

**A** בס"ד

Intro

Today we will learn בע"ה מסכת בבא בתרא דף כ"ז  
Some of the topics we will learn about include.

Halachah of עולא's

אמה of the boundary of the field of the neighbor  
אמה שש עשרה בתוך גזלן הוא

ואין מביאין ממנו בכורים

If a tree is within sixteen אמה of the boundary of the neighbor's field, its fruits are considered stolen, because as Rashi explains

שיונק מדה חבירו

The roots draw their nourishment from the ground of the neighbor's field that is within sixteen אמה.

And therefore, its owner is not obligated to bring בכורים from its fruits, because as Rashi explains

בעינין אשר תביא מארצך

The Pasuk requires בכורים only from fruits that grew in his own field, while these fruits grew from someone else's field.

The Gemara's proof for עולא's ניקה from the Mishnah regarding

תוספות שביעית

Aside for the prohibition for one to plow and sow his fields during the Shmittah year, one is also forbidden to do so in the months preceding Shmittah, because this is beneficial for the subsequent growth during Shmittah.

חורשין בשדה הלבן עד הפסח

One may plow a field designated for grain only until Pesach before Shmittah

חורשין בשדה אילן עד העצרת

One may plow a field of fully grown trees even later, but only until Shavuos before Shmittah.

עשר נטיעות המפוזרות בתוך בית סאה

חורשין כל בית סאה בשבילן עד ראש השנה

One may plow a field that contains ten saplings per בית סאה, which is 2500 square אמות, until the very last day before the Shmittah year begins.

**B** The Mishnah's Halachah of

אילן שהוא נוטה לשדה חבירו

קוצץ מלא המרדע על גבי המחרשה

If one's tree spreads out over his neighbor's fields, the neighbor may cut the branches only up to the height of a goad

The Machlokes regarding

אילן שהוא נוטה לרה"ר

If a person's tree spreads out over a public thoroughfare, up to what height may they cut off the branches?

בנזקין

בתר אומדנא דהשתא אזלינן

Regarding damages we are concerned only for an existing cause of damage but not for a potential cause of damage.

**A**

אילן הסמוך למצר  
בתוך שש עשרה אמה  
גזלן הוא  
ואין מביאין ממנו בכורים

תוספות שביעית  
חורשין בשדה הלבן  
עד הפסח  
חורשין בשדה אילן  
עד העצרת  
עשר נטיעות  
המפוזרות בתוך בית סאה  
חורשין כל בית סאה  
בשבילן עד ראש השנה

**B**

אילן שהוא נוטה לשדה חבירו  
קוצץ מלא המרדע  
על גבי המחרשה

אילן שהוא נוטה לרה"ר

בנזקין  
בתר אומדנא דהשתא  
אזלינן

1 So let's review ...

The Gemara in the previous Daf mentioned the following statement of עולא

אילן הסמוך למצר בתוך שש עשרה אמה גזלן הוא

ואין מביאין ממנו בכורים

If a tree is within sixteen אמה of the boundary of the neighbor's field, its fruits are considered stolen, because as Rashi explains

שיונק מדה חבירו

The roots draw their nourishment from the ground of the neighbor's field that is within sixteen אמה.

And therefore, its owner is not obligated to bring בכורים from its fruits, because as Rashi explains

בעינן אשר תביא מארצך

The Pasuk requires בכורים only from fruits that grew in his own field, while these fruits grew from someone else's field.

Now, as Rashi explains, apparently

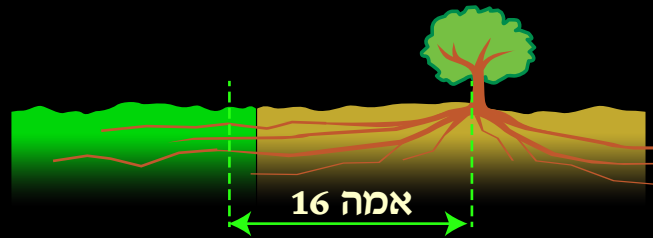
שיעור עולא שש עשרה לכל צד

הרי ל"ב על ל"ב

תמצאנה של אלף וכ"ד אמה

עולא holds that the יניקה extends to the area of sixteen אמה on all four sides of the tree, which in all is an area of  $32 \times 32$  אמות, a total of 1,024 square אמות.

