Jerusalem Talmud, it is stated that a gentile is not counted as one of us. The standing segments on two sides is greater than the breached, the difficulties, as a distinction between three and four handbreadths

The Gemara asks: Is that to say that the first clause of Rav Nahman’s ruling is in accordance with the opinion of Rabbi Yosei, son of Rabbi Yehuda, and the latter clause is in accordance with the opinion of the Rabbis?

The Gemara answers: Yes, because his father, Rabbi Yehuda, holds in accordance with his opinion with regard to areas enclosed for the sake of an individual. This being the case, their opinion on this matter is that of the many.

Rav Giddel said that Rav said: At times, for three people it is prohibited to carry even in an area of five beit se’a, at times, it is permitted for them to carry even in an area of seven beit se’a. These statements appear irreconcilable, and his colleagues said to him: Did Rav actually say that? He said to them: I swear by the Torah, the Prophets, and the Writings, that Rav said so.

Rav Ashi said: What is the difficulty here? Perhaps this is what he is saying: If they needed six beit se’a, and they enclosed seven, they are permitted to carry even in all seven, as one empty beit se’a does not render it prohibited for one to carry in the rest of the area. If, however, they needed only five beit se’a, and they enclosed seven, carrying even in five is prohibited, as there is an unoccupied space of two beit se’a.

The Gemara asks: However, with regard to that which the baraita is teaching, that the partition renders the area fit for one to carry within it provided that there will not be an unoccupied space of two beit se’a, what, is it not in fact referring to space unoccupied by people? In other words, isn’t the baraita teaching that the enclosed area may not be two beit se’a larger than a measure of two beit se’a per person? Accordingly, if three people enclosed an area of seven beit se’a, it should always be permitted for them to carry there, as they are entitled to six beit se’a and only one beit se’a is unoccupied. The Gemara answers: No, it means unoccupied by utensils. Although they would be entitled to six beit se’a if needed, since they need only five in practice and a space of two beit se’a remains unoccupied, the effectiveness of the partitions is negated and carrying therein is prohibited.

It is stated: If there were three people in a caravan and one of them died on Shabbat, or if there were two people, and others were added to them on Shabbat, Rav Huna and Rabbi Yitzḥak disagree with regard to the area in which they are permitted to carry on Shabbat. One said: Shabbat determines the status of the area. The halakha is determined in accordance with the prevailing situation at the onset of Shabbat. And one said that the residents, i.e., the actual number of people present at any given moment, determine the status.
The Gemara comments: Conclude that it is Rav Huna who said that Shabbat determines the status, as Rabba said: I raised a dilemma before Rav Huna, and I raised a dilemma before Rav Yehuda with regard to the following case: If one established an eiruv to join one courtyard to another via a certain opening and that opening was sealed on Shabbat, or if one established an eiruv via a certain window and that window was sealed on Shabbat, what is the halakha? Can one continue to rely on this eiruv and carry from one courtyard to the other via other entrances? And he said to me: Since it was permitted to carry from courtyard to courtyard at the onset of Shabbat, it was permitted and remains so until Shabbat’s conclusion. The Gemara comments: Indeed, conclude that it is Rav Huna who maintains the determining factor is Shabbat, not the residents.

Rabbi Yosei says: If it is permitted to carry there on that Shabbat, it is also permitted to do so in the future. However, if it is prohibited to carry there in the future, it is also prohibited to do so on that Shabbat. Since it is permitted to carry there in the future, it is also prohibited to carry there on that Shabbat. This opinion disputes the principle that since it is permitted at the onset of Shabbat it remains permitted.

Let us say that it is Rav Huna who stated his opinion in accordance with the opinion of Rabbi Yehuda, and he held that the situation at the onset of Shabbat determines the halakhic status. And it is Rabbi Yitzḥak who stated his opinion in accordance with the opinion of Rabbi Yosei.

The Gemara rejects this explanation. Rav Huna could have said to you: It is I who stated my opinion even in accordance with the opinion of Rabbi Yosei. Rabbi Yosei stated his opinion only there, in a case where there are no longer partitions intact; however, here there are partitions intact. Since the status of the area is dependent upon the existence of partitions, he would also agree that carrying is permitted in this case.

