

**And it traveled and landed in a miniscule crevice, this depends on the argument between רבי מאיר and the רבנן**

### Overview

A. חורי רה"ר כרה"ר דמי. The גמרא had a difficulty with אביי's position, as follows: The משנה states 'הזורק למטה מ' כזורק בארץ' and he is חייב for הנהגה, for we are discussing a case where he threw a שמינה and it stuck to the wall. This is obviously an unusual situation. The גמרא asks since according to אביי, חורי רה"ר, let us say that it landed in a crevice in the wall facing the רה"ר, which would render it a proper כרה"ר?

The גמרא resolves this difficulty, (in one answer) that the משנה cannot be discussing a crevice in the wall, for then we would have a problem with the פטור of the משנה which states that כזורק באויר. Now if the משנה is discussing a case where it landed in a crevice, why is he פטור, since it is למעלה מ' (since the wall is presumably דע"ד), so he should be חייב for throwing לרה"ר.

The גמרא (rhetorically) attempts to refute this resolution; by asking: let us say it did land in a crevice; and as to your question why he is למעלה מ', the answer is that the crevice is smaller than דע"ד.

To which the גמרא replies that this is no refutation, for even if the crevice is not דע"ד, he should still be חייב, since ר"מ maintains להשלים.

In conclusion: we cannot say that the משנה is discussing that it landed in a crevice, because we would not understand why פטור מ' למעלה since חוקקין להשלים<sup>2</sup>, so he should be חייב for לרה"ר.

B. In order to be במזוזה, a doorway must have an opening of at least ten טפחים high by four טפחים wide. If a doorway is ten טפחים high and four טפחים wide, however the doorposts curve or arc inwards (like an archway), so that as we go higher on the doorway it is less than four טפחים wide, before it reaches a height of ten טפחים, there is a מחלוקת ר"מ ורבנן as to the status of this doorway. ר"מ maintains that it is במזוזה, for we say חוקקין להשלים, that is we imagine as if the doorposts were carved out sufficiently to provide an open doorway that is ten by four טפחים; the רבנן argue and maintain that it is פטור במזוזה because we do not say חוקקין להשלים.

<sup>1</sup> The explanation why if it is not דע"ד he is פטור can be understood as either; a) if it is not דע"ד it is not a הנהגה (which would seem to be the more simple interpretation), or b) if it is not דע"ד, there is no proper הנהגה (which may present a difficulty, for the גמרא should have perhaps worded it 'ע"ג מקום ד' (וכ"ת דלא נח ע"ג מקום ד'.

<sup>2</sup> It is important to remember this sequence to help us understand (especially the second half of) תוספות.

to מוזה by חוקקין להשלים will be discussing how can we compare חור כ"ש by חוקקין להשלים how to interpret the question and the s'רא's apparent acceptance that we follow the ruling of ר"מ against the majority opinion of the רבנן.

asks: תוספות

**The ר"י has a question; - תימה לרבינו יצחק דבפרק קמא דעירובין (דף יא: ושם) מסכת עירובין of פרק in the first**

**concerning a doorway shaped as an arch, in which there is a מחלוקת רבי מאיר ורבנן** – בכיפה דפליגי בה רבי מאיר ורבנן חייב במוזה whether it is

**we say there that** according to אמרינן התם דלא אמרינן חוקקין להשלים לר"מ **we do not say that** 'we carve out the arch in order to complete' the necessary dimensions for a doorway (which is ten טפחים high by four טפחים wide) -

**unless the legs** (the lower portion) of the doorposts (before it begins to arch) **are three** טפחים **and the height** of the doorway **is ten** טפחים

**the meaning of** 'יש ברגליה ג' טפחים שיש בהן רחב ד' – פירוש גבוה ג' טפחים שיש בהן רחב ד' is that at the bottom of the doorway there is an open area **that is** at least **three** טפחים **high and is** at least **four** טפחים **wide**<sup>3</sup>, before the arch begins to curve inwards, narrowing the upper opening of the doorway to a width less than four טפחים

**if however the sides do not** extend vertically upwards for a height of at least **three** טפחים with a width of four טפחים **אבל אין ברגליה ג' -**

**or the doorway is not higher than ten** טפחים from the bottom of the door till the high point of the arch -

**we do not say** the rule of 'חוקקין להשלים'. We see from here that in order to be 'חוקקין' we require that at least at one point it should have the proper dimensions both in width (four טפחים) as well as in height (ten טפחים).

**if so how can we say here by this miniscule crevice, that** 'חוקקין להשלים' according to ר"מ, since the crevice does not have the proper dimensions (דע"ד) at all, at any point, neither in length nor in width,

answers: תוספות

**the ר"י answers** - ואומר רבינו יצחק דאיידי בחורין שזרכן לעשות בשעת הבנין **that the statement of** ח"ש **is discussing such crevices that are usually made when the walls are built**

<sup>3</sup> The reason we require that it be 4 טפחים wide for a height of 3 טפחים, is because if the width of 4 טפחים would be limited to less than 3 טפחים high above the ground, it would be considered as part of the ground, and not the doorway, due to the concept of לבוד, and it would be as if there is no width of 4 טפחים at all.