1



*עולא*  
**אילן הסמוך למצר בתוך שש עשרה אמה  
 גזלן הוא  
 ואין מביאין ממנו בכורים**

*If a tree is within sixteen אמה of the boundary of the neighbor's field, its fruits are considered stolen,*

*because as Rashi explains*

*שיונק מדה חבירו*

*The roots draw their nourishment from the ground of the neighbor's field that is within sixteen אמה.*

*And therefore, its owner is not obligated to bring בכורים from its fruits,*

*because as Rashi explains*

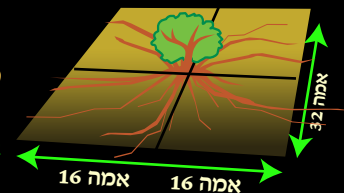
*בעינן אשר תביא מארצך*

*The Pasuk requires בכורים only from fruits that grew in his own field, while these fruits grew from someone else's field.*

שיעור עולא  
 שש עשרה לכל צד  
 הרי ל"ב על ל"ב  
 תמצאנה של אלף וכ"ד אמה

עולא holds that the יניקה extends to the area of sixteen אמה on all four sides of the tree, which in all

is an area of  $32 \times 32$  אמות, a total of 1,024 square אמות.



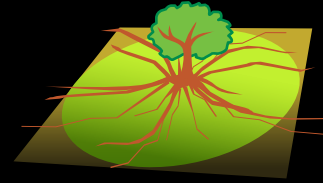
2 However, the Gemara concludes בעיגולא קא אמרינן  
The **שיעור יניקה** is not a square, but circle with a radius of sixteen **אמה** all around the tree, whose area is 25% less than a squared area. Therefore פשו להו ז' מאה ושתין ותמניא  
If we subtract 25% of 1,024, which is 256, we are left with a **שיעור יניקה** of a round area of 768 square **אמות**.

The Gemara gives the source for **עולא**'s Halachah as the following Mishnah in שביעית.

שלשה אילנות של ג' בני אדם  
הרי אלו מצטרפין  
וחורשין כל בית סאה בשבילן  
If three trees are evenly spaced in a field the size of one סאה, even if they belong to different owners, they combine to form a **אילן**, an orchard.  
Therefore, one may plow the entire סאה until the Shavous before Shmittah, because the three trees draw their nourishment from the entire סאה.

However, as Rashi explains ואם לאו  
אין חורשין אלא כל אחד כדי צרכו  
והשאר הוי שדה הלבן  
ואין חורשין אותו אלא עד הפסח  
If the trees are not evenly spaced, only the area around the trees may be plowed until Shavous. The remainder of the field is not associated with the trees, and is considered like a field designated for grain, which may be plowed only until Pesach before Shmittah.

2 *The Gemara concludes*  
**בעיגולא קא אמרינן**  
*The שיעור יניקה is not a square, but circle with a radius of sixteen אמה all around the tree, whose area is 25% less than a squared area.*



*Therefore*  
**פשו להו ז' מאה ושתין ותמניא**  
*If we subtract 25% of 1,024, which is 256, we are left with a אמות of a round area of 768 square אמות.*

*Mishnah in שביעית*  
**שלשה אילנות של ג' בני אדם  
הרי אלו מצטרפין  
וחורשין כל בית סאה בשבילן**

*If three trees are evenly spaced in a field the size of one סאה, even if they belong to different owners, they combine to form a אילן, an orchard.*

*Therefore, one may plow the entire סאה until the Shavous before Shmittah, because the three trees draw their nourishment from the entire סאה.*

*However, as Rashi explains*  
**ואם לאו  
אין חורשין אלא כל אחד כדי צרכו  
והשאר הוי שדה הלבן  
ואין חורשין אותו אלא עד הפסח**  
*If the trees are not evenly spaced, only the area around the trees may be plowed until Shavous.  
The remainder of the field is not associated with the trees, and is considered like a field designated for grain, which may be plowed only until Pesach before Shmittah.*



