית, that he is פטור. The reason the גמרא gives for this ruling is that בן עזאי maintains that מהלך כעומד דמי, that when a person walks, each time he places his foot on the ground it is to be considered as if he stopped walking and stood still.

This novel concept, while it explains בן עזאי's ruling, seems to be in direct contradiction with the accepted ruling that a חייב מעביר ד"א ברה"ר. If מהלך כעומד דמי, then there was no carrying of the object continuously for ד' אמות, since at each step there is a הנחה which signifies an end to the previous עקירה. תוספות wonders why don't we find another explanation for בן עזאי's ruling, which would also help to avoid this contradiction.

קשה לרבינו יצחק מה צריך להאי טעמא – The ר"י asks: why is it necessary for the גמרא to give **this explanation,** i.e. that מהלך כעומד דמי, for us to understand בן עזאי's ruling

לימא בשלמא לבן עזאי לא אשכחן כהאי גוונא דמיחייב – the גמרא **should say** instead; that **the ruling of בן עזאי is understandable,** since **we do not find something comparable** to being מוציא through an exempt area **where he is חייב**

כדפריך מהאי טעמא לרבנן – The same question that the גמרא **asks on the רבנן,** who say המוציא מחנות לפלטיא דרך סטיו חייב, on which the גמרא asks why is he חייב, we do not seem to find a precedent for this; let us use this same point as a justification why בן עזאי says that he is פטור, and we will not have to say such a חידוש that מהלך כעומד דמי, which causes a difficulty, as we shall see.

דאי משום דמודה בזורק קאמר האי טעמא – for if you will say **that since** בן עזאי **agrees** with the חכמים that he is חייב **in** the case of **זורק** מחנות לפלטיא דרך סטיו, therefore we cannot attribute the reason of בן עזאי to לא אשכחן כהאי גוונא דמיחייב, for then why is זורק חייב, this therefore forces us to say that the reason of בן עזאי is מהלך כעומד דמי, which explains the difference between המוציא and הזורק, nevertheless, this is not sufficient –

דהא אכתי לא ידע דמודה בזורק – because at this point the גמרא **did not know yet that** בן עזאי **agrees that זורק** is חייב. How can we prove this? -

דאי ידע לפרוך נמי לבן עזאי – for if at this point the גמרא **knew** that בן עזאי agrees that זורק וכו' is חייב, the גמרא **should ask** the same question that it asks on the רבנן, **on בן עזאי as well** –

אזורק ומושיט היכא אשכחן כולי – concerning זורק ומושיט from a חנות לפלטיא דרך סטיו, how can בן עזאי say that he is חייב, '**where do we find etc'.** Since the גמרא asks only on the רבנן and not on בן עזאי, this proves that at this juncture, the גמרא was unaware that בן עזאי differentiated between מוציא and זורק, rather we assume that he is always פטור, the question then remains, at this juncture what forced the גמרא to assume that בן עזאי maintains

מהלך כעומד דמי, when we could say that he is פטור, because there is no precedence that המוציא מרשות לרשות דרך (מקום פטור) כרמלית is חייב.