**that they penetrate the entire wall and extend from the רה"ר into the רה"י**

**and on the side facing towards the רה"י these crevices are four טפחים wide**

**however on the side facing towards the רה"ר they are not wide four טפחים**, for as they approach the רה"ר the crevices narrow, to a point, that when they open into the רה"ר they are miniscule in size<sup>4</sup>.

**and everyone (ר"מ ורבנן) agrees that the crevice has the status of a רה"י**

**For the rule is that חורי רה"י כרה"י** - דהא חורי רשות היחיד כרשות היחיד דמי, and these crevices are open to the רה"י on the inside

**and the argument between ר"מ ורבנן is only whether we consider this crevice as having an area of ד' טפחים על ד'** מקום הנחה, which is the required טפחים

**according to ר"מ** we apply the rule of חוקקין להשלים, דלרבי מאיר חוקקין להשלים, for we have here the proper dimension of ד' על ד' at one point; on the side of the רה"י it is wide ד' and the length of the crevice (from the רה"י to the רה"ר) is also ד'

**and therefore since it has the proper dimensions at one point it is considered as a ד' על ד' מקום**

**however had it been actually a miniscule crevice even ר"מ would agree that we do not apply the rule of להשלים.**

**and it also seems so from the תלמוד** – וכן משמע בירושלמי דגרסינן התם ירושלמי, for it states there<sup>5</sup>:

**The opinion of ר"מ is whether the crevice is wide four טפחים, or whether it is not wide four טפחים**

**we view it as if the wall was carved out<sup>6</sup> to contain a crevice which is ד' על ד'.**

**And specifically only those crevices that are above ten טפחים from the ground are considered רה"י** – **However those crevices that are below ten טפחים from the ground, they are not considered רה"י**, since **the dwellers of the רה"י do not make use of them**

<sup>4</sup> We may picture the crevice (looking down at it from the top of the wall) as (an) a (isosceles) triangle; the base of four טפחים facing the רה"י on the inside, and the 'apex' of the triangle opening into the רה"ר piercing the entire thickness of the wall, which is assumed to be more than טפחים ד'.

<sup>5</sup> . שפ"א, פני אברהם See בין שיש בן גירסא Our . שבת פ"א ה"ג<sup>5</sup>

<sup>6</sup> See מהרש"א, how תוספות derives proof to his interpretation from this ירושלמי.

**רה"ר on account of the people of the who use them<sup>7</sup>.**

**גמרא:** **And this is the explanation<sup>8</sup> of the** **זרק בכותל למעלה מ' חייב** **if** **because the חור was not ד' על ד'** **and we do not mean here that since it does not have ד' על ד' it is not a רה"י, but rather -**

**חורי even though these crevices are considered חורי** **רה"י** **since they penetrate the entire wall, which confers upon them the status of a רה"י, nevertheless**

**it is considered as if one threw an object in the air** **הוי כזורק באויר** **without landing in a proper place, that he is פטור, and the same should be here**

**מקום ד' since it did not rest on a** **לפי שלא נח על מקום ד'**

To which the גמרא responds: but this is not so -

**For יהודה רב יהודה כו' - והאמר רב יהודה כו'** **that according to ר"מ in such a situation we apply the rule of חוקקין להשלים and therefore there is a ע"ג מקום ד' and he should be חייב, therefore since the משנה says that he is פטור that proves that we are not discussing a case of a (penetrating) crevice..**

questions:

**And the reason why we do not establish that the משנה<sup>10</sup> is discussing an actual miniscule crevice** **(that does not penetrate from the רה"י to the רה"ר, but it is only on the side of the wall facing the רה"ר) -**

**where everyone agrees that we do not apply the rule of חוקקין להשלים, as תוספות proved previously, and therefore it is understood why if פטור מ' זרק למעלה מ' פטור, because then it would be considered a מקום פטור, and we revert to the original question on אב"י, why does רבי יוחנן have to say that the משנה is discussing the unusual circumstance of a fat fig sticking to the side of the wall<sup>11</sup>.**

responds:

<sup>7</sup> חורי רה"י כרה"י it is considered למטה מ' even if we would assume that even חורי רה"י כרה"י, it would not be understood, why do we say זורק בארץ מ' למטה מ' כזורק בארץ מ' חייב because of ד"א ברה"ר because of ד"א ברה"ר, even if it was less than ד"א.

<sup>8</sup> Now that we have ascertained that the חור is a רה"י, we have to understand what is the question דלית דלית, it is seemingly irrelevant whether it has דע"ד or not, since it is a רה"י regardless.