3 The Gemara figures the שיעור יניקה of each tree as follows:  
 כמה הוו להו  
 תרי אלפי וה' מאה גרמידי  
 A field of a סאה בית is 50 x 50 אמה, which is 2500 square  
 אמות.  
 Since we have 3 evenly spaced trees;  
 לכל חד כמה מטי ליה  
 תמני מאה ותלתין ותלתא ותילתא  
 The שיעור יניקה of each tree is 1/3 of 2500, which is a round  
 area of 833.3 square אמות, with a radius of 16 ½ אמות.  
 And even though  
 אכתי פש ליה פלגא דאמתא  
 This שיעור is slightly more than עולא's שיעור of a round area  
 of 768 square אמות, with a radius of 16 אמות?  
 However,  
 עולא לא דק  
 ולחומרא לא דק  
 For the sake of simplicity, עולא rounded it off to 16, even  
 though it's somewhat imprecise; and this may be done  
 when it results in a more stringent application of the  
 Halachah, in that if the tree is more than 16 אמה away from  
 the boundary, one is obligated to bring ביכורים, even  
 though in reality he is exempt up to 16 ½ אמה.  
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3 *The Gemara figures the שיעור יניקה of each tree as follows*  
**כמה הוו להו**  
**תרי אלפי וה' מאה גרמידי**  
*A field of a סאה בית is 50 x 50 אמה, which is 2500 square אמות.*  
*Since we have 3 evenly spaced trees;*  
**לכל חד כמה מטי ליה**  
**תמני מאה ותלתין ותלתא ותילתא**  
*The שיעור יניקה of each tree is 1/3 of 2500, which is a round area of 833.3 square אמות, with a radius of 16 ½ אמות.*  
*And even though*  
**אכתי פש ליה פלגא דאמתא**  
*This שיעור is slightly more than עולא's שיעור of a round area of 768 square אמות, with a radius of 16 אמות?*  
*However,*  
**עולא לא דק**  
**ולחומרא לא דק**  
*For the sake of simplicity, עולא rounded it off to 16, even though it's somewhat imprecise; this may be done when it results in a more stringent application of the Halachah, in that if the tree is more than 16 אמה from the boundary, one is obligated to bring ביכורים, even though in reality he is exempt up to 16 ½ אמה.*



4 The Gemara proceeds to question עולא from several Mishnayos, and then questions עולא from our Mishnah: ושש עשרה אמה ותו לא והא תנן מרחיקין את האילן מן הבור כ"ה אמה From עולא it appears that the roots of a tree extend only up to sixteen אמה, while our Mishnah rules that one must distance his tree 25 אמות from his neighbor's pit, so that its roots should not destroy the pit; apparently, the roots extend farther than 16 אמה?

The Gemara explains

אמר אביי

מיזל טובא אזלי

The roots actually extend more than sixteen אמה. Therefore, regarding a בור, one must distance his tree 25 אמות from the pit.

However,

אכחושי לא מכחשי

אלא עד שש עשרה אמה

טפי לא מכחשי

The ניקה, the nourishment of the roots, which weakens the ground, extends only up to sixteen אמה, but not farther.

Therefore, regarding ביכורים, if the tree is more than sixteen אמה away from the other field it is not considered גזילה, and he is obligated to bring ביכורים.

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5 The Gemara concludes that אחד אילן הסמוך למיצר ואחד אילן הנוטה disagrees with רבין אמר רבי יוחנן מביא וקורא

Even if one's tree is close to the boundary, or its branches spread out over the neighbor's field, he is still obligated to bring ביכורים from its fruits and recite the Parshah, and there is no concern of גזילה, because שעל מנת כן הנחיל יהושע לישראל את הארץ

This is one of the תנאים that יהושע בן נון stipulated to the Yidden upon their entry to ישראל that the division of the land is on the condition that one would not object to these matters.

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4 **ושש עשרה אמה ותו לא והא תנן מרחיקין את האילן מן הבור כ"ה אמה**

From עולא it appears that the roots of a tree extend only up to sixteen אמה,

While our Mishnah rules One must distance his tree 25 אמות from his neighbor's pit, so that its roots should not destroy the pit;

Apparently, the roots do extend farther than 16 אמה?

**מיזל טובא אזלי**

The roots actually extend more than sixteen אמה.

Therefore, regarding בור, one must distance his tree 25 אמות from the pit.