And Rabbi Yitzḥak could have said to you: It is I who stated my opinion even in accordance with the opinion of Rabbi Yehuda. Rabbi Yehuda stated his opinion only there, in a case where there are residents. However, here, there are no remaining residents that are alive, so he too would prohibit carrying.

We learned in the mishna: However, the Rabbis say: One of the two elements, either vertical or horizontal, is sufficient. The Gemara asks: This is identical to the opinion of the first tanna of the mishna. What did the Rabbis add?

The Gemara answers: There is a practical halakhic difference between them with regard to an individual in a settlement. The first tanna does not allow one to rely on a partition of this type ab initio, whereas the Rabbis permit doing so in all cases.

**MISHNA**

The Sages exempted a soldier in a military camp in four matters: One may bring wood for kindling from any place with no concern that he is stealing wood from its owners; and one is exempt from ritual washing of the hands before eating; and one is exempt from the separation of tithes from doubtfully tithed produce [demai]; i.e., produce purchased from an am ha’aretz, one who is not diligent in separating tithes; and one is exempt from establishing an eiruv.

**NOTES**

An eiruv that broke on Shabbat – לַעֲשׂוֹת עֵירוּב הַשָּׁבָּת. The halakha is in accordance with the opinion of Rav Yehuda with regard to enclosed fields and in accordance with Rabbi Yosei’s opinion with regard to an alleyway that was breached on Shabbat. Apparently, Rav Huna’s answer is not merely a refutation. Rather, he maintains that the principle that stipulates that if carrying was permitted at the beginning of Shabbat it remains permitted throughout applies only if the partitions are still extant. If, however, the partitions are removed, it is no longer permitted to carry within the area previously enclosed by them.

Camp – הַחוּלָה: In the Jerusalem Talmud, there is a discussion with regard to what constitutes a camp. The conclusion is that the presence of at least ten people is necessary to meet the halakhic criterion of a camp. In addition, the leniencies of a military camp apply only to those engaged in an optional war. However, additional activities are permitted for those engaged in a mandatory war.

Matters that the Sages exempted in a camp – מַעַרְכָּה: The soldiers in a military camp who are going off to war or returning from battle (Rambam based on the Jerusalem Talmud) are exempt from tithing demai, from ritual hand washing, and from joining courtyards. They are also permitted to take wood for their own needs, even if it is dry and detached, as per the mishna and the explanation in the Gemara (Rambam Sefer Shabatim, Hilkom Melakhim 6:5).

**HALAKHA**

Since it was permitted at the onset of Shabbat, it was permitted and remains so – לַעֲשׂוֹת עֵירוּב הַשָּׁבָּת. If two courtyards were joined with an eiruv via a certain opening, and that opening was sealed on Shabbat, the residents of the two courtyards may still carry there. Some commentaries, including Rashi, state that the residents are permitted to carry from one courtyard to the other through openings in the wall, including the Rambam, rule that under these circumstances, the residents of each courtyard are permitted to carry only within their respective courtyards (Shulhan Arukh, Doh 374:1).

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A camp that goes out to wage an optional war – met mitzva. Rabbi Hai Gaon explains that as long as the Jewish people were involved in their wars of conquest, the Sages did not institute the laws of eiruv for the entire Jewish people. Support for his argument can be found in the mishna that states that they were not particular about rabbinic prohibitions of this kind in a military camp (Hilkhos Melakhim 6:12).

And in the place where they were killed, there they are buried! They may also encamp in any location – met mitzva. The rationale for this halakha is that everyone is preoccupied with the fighting, if they do not bury the fallen soldiers immediately, in the place where they fell, they will not do so at all. Consequently, there is concern that the corpses will suffer the indignity of not being buried (see the parallel discussion in the Jerusalem Talmud).

A corpse with no one to bury it [met mitzva] – met mitzva: It is an important mitzva to tend to a corpse, so that it not be left unburied in an ungraffed state. This mitzva, based on the ideal of human dignity, is so significant that even a High Priest and a nazirite, for whom it is prohibited to become ritually impure, are obligated to become ritually impure for a met mitzva.

The conditions of Joshua – met mitzva: One of the ten conditions stipulated by Joshua is that one is permitted to graze one’s animals in woods belonging to others. Sheep are allowed only to graze where the trees are large. However, if the trees are small, it is prohibited to graze them there without the owner’s permission. It is also permitted to gather thorny shrubs from fields, provided they are moist and attached (Rambam Sefer Nezikim, Hilkhos Melakhim 6:50).