<sup>9</sup> Once תוספות maintains that the חור is a רה"י, he is compelled to interpret the question דלית דלית to mean that there is no ע"ג מקום ד', even though the more apparent interpretation would seem to be that if it is not דע"ד it is not a רה"י. See footnote #1.

<sup>10</sup> That says: הזורק למעלה מ' כזורק באויר

<sup>11</sup> This is according to אב"י, who maintains that חורי רה"ר כרה"ר דמי and therefore חייב למטה מ' if it landed in a חור, and פטור מ' למטה מ' because it landed in a מקום פטור. See מהר"ם.

**The reason is, that this is the usual manner in which crevices are found**<sup>12</sup>. Therefore since crevices customarily penetrate the entire wall, which makes them a "רה", and according to ר"מ who maintains חוקקין; if it would have landed in one of these crevices למעלה מ" he would have been חייב according to ר"מ. That is why we say that it did not land in a crevice but rather it was a דבילה שמינה.

משנה בחור כל שהוא ממש offers another explanation why we cannot establish the

**and furthermore we must say** – ועוד דעל כרחק הוצרך לאוקמי בדבילה שמינה **that this** משנה **is discussing** a case of דבילה שמינה, and cannot be discussing a case of חור כ"ש ממש; why is this so?

**חור כ"ש ממש** would be discussing a משנה – דבחר כל שהוא ממש  
**חוקקין** – where we do not apply the rule of ביה חוקקין להשלם  
 זרק למעלה מ' כזורק באויר – which (even though it) would properly explain why if להשלם  
 nevertheless - ופטור

**ליכא לאוקמי' - we cannot establish** the משנה in such a situation

**חור – for if it is so**, that we are discussing a דאם כן למטה מי' אמאי כזורק בארץ  
**it is as if** למטה מי' משנה that if he threw it why does it say in the כ"ש ממש  
 חייב; why is he חייב and he is כזורק בארץ

מקום ד' ע"ד - **since it did not come to rest on a** **מקום ד'**, for it is a ממש חור, where everyone agrees that we do not say <sup>13</sup>הוֹקֵקִין לְהַשְׁלִים. Therefore we cannot be discussing a ממש חור.

Now that we say that we cannot be discussing a ממש כ"ש חור, for we would not understand why חייב מ' למטה, since there was no ע"ג מקום ד', the הנחה, we will now understand why the גמרא assumes that the משנה of וכו' דא חורק follows the ruling of ר"מ concerning חורקין להשלים (if it would be discussing a כ"ש חור) instead of the majority opinion of the רבנן.

**And it is not necessary to follow the interpretation of רש"י – ואין צריך לומר כפירוש רש"י,**

משנה היא - דפריך מכה דסתם מתניתין רבי מאיר היא that we reject the option that the משנה is discussing a situation where it landed in a crevice, because of the rule that 'an anonymous משנה is ascribed to ר"מ', and ר"מ maintains חוקקין, so if it landed in a crevice why is he פטור למעלה מ' however according to this explanation the refutation is based on the assumption that this משנה is סתם ר"מ, which while it is a valid assumption, nevertheless it is not definite, because perhaps this משנה follows the majority view of those who maintain אין חוקקין, the question would then remain, let the משנה be discussing the case of a crevice, and he is פטור למעלה מ' because אין חוקקין -

Therefore תוספות concludes that we have a stronger reason for assuming that the משנה is in accordance with ר"מ of הוקקין, as follows:

<sup>12</sup> A non penetrating miniscule crevice would – according to this answer – seemingly be more unusual (or equally unusual) than a דבילה שמינה.

<sup>13</sup> It would seem that this second answer is seemingly more convincing than the first answer of סתם חורים כך (for which תוס' offers no support). As to why תוס' does not give this as the first (and perhaps only) answer, see further in תוספות justification of פירש"י.

**rather we would be forced to say** that the משנה follows the ruling of ר"מ, for -

**if we establish** the משנה is discussing the case of a penetrating crevice **which does not have** the full dimension of דע"ד, then -

**we must establish** that the משנה is **in accordance with** ר"מ **who maintains** להשלים; why is this so?

**for according to the רבנן** we have a difficulty, **why** if it was thrown **is it למטה מי'** כזורק בארץ and he is חייב, there is no 'מקום ד'! הנחה ע"ג מקום ד'. Therefore we must say that it is in accordance with ר"מ, who maintains להשלים, therefore there is a 'מקום ד'; but then why is פטור למעלה מי' פטור, since ר"מ maintains להשלים? And that is the reason why we cannot establish the משנה בחור כ"ש.