However,

**אכחושי לא מכחשי אלא עד שש עשרה אמה טפי לא מכחשי**

The ניקה of the roots, which weakens the ground, extends only up to sixteen אמה.

Therefore, regarding ביכורים, if the tree is more than sixteen אמה away from the other field it is not considered גזילה, and is obligated to bring ביכורים.

5 **אחד אילן הסמוך למיצר ואחד אילן הנוטה מביא וקורא**

Even if one's tree is close to the boundary, or its branches spread out over the neighbor's field, he is still obligated to bring ביכורים from its fruits and recite the Parshah, and there is no concern of גזילה, because

**שעל מנת כן הנחיל יהושע לישראל את הארץ**

This is one of the תנאים that יהושע בן נון stipulated upon entry to ישראל that the division of the land is on the condition that one would not object to these matters.

6 Zugt Di Mishnah

אילן שהוא נוטה לשדה חבירו  
קוצץ מלא המרדע על גבי המחרישה

If one's tree spreads out over his neighbor's fields, the neighbor may cut the branches only up to the height of a goad, because as Rashi explains

שלא יעכבוהו מלהוליך מחרשתו שם

So the branches do not prevent him from using his plow in this area.

ובחרוב ובשקמה  
כנגד המשקולת

If it was a carob or sycamore tree whose branches spread farther, the neighbor may cut off all the branches in the airspace of his field, because

שצילם מרובה וקשה לשדה

Their shade is broad and detrimental to the crops.

בית השלחין

כל האילן כנגד המשקולת

If the field requires additional water for irrigation, then even if it was a regular fruit tree, the neighbor may cut off all the branches in the airspace of his field, because

שהצל רע לבית השלחין

Even a minimal shade is detrimental to this type of field.

כאן אבא says

כל אילן סרק כנגד המשקולת

If it was a non-fruit-producing tree, even if it was not a בית השלחין, the neighbor may cut off all the branches in the airspace of his field, because the tree has less value.

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6

משנה

אילן שהוא נוטה לשדה חבירו  
קוצץ מלא המרדע על גבי המחרישה

*If one's tree spreads out over his neighbor's fields, the neighbor may cut the branches only up to the height of a goad,*

*because as Rashi explains*

שלא יעכבוהו מלהוליך מחרשתו שם

*So the branches do not prevent him from using his plow in this area.*

ובחרוב ובשקמה  
כנגד המשקולת

*If it was a carob or sycamore tree whose branches spread farther, the neighbor may cut off all the branches in the airspace of his field, because*

שצילם מרובה וקשה לשדה

*Their shade is broad and detrimental to the crops.*

בית השלחין

כל האילן כנגד המשקולת

*If the field requires additional water for irrigation, then even if it was a regular fruit tree, the neighbor may cut off all the branches in the airspace of his field, because*

שהצל רע לבית השלחין

*Even a minimal shade is detrimental to this type of field.*

כאן אבא

כל אילן סרק כנגד המשקולת

*If it was a non-fruit-producing tree, even if it was not a בית השלחין, the neighbor may cut off all the branches in the airspace of his field, because the tree has less value.*

**7** Zugt Di Mishnah  
 אילן שהוא נוטה לרה"ר  
 קוצץ כדי שיהא גמל עובר ורוכבו  
 If a tree spreads out over a public thoroughfare, they may cut the branches up to the height of a camel and its rider.

רבי יהודה says  
 גמל טעון פשתן או חבילי זמורות  
 They may cut the branches only up to the lower height of a camel laden with flax or bundles of wood.

רבי שמעון says  
 כל האילן כנגד המשקולת  
 They may cut off all the branches in the airspace of the רשות הרבים, as the Braisa explains  
 מפני הטומאה  
 To prevent one from becoming טמא by passing under the branches when a טומאת מת happens to be there;

Regarding the opinions of the קמא and רבי יהודה, the Gemara says that they must hold  
 בנזקין  
 בטר אומדנא דהשתא אזלינן  
 Regarding damages we are concerned only for a current cause of damage, but not for a potential cause. Therefore, it is sufficient if the branches are cut till these heights, even though the branches will eventually grow back and obstruct the רשות הרבים.