ותירץ רבינו יצחק דהכי קאמר – The ר"י answers that this is what the גמרא **meant** when it said that s'עזאי בן reason is because he holds מהלך כעומד דמי
בשלמא לבן עזאי – it is understandable why **according to בן עזאי** he is פטור
אפילו משכחת כהאי גוונא במשכן פטור – for **even if you can find a similar case in the משכן**, where something was transferred from one רשות to another through a כרמלית (מקום פטור), nevertheless בן עזאי will maintain that he is **פטור**
מהלך כעומד דמי – because מהלך כעומד דמי
אלא לרבנן תקשה היכא אשכחן כולי – but according to the רבנן there is a difficulty, namely, **where do we find** that in such an instance **etc.,** he is חייב**.**
תוספות answer may be understood as follows. The גמרא is aware that the רבנן are מחייב in the case of המוציא מחנות לפלטיא דרך סטיו, therefore the גמרא assumes that the רבנן have a precedent for such a הוצאה (even though the גמרא does not presently know what that precedent is). The גמרא also assumes that בן עזאי may be well aware of this precedent, and since nevertheless he maintains that the מוציא is פטור, that gives us sufficient reason to assume that בן עזאי holds מהלך כעומד דמי, and therefore even when we will find the precedence of the רבנן why they maintain he is חייב, we will still understand why בן עזאי is פוטר.
If however the גמרא were to explain בן עזאי the way תוספות suggested (that we do not find such a הוצאה), then eventually if we were to find a precedent, we would be forced to find an alternative explanation for בן עזאי, therefore the גמרא chose the explanation that would be valid in the eventuality that we would find a precedent for the רבנן.

ובירושלמי פריך על דעתיה דבן עזאי – In the ירושלמי תלמוד the גמרא there **asks: "according to the opinion of בן עזאי**
אין אדם מתחייב על ד' אמות ברשות הרבים לעולם – a person will never be חייב for carrying **ד' אמות ברה"ר**,
דיעשה כמי שהונחה על כל אמה ואמה ויפטר – for it should be considered as if rested at every אמה and he should be פטור", because he did not carry the complete ד' אמות without stopping -
ומשני משכחת לה בקופץ – and the תלמוד ירושלמי **answers that we can find** the חיוב of העברת ד' אמות ברה"ר **if he jumped** מתחילת ד' לסוף ד' while holding an object, for then there is no מהלך כעומד דמי.
והש"ס דילן לא חשיב לא פירכא – our גמרא however, **does not consider this a** valid **refutation** of בן עזאי
כדאמר בהזורק (לקמן דף צו,ב) דד' אמות ברשות הרבים הלכתא גמירא לה – since the גמרא **says in** פרק **הזורק that** the חיוב for carrying **ד' אמות ברה"ר is a הלכה למשה מסיני**
ולהכי לא מקשה עלה – therefore the גמרא **asks no questions on this** from הללמ"מ, for the הללמ"מ teaches us that in this instance of מעביר ד' אמות ברה"ר he is חייב despite the general ruling of מהלך כעומד דמי.

וכן קלוטה לר"ע – and similarly concerning the concept of **קלוטה according to ר"ע**

אף על גב דכמי שהונחה דמי – even though it is as if it had come to rest, nevertheless

בזורק ד' אמות ברה"ר – when one throws חייב ד' אמות ברשות הרבים

ולא אמרינן כמי שהונחה תוך ד' אמות ברשות הרבים – and we do not say that it should be considered **as if it came to rest within the ד' אמות ברה"ר,** the reason being as just stated since מעביר ד' אמות ברה"ר is a הללמ"מ, it supersedes any other concepts including קלוטה כמי שהונחה דמיא (and מהלך כעומד דמי).

וריב"א מספקא ליה – The ריב"א is unsure of what will be the ramifications, of the fact that the הללמ"מ disregards the concepts of מהלך כעומד דמי וקלוטה כמי שהונחה דמי.

כיון דבד' אמות ברשות הרבים – since concerning carrying **ד"א ברה"ר**

לא אמר מהלך כעומד דמי – does not maintain that מהלך כעומד דמי, since he is חייב בן עזאי

אף על גב דבעלמא כעומד דמי לבן עזאי – even though בן עזאי maintains in general that מהלך **is כעומד דמי,** but there is a special dispensation when it comes to ד"א ברה"ר, where we disregard the concept of מהלך כעומד דמי, the question therefore arises –

אם חייב לבן עזאי אפילו עמד לפוש תוך ד' אמות אם לאו[1] – whether בן עזאי would maintain that he is חייב even in a case where the person **stopped to rest[2] in the midst of** carrying an object **ד' אמות, or** he would **not** be חייב.