In summation: It cannot be discussing a penetrating crevice, because we would have to assume that we go according to ר"מ that חוקקין להשלים in order to explain where is the 'מקום ד' in the case of חייב מי' למטה, consequently we would not understand why if we assume להשלים, we would understand why למעלה מי' פטור, but we would not understand why the הנחה ע"ג מקום ד' is חייב, since there was no 'מקום ד'.

**However we may justify s"i's interpretation** – **ויש ליישב פירוש רש"י**

**that it is necessary to interpret** that the refutation, which is based on the assumption that this משנה follows the opinion of ר"מ regarding להשלים, is because of the rule that **סתם מתניתין ר"מ**, and רש"י may be justified in not accepting תוספות proof as mentioned above

**for it were not so** the way רש"י maintains, but rather the way תוספות maintains that if the משנה does not follow the opinion of ר"מ we will have the difficulty of why חייב למטה מי' since לא נח ע"ג מקום ד', if this is correct

**the גמרא should have refuted outright**, when asked **הוה ליה למפרך בהדיא**

**perhaps you will say** that the reason he is **פטור למעלה מי'** **וכ"ת דלית ביה ד'** is because **לית בי' ד'**, so instead of getting involved whether we say חוקקין, the גמרא should have responded that it cannot be discussing a דע"ד for if so -

**why by** **is it למטה מי'** **כזורק בארץ** and he is חייב, there is no 'מקום ד' <sup>14</sup>. Somehow the גמרא was not bothered by this issue, therefore רש"י

<sup>14</sup> Therefore we may assume that the גמרא wished to discuss each part of the משנה separately, to see if it could be discussing a חור כ"ש on its own merits, therefore the גמרא does not give this aforementioned proof of the סיפא to reject whether in the רישא we are discussing a חור כ"ש, and consequently, we cannot use it to prove that the רישא of the משנה must follow the opinion of ר"מ (or perhaps that this משנה does not require a מחשבתו משויא ליה מקום וכו' or, הנחה ע"ג מקום ד').

Alternately, the גמרא maybe felt that according to אב"י, who maintains דמי כרה"ר חורי רה"ר (since it is actually a part of the רה"ר itself and not an object in the רה"ר, therefore the רה"ר is certainly a 'מקום ד', somewhat akin to 'מטה מג', or some other explanation).

will maintain that we cannot say that the משנה must follow the opinion of ר"מ, for otherwise how are we to understand of למטה מי חייב, for since the גמרא was not concerned, neither should we. And the basis of the גמרא accepting the opinion of ר"מ is based on the rule that סתם מתניתין ר"מ היא.

### Summary

The rule of חוקקין להשלים according to ר"מ, is valid only, when at least at one point there is the proper width and length. Therefore the חור under discussion here is a חור מפולש מרה"י לרה"י and חור ברחבו ד' on the side of the רה"ר.

We cannot ask on אב"י that we should establish the משנה in הזורק by a חור כ"ש, for two reasons: 1) because the חור מפולש was more usual, 2) if the משנה is discussing a חור כ"ש ממש where we cannot say חוקקין לשלים, then why in the סיפא by למטה מי חייב he is חייב since there was no ע"ג מקום ד'. The question חוקקין ע"ג מקום ד' has to mean that there was no ע"ג מקום ד' דלית בי ד', and not that it is not a רה"י, for since it is חור מפולש לרה"י it has the status of חורי רה"י.

This חורים למעלה חור has the status of a רה"י, is limited to חור המפולש לרה"י דין that חורים בני רה"י refrain from using them since the רה"ר use them.

The גמרא assumes that the משנה follows the ruling of ר"מ, if we were to assume that it landed בחור (כ"ש), because otherwise we would not understand why in the סיפא למטה מי חייב, since there was no ע"ג מקום ד'.

The difficulty with all this is, why did not the גמרא itself respond to its own rhetorical question חוקקין ע"ג מקום ד' דלית בי ד', by saying that it cannot be so, for if it is so, then why פטור מי חייב, למטה מי חייב, which gives justification for רש"י's opinion that we assume that the משנה is כר"מ, only because ר"מ.

### Thinking it over

1. Can we derive from תוספות, that the more simple explanation of חוקקין ע"ג מקום ד' דלית בי ד', would mean that it should not be a רה"י?

2. What is more usual a חור מפולש or a חור כ"ש ממש, explain.

3. When the גמרא asked: חוקקין ע"ג מקום ד' דלית בי ד', why did the גמרא quote the מימרא of ר' חוריה רה"י concerning חוקקין, the גמרא could have responded if there is no ע"ג מקום ד', then why are you חייב in the סיפא<sup>15</sup>?

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(Consequently we may even extend this reasoning – according to רש"י, that חורי רה"י, also do not require a חוקקין ע"ג מקום ד', thereby negating completely תוס' rendition of the question חוקקין ע"ג מקום ד' דלית בי ד' that it refers to a חור מפולש.)

<sup>15</sup> See תוס' הרא"ש ש.