A corpse with no one to bury it [met mitzva] – met mitzva: If a corpse is found along a road or in a city of gentiles with no one to bury it, it is prohibited for the person who found it to leave the place until the corpse is buried in the place where it was found. The person may only leave if he is in a place where if one calls other people will come and tend to every aspect of the burial (Shulchan Arukh, Yoreh De’ah 310:3).

The Sages taught in a Tosefta: With regard to a military camp that goes out to wage an optional war, it is permitted for the soldiers to steal dry wood. Rabbi Yehuda ben Teima says: They may also encamp in any location, even if they damage the field in which they are encamped. And in the place where they were killed, there they are buried and the owner of the site cannot object, as moving the corpse for burial elsewhere dishonors the dead.

The Gemara analyzes this Tosefta. What is the novelty in the following statement: They are permitted to steal dry wood? This was an ordinance enacted by Joshua, as the Master said in a baraitha: There is an ordinance that Joshua stipulated ten conditions with the Jewish people as they entered Eretz Yisrael, among them that one may graze his animals in woods belonging to others without objection, and one may gather wood for his own use from their fields.

The Gemara answers: There, Joshua’s ordinance permitted gathering various types of shrubs [hizmei] and thorns [higei], with regard to which people are not particular; here, the ordinance in the mishna pertaining to a military camp is referring to other types of wood.

Alternatively: There, Joshua’s ordinance referred to gathering thorns still attached to the ground, as removing those thorns benefits the field’s owner. Here, however, the mishna is referring to gathering thorns that are already detached.

Alternatively: There, Joshua’s ordinance referred to gathering moist thorns. Owners are not particular about them because they are not immediately suitable for kindling. Here, the mishna is referring even to dry thorns.

It was taught in the Tosefta that Rabbi Yehuda ben Teima says: They may also encamp in any place, and in the place where they were killed, there they are buried. The Gemara raises a difficulty: This is obvious, as the body of a dead soldier is considered to be a corpse with no one to bury it [met mitzva], and the principle is that a met mitzva acquires its place. In other words, the body must be interred where it is found, and the owner of the field cannot prevent burial.

The Gemara answers: No, this ostensibly obvious statement is indeed necessary to teach that this principle applies in the case of a military camp, even though

**BACKGROUND**

**Shrubs [hizmei]** – היזמי. The common hizmei, Alhagi maurorum Medik, is a spiny shrub with smooth leaves. It typically grows to a height of around 30 cm, although it can reach 1 m. It is commonly found in fields and salt flats.

**Thorns [higei]** – היגעי. Higey refers to what is probably the thorny nes-harrow, Ononis spinosa L., from the Papilionaceae family. The higey is a thorny shrub that grows to a height of up to 75 cm, with trifoliolate leaves and thorny side branches. The higey grows in fields and wads.

**Alhagi maurorum Medik**

**Ononis spinosa L.**

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**Alhagi maurorum Medik**

**Ononis spinosa L.**
there are people available to bury it. As it was taught in a baraita: Any corpse that has no one available to bury it. If, however, the deceased has friends or relatives to tend to his burial, his corpse is not considered a met mitzva. Likewise, if the body is in a place where if one calls out, others can answer him, this is not a met mitzva. The Tosafot teaches a novel ruling applicable to the case of a military camp: A soldier is buried where he was killed, even if the conditions for met mitzva are not met there.

With regard to the halakha itself, the Gemara asks: And does a met mitzva actually acquire its place? Wasn’t it taught in a baraita: One who finds a corpse laid out on a main street evacuates it for burial, either to the right of the street or to the left of the street, but it may not be buried under the main street itself?

If one can move the corpse either to an uncultivated field or to a plowed field, he evacuates it to the uncultivated field. If the choice is between a plowed field and a sown field, he evacuates it to the plowed field. If both fields are plowed, or if both are sown, or if both are uncultivated, he evacuates it to any side that he wishes to move it. Apparently, a met mitzva is not necessarily buried where it is found. It may be moved elsewhere.