The two sides of the issue would be; do we say that since every מהלך is כעומד, and nevertheless he is חייב for מעביר ד' אמות ברה"ר, which may lead us to conclude that the הללמ"מ teaches us that there is no פטור for stopping in the midst of ד' אמות, and one is always חייב if he is מעביר ד' אמות ברה"ר, regardless if he stopped in the middle or not[3], or do we differentiate between a conceptual stopping like מהלך כעומד and a real stopping, that only in the former, does the הללמ"מ override the conceptual stopping and he is חייב, but in the case of a real stop or rest, however, he would be פטור, since he did not carry ד' אמות continuously.[4]

וכן אם לא עמד חוץ לארבע אמות – and a similar question would arise, **if** the person who carried something more than ד"א, **did not stop outside the ד"א,** and the object came to (a complete) rest not through him -

כגון שנטלה אחר מידו – for instance that another person **took** the object that he was carrying from **his hand** and the actual הנחה was not made by him –

אם אמרינן מהלך כעומד דמי חוץ לד' אמות אם לאו – do we say that once he is outside the ד"א, then we say מהלך כעומד דמי and he would be חייב, **or not;**

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[1] According to the רבנן who argue with בן עזאי, surely the דין of מעביר ד"א ברה"ר חייב is only if he did not stop while traversing the ד"א

[2] A stop is considered, only when one stops to rest, if however one stops merely to adjust his load, that is not considered stopping לכו"ע.

[3] Meaning that we do not say הנחת גופו כהנחת חפץ דמי, but if he would actually put down the object בתוך ד"א he would certainly be פטור. See פני אברהם

[4] Alternatively put; does the הללמ"מ a) negate the פטור of עמידה בתוך ד' אמות and therefore he would be חייב; or b) does it negate the concept of מהלך כעומד דמי by מעביר ד"א ברה"ר, and therefore he would be פטור.

should we would consider it as if he made a הנחה as soon as he stepped beyond the ד"א, because now we could reapply the concept of מהלך כעומד דמי, since we are outside of the original ד"א[5], or do we say that the הללמ"מ teaches us that in regard to מעביר ד"א ברה"ר there is no such concept as מהלך כעומד דמי, and therefore he is פטור, since he did not actually stop and thereby make the הנחה.[6]

וכן קלוטה לרבי עקיבא – and similarly we can question what would be the דין קלוטה, according to ר"ע, who maintains the concept of כמי שהונחה דמיא

אם אמר כמי שהונחה דמיא חוץ לארבע אמות – would he say that כמי שהונחה קלוטה **outside the ד"א, meaning that -**

אפילו קלטה אחר או כלב או שנשרפה – even if it was caught by someone else or it was caught by **a dog or it was burnt,** before it landed[7] he would be חייב

כיון דתוך ארבע אמות לא אמרינן – since we do not say the concept of כמי קלוטה שהונחה דמיא while the object is traversing the initial **ד"א,** therefore we do not say קלוטה וכו', even after it passed the original ד"א, and he would be פטור because he did not make the הנחה, or perhaps only in the initial ד"א do we not say קלוטה in deference to the הללמ"מ, but once the object traveled the initial ד"א, then we may reapply the concept of קלוטה וכו', and he will be חייב, because he made the הנחה by virtue of the קלוטה וכו' that transpired outside the ד"א.