**7** אילן

**אילן שהוא נוטה לרה"ר**  
**קוצץ כדי שיהא גמל עובר ורוכבו**  
*If a tree spreads out over a public thoroughfare, they may cut the branches up to the height of a camel and its rider.*

**רבי שמעון**  
**כל האילן כנגד המשקולת**  
*They may cut off all the branches in the airspace of the רשות הרבים, as the Braisa explains*  
*as the Braisa explains*  
**מפני הטומאה**  
*To prevent one from becoming טמא by passing under the branches when a טומאת מת happens to be there;*

**רבי יהודה**  
**גמל טעון פשתן או חבילי זמורות**  
*They may cut the branches only up to the lower height of a camel laden with flax or bundles of wood.*

**בנזקין**  
**בטר אומדנא דהשתא אזלינן**  
*Regarding damages we are concerned only for a current cause of damage, but not for a potential cause. Therefore, it is sufficient if the branches are cut till these heights, even though they will eventually grow back and obstruct the רשות הרבים.*

8 Therefore, ריש לקיש says that this Halachah depends on the מחלוקת רבי אליעזר וחכמים in a later Mishnah; אין עושין חלל תחת רשות הרבים בורות שיחין ומערות  
 The חכמים say that a person may not dig a cavity under a public thoroughfare for water to reach his pit, because זמנין דמפחית  
 The ground might eventually weaken and cave in and someone will become injured. And even though the ground is currently strong, there is nevertheless a concern. Apparently, because the חכמים hold בנזקין  
 בתר אומדנא דבסוף אזלינן  
 Regarding damages we are concerned even for a potential היזק that is currently non-existent.

רבי אליעזר מתיר בכדי שתהא עגלה מהלכת וטעונה אבנים  
 רבי אליעזר holds he may dig a cavity, as long as the ground is currently strong enough to support a wagon loaded with stones. And even though the ground will eventually weaken, there is no concern, because apparently רבי אליעזר holds בנזקין  
 בתר אומדנא דהשתא אזלינן  
 Regarding damages we are concerned only for a current היזק but not for a potential היזק.

8 *Therefore, ריש לקיש says that this Halachah depends on the מחלוקת רבי אליעזר וחכמים*  
**אין עושין חלל תחת רשות הרבים בורות שיחין ומערות**  
 The חכמים say that a person may not dig a cavity under a public thoroughfare for water to reach his pit, because - זמנין דמפחית  
 The ground might eventually weaken and cave in and someone will become injured. And even though the ground is currently strong.

*Apparently, because the חכמים hold בנזקין*  
**בתר אומדנא דבסוף אזלינן**  
*Regarding damages we are concerned even for a potential היזק that is currently non-existent.*

**רבי אליעזר מתיר בכדי שתהא עגלה מהלכת וטעונה אבנים**  
 He may dig a cavity, as long as the ground is currently strong enough to support a wagon loaded with stones. And even though the ground will eventually weaken, there is no concern.

*Apparently because רבי אליעזר holds בנזקין*  
**בתר אומדנא דהשתא אזלינן**  
*Regarding damages we are concerned only for a current היזק but not for a potential היזק.*

9 רבי יוחנן says that this is not necessarily so. Perhaps even the חכמים agree with our Mishnah, and only regarding הלל we are concerned for a potential היזק because זימנין דמפחית ולא אדעתיה. It is possible that when the ground caves in, it will not be noticed, and will result in injury. However, regarding אילן הנוטה, we are not concerned for a potential היזק, because קמא קמא קא קייץ ליה. As soon as the branches grow back, they will be cut off again.  
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הדרן עלך לא יחפור  
We have B"h completed the second Perek of בבא בתרא, and we will begin the third Perek, חזקת הבתים, in the next Shiur B'ezras Hashem.

9 רבי יוחנן  
*This is not necessarily so.*  
Perhaps even the חכמים agree with our Mishnah,

Only regarding <b>הלל</b> we are concerned for a potential היזק because <b>זימנין דמפחית ולאו אדעתיה</b> <i>It is possible that when the ground caves in, it will not be noticed, and will result in injury.</i>	However, regarding <b>אילן הנוטה</b> we are not concerned for a potential היזק, because <b>קמא קמא קא קייץ ליה</b> <i>As soon as the branches grow back, they will be cut off again.</i>
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הדרן עלך לא יחפור