Rav Beivai said: Here we are dealing with a corpse laid out across on the side of a public path, and it stretches across the path and reaches the other side. Were the corpse buried there, it would prohibit passage by priests. Since permission was already granted to evacuate it from the side of a public path, one may evacuate it to any side he wishes. If, however, the corpse was in a field, moving it would be prohibited.

We learned in the mishna that in a military camp one is exempt from ritual washing of the hands. Abaye said: They taught this exemption only with regard to first waters, i.e., hand-washing before eating. However, final waters, i.e., hand-washing after eating and before reciting Grace after Meals, is an obligation even in a military camp.

Rav Hiyya bar Ashi said: For what reason did the Sages say that the final waters are an obligation? It is due to the fact that there is the presence of Sodomite salt, which blinds the eyes even in a small amount. Since Sodomite salt could remain on one’s hands, one must wash them after eating. This obligation is binding even in a camp because soldiers are also obligated to maintain their health.

Abaye said: And this type of dangerous salt is present in the proportion of a single grain in an entire kor of innocuous salt. Rav Aha, son of Rava, said to Rav Ashi: If one measured salt and came into contact with Sodomite salt not during mealtime, what is the halakha? Is there an obligation to wash his hands afterward? He said to him: It was unnecessary to say this, as he is certainly obligated to do so.
HALAKHA

One may feed doubly tithed produce [demai] – המעיין. One may feed poor people and soldiers demai, and there is no need to separate the tithe. However, they must be informed of the matter, so they can separate the tithe if they wish. In addition, it is permitted to feed guests demai, if they are passing from place to place and will not be spending the night where they are eating (Radbaz, Rambam Sefer Zemanim, Hilkhot Ma’asrot 6:13). Some commentators conclude from here that the members of a caravan who enclosed their tents with a partition are also exempt from a joining of courtyards (Rambam Sefer Zemanim, Hilkhot Melakhim 6:9; Shilhas Haram, Or HaYayim 1662).

Eiruv in a camp – אירוע בחפירה: Soldiers at war are exempt from the joining of courtyards, as stated in the mishna. However, they are required to join Shabbat boundaries. Some commentaries conclude from here that the members of a caravan who enclosed their tents with a partition are also exempt from a joining of courtyards (Rambam Sefer Zemanim, Hilkhot Melakhim 6:9; Shilhas Haram, Or HaYayim 1662).

One is flogged by Torah law if there is no joining of Shabbat boundaries – תחום מחיצות: According to the Rambam and the geonim, the Shabbat limits determined by Torah law is twelve mil; and one who ventures beyond it on Shabbat is punishable by lashes. Other authorities argue that this is only the opinion of Rabbi Akiva. Consequently, there is no Torah restriction of Shabbat limits (Rabbi Zeruia Halevi, Rambam; Rashi; Rosh; Rambam Sefer Zemanim, Hilkhot Shabbat 2:7).

NOTES

Joining of Shabbat boundaries – חידושי תחום מחיצות: The commentaries and especially the halakhic authorities discuss this passage at length, as it apparently contradicts the accepted conclusion drawn from other contexts that the restrictions with regard to Shabbat boundaries are not by Torah law. Some commentators understand the Gemara here in terms of Rabbi Akiva’s opinion. He maintains that overstepping the Shabbat boundary is indeed prohibited by Torah law, but the limit by Torah law is twelve mil from the edge of town. Other authorities hold that Rav Hiyya’s opinion is that there is a Torah prohibition against overstepping a limit of even two thousand or four thousand cubits.

The mishna continues: And in a military camp, one is exempt from the separation of tithes from doubly tithed produce [demai]. As we learned in a mishna: One may feed the poor demai, and one may also feed quartered soldiers [akhshanyah-] demai. Rav Huna said: A tanna taught in a baraita: Beit Shammai say that one may neither feed the poor demai, nor may one feed quartered soldiers demai. And Beit Hillel say that one may feed the poor demai, and one may also feed quartered soldiers demai.

