

THE FOURTH PEREK OF YEAMOS IS DEDICATED

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L'Zecher Nishmas

ר' שלמה זלמן בן ר' חנוך הכהן עהרנטרייא



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ENGLISH TOPICS ON THE DAF

Dedicated L'Refuah Shlaima for Yaakov ben Victoria

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Daf Hashovua Yevamos Daf 44

Our Mishnah says that if a yevama is already pasul to Kehunah, he should do chalitzah to her and not pasul other yevamos. The Gemara adds that Rabbi learned from here that one should not spill out water even though he no longer needs it, since others can make use of it.

This Gemara opens up the sugya of “bal tashchis,” the prohibition from wasting things. **Rabbeinu Yerucham** (Vol. 1 Nesiv 31) writes that even water is included – if we warn him and he spills it anyway, he would get malkus!

However, the **Shulchan Aruch** seems to argue. Detailing halachos and advice surrounding mealtime, he says, “After you drink and wine remains in the cup for your friend to drink, wipe off the place when your mouth touched it because [otherwise it would be] nauseating to him. Don’t pour it out, though, because of bal tashchis. But after drinking water, pour out some water from that place” (O.C. 170:22).

The **Maharsham** (Teshuvos, 3:375) derives from here that bal tashchis does *not* apply to water!

There are several difficulties with this halacha, anyway. First of all, bal tashchis means that something is wasted for no productive purpose. If there is a good reason to destroy it, it is permissible. For example, the **Aruch Hashulchan** rules that if a neighbor’s tree is reducing the light in your home, you may cut off branches even from a fruit tree (C.M. 154:45). Tosfos (Kiddushin 32a) and other Rishonim say the same thing to explain the Gemara in Shabbos 105b, that one may break things to promote awe over

his children. So, why would there be a problem to pour off some wine for hygienic purposes?

Perhaps this is not considered a compelling need since one can simply wipe off the area where he drank from.

Actually, there is some dispute as the extent of the heter to waste things for a good purpose. The **Rema** in Hilchos Shabbos (296:1) records the minhag to pour out some wine when making havdala, as a siman bracha (auspicious omen). The **Taz** is unhappy about this idea, citing another halachic precedent which forbids wastage of wine and food for a siman tov (for a chasan and kalla – O.C. 171:4). Instead, he recommends filling up the cup for havdala so much until some wine overflows.

On the other hand, Teshuvos **Knesses Yechezkel** (2:78) defends the Rema, asserting that it's done to foster good mazal and shows our bitachon that Hashem will grant us parnosoh. Since the Rema wrote it, it is considered a mitzvah activity, so bal tashchis does not apply.

Another question is that the Shulchan Aruch says earlier, "Do not drink from a cup and then give it to your friend [to drink] since it is dangerous" (O.C. 170:16). If you can't pass along your cup to others, what would it help to clean off the place where you drank?

The Taz offers two explanations for that earlier halacha. What exactly is the danger? The Maharshal said that the issue is only if you pass it to another person, but if he takes it by himself it is fine. This implies that the danger is that the other person will be so disgusted by the notion of drinking from it he will become ill. If he takes it of his own volition, it's fine. On the other hand, the Taz quotes a Midrash, Tzavo'as Rabbi Eliezer Hagadol, which warns very strongly against drinking from other people's cups, since they may have illnesses which could be passed along. This is the danger mentioned here, and thus would include even taking it by oneself. Indeed, concludes the Taz, "The truth is that I have seen in other countries that they are every careful not to drink from other people's leftovers."

Returning to the apparent contradiction in the Shulchan Aruch: according to the first explanation of the Taz, the later seif can mean that he cleans off the cup and *leaves it* for whoever wants to drink from it. According to the second reasoning, **Mishnah Berurah** suggests that it depends if you know the first person to be in good health or not. If you are not acquainted with him, it is advisable to refrain from consuming his leftovers.

A common situation in which this applies is after bentching at a festive meal. There is a minhag to drink from the kos shel bracha – but what about the Shulchan Aruch's warning? Shemiras Shabbos K'Hilchasa indeed records Rabbi Shlomo Zalman's Auerbach's puzzlement over this practice.

We may answer with the Mishnah Berurah's resolution of the two halachos in the Shulchan Aruch: if they are certain of the host's general health, it is not a problem. This is how the **Ben Ish Chai** explains this very question (Year 1, Behar 13). Alternatively, the **Shulchan Hatahor** opines that the danger involved is only in times and places where illness is rampant, like when there is an epidemic, ר"ל (170:16).