נראה לרשב"א לרבי יוחנן דאמר לעיל – It seems to the רשב"א, that according to רבי יוחנן who said previously

המפנה חפציו מזוית לזוית – one who was moving his belongings from one **corner to** another **corner** in a רה"י without any intention of taking them out to the רה"ר

ונמלך עליהם והוציאן פטור – and changed his mind about them and took them out to a רה"ר **he is פטור**

ליתיה לבן עזאי – this aforementioned רבי יוחנן **does not agree[8] with בן עזאי,** who maintains מהלך כעומד דמי

דלבן עזאי דאמר מהלך כעומד דמי הוה חייב – for according to בן עזאי who maintains that מהלך כעומד דמי he would be חייב in the aforementioned case, because whenever he changes his mind in the רה"י, and decides to take the objects out to the רה"ר, then as he is walking in the רה"י, every step is a הנחה, which nullifies the original permissible עקירה,

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[5] We may even accept option 'b' in footnote # 4, that the הללמ"מ negates the concept of מהלך כעומד, but only within the confines of the original ד"א. For an alternate interpretation see footnote # 6

[6] In Summation: Do we say: a) that the הללמ"מ tells us that in the original ד"א there is no פטור of מהלך כעומד because there is no פטור of עומד at all within the ד"א. Once outside the original ד"א, however, we revert back to the concept of מהלך כעומד. Or do we say: b) that the הללמ"מ tells us that concerning ד"א ברה"ר there is no concept of מהלך כעומד דמי at all.

If we assume option 'a', then if one stops in the middle of the original ד"א he is חייב because there is no פטור of מהלך עומד בד"א, and if he did not stop after the ד"א he is also חייב, because outside the original ד"א we do say כעומד. If we assume option 'b', then if one stops in the original ד"א he is פטור, because there is no הללמ"מ concerning actual stopping, so he did not carry consecutive ד"א, and if he did not stop outside the original ד"א, he is פטור, because the הללמ"מ tells us that concerning the מלאכה of העברת ד"א ברה"ר there is no concept of מהלך כעומד דמי, and in order for him to be חייב he must either actually stop or put down the object. See שפת אמת.

[7] See 'Thinking it Over" # 3

[8] See שבת של מי, לשון הזהב that the רשב"א contends that the הלכה is not like בן עזאי, thereby rendering moot the ספק of the ריב"א. See 'Thinking it Over' # 4

and as he takes the last step out of the רה"י to the רה"ר, there is a new עקירת גופו (following the previous הנחת גופו), which is כעקירת חפץ דמי, and he is חייב.

וכן מוכח בהדיא בריש אלו נערות (כתובות לא,א ושם) – And this is also evident from what we learnt **in the beginning of אלו נערות** פרק**,** that רבי יוחנן does not agree with בן עזאי, concerning מהלך כעומד דמי[9].

Summary

According to בן עזאי, who maintains מהלך כעומד דמי, nevertheless מעביר ד"א ברה"ר is חייב. According to the תלמוד ירושלמי he is חייב only if קפץ מתחילת ד' ועד סוף ד', otherwise it is מהלך כעומד דמי ופטור. According to the תלמוד בבלי, the הלל"מ overrides any other concepts and he is חייב even in a regular case of מעביר ד"א.

There is a question as to what the הלכה would be according to בן עזאי if one actually stopped בתוך ד"א, or did not stop לאחר ד"א; the resolution of which, is dependent on, in what manner the הלל"מ negates the concept of מהלך כעומד דמי.

Thinking it Over

1. How are we to understand תוספות original question, that the גמרא should have given an explanation for בן עזאי that will be inconsistent with his ultimate opinion?

2. What are the relative merits of the different sides in the מספקא לריב"א?

3. Why does not תוספות ask according to ר"ע what would be the דין if he stopped within the original ד"א, just as he asked according to בן עזאי[10]

4. What connection can be found between the statements of the רשב"א and the ריב"א?[11]

5. The רשב"א states that רבי יוחנן argues with בן עזאי. How is it conceivable that ר"י could agree with בן עזאי?[12]

[9] The גמרא there quotes this מימרא of רבי יוחנן in an attempt to refute the אוקימתא there; the response to remove this refutation is that the אוקימתא follows the opinion of בן עזאי (and not of רבי יוחנן).

[10] See מהרש"א, שפ"א, פני אברהם

[11] See footnote # 8

[12] See תוס' כתובות לא,ב ד"ה מהלך