We learned in the mishna: And in a military camp, one is exempt from establishing an eiruv. The Sages of the school of Rabbi Yannai said: They taught that this exemption applies only with regard to the joining of houses in courtyards. However, even those in a military encampment are obligated to establish an eiruv if they desire to effect a joining of Shabbat boundaries; whereby one extends the Shabbat limits beyond which one may not walk on Shabbat.\(^{13}\)

As Rabbi Hiyya teaches a baraita: One is flogged by Torah law for going beyond the Shabbat limit if there is no joining of Shabbat boundaries.\(^{14}\) The Torah states: “No man shall go out [al yetzeh] of his place on the seventh day” (Exodus 16:29). Since this is a Torah prohibition, leniency is possible only in life-threatening circumstances.

Rabbi Yonatan strongly objects: Is one flogged for violating a prohibition that is expressed in the Torah with the negative al, rather than the negative lo? Rav Aha bar Yaakov strongly objects to the question: If what you say is so, with regard to that which is written: “Turn you not [al] unto the ghosts, nor unto familiar spirits” (Leviticus 19:31), is the halakha there too that one is not flogged?

Rather, this is the difficulty for Rabbi Yonatan: The prohibition against overstepping the Shabbat limits is a prohibition that was given primarily as a warning of court-imposed capital punishment, i.e., a prohibition which, under certain conditions, is punishable by the death and not merely by lashes, as is the case with most prohibitions. In fact, the prohibition against carrying objects out to the public domain is derived from that same verse, and one who violates that prohibition is liable for execution by the court. And this principle applies: Any prohibition that was given primarily as a warning of court-imposed capital punishment one is not flogged, even if the death penalty does not apply in that particular case.

Rav Ashi said: Is it written in the Torah: No man shall carry out [yetzeh], indicating a prohibition against carrying objects from one domain to another on Shabbat? “No man shall go out [yetzeh]” is written. Indeed, according to its plain meaning, the verse deals exclusively with the prohibition of going beyond the Shabbat limits and not with the prohibition of carrying out. Everyone agrees that there is no death penalty administered by the court in overstepping the Shabbat limit.
MISHNA One may arrange upright boards [passin] around a well in the public domain in order to permit drawing water from the well on Shabbat. A well is usually at least four handbreadths wide and ten handbreadths deep. Therefore, it is considered a private domain, and it is prohibited to draw water from it on Shabbat, as that would constitute a violation of the prohibition to carry from a private domain into a public one. The Sages therefore instituted that a virtual partition may be built in the area surrounding the well, so that the enclosed area could be considered a private domain, thus permitting use of the well and carrying of the water within the partitioned area.

In this specific instance, the Sages demonstrated special leniency and did not require a proper partition to enclose the entire area. For this purpose, it suffices if there are four double posts [deyomadim] that look like eight single posts, i.e., four corner pieces, each comprised of two posts joined together at right angles; this is the statement of Rabbi Yehuda. Rabbi Meir says: There must be eight posts that look like twelve. How so? There must be four double posts, one in each corner, with four plain posts, one between each pair of double posts.

The height of the double posts must be at least ten handbreadths, their widths must be six handbreadths, and their thickness may be even a minimal amount. And between them, i.e., between the posts, there may be a gap the size of two teams [revakot] of three oxen each; this is the statement of Rabbi Meir.

Rabbi Yehuda disagrees and says: There may be a slightly larger gap, the size of two teams of four oxen each, and this gap is measured with the cows being tied together and not untied, and with the minimal space necessary for one team to be entering while the other one is leaving.

It is permitted to bring the posts closer to the well, provided that the enclosed area is large enough for a cow to stand with its head and the majority of its body inside the partitioned space while it drinks.

It is permitted

NOTES

Upright boards (passin) around a well – מחנהicipant. To-safit and other early commentaries ask: Why do they constitute a halakhically valid partition? They are mostly open and therefore should not create a partition. Their basic answer is that the leniency with regard to wells is a law that was transmitted to Moses from Sinai (see Ritva). Some answer that each side of the structure is considered individually. This way, each side seems to be an opening between two walls that has a side post (left) on each side and is therefore considered enclosed. When viewing all four sides in this manner, it is as though the well were surrounded by partitions on all sides (Hakham Tzvi).

Two teams – שתי רבות. In talmudic times, it was customary during the week to have a team of four oxen plow a field and then take them to the well to drink while still harnessed together. Consequently, the gap between the upright boards must be wide enough to accommodate one team of oxen entering the well area while another team of oxen exits, without knocking down the boards (Rabbeinu Yehonatan).