

NOTES

Cupboard of bricks – מגדל של לבנים: The Gemara is trying to find a case that does not involve dismantling, as building and dismantling are primary categories of labor that are prohibited on Shabbat by Torah law. The consensus appears to be that a temporary construction made of layers of bricks is not subject to the prohibition of dismantling. Nevertheless, the Sages prohibited the dismantling of such a structure on Shabbat. They permitted dismantling it only on a Festival because on a Festival the prohibition is less severe than on Shabbat, and they also wanted to promote rejoicing on the Festival (see Ritva).

HALAKHA

A house filled with produce...was then breached – בית שמיילאָהו פירות...ונפתח: If a house filled with produce was breached, one is permitted to remove the produce via the opening. Apparently, this also applies to a bona fide house (Magen Avraham), as the produce itself was never set-aside (muktze) (Shulhan Arukh, Oraḥ Hayyim 518:9).

רב ושמואל דאמרי תרוייהו: הכא במגדל של לבנים עסקינן; ורבי מאיר היא. דאמר: פוחת לכתחילה ונטל. דתנן: בית שמיילאָהו פירות, סתום ונפתח – נטל ממקום הפחת. רבי מאיר אומר: פוחת ונטל לכתחילה.

It was Rav and Shmuel who both said: Here, we are dealing with a cupboard made of bricks,ⁿ and the mishna is in accordance with the opinion of Rabbi Meir, who said: One may create a breach in a brick wall on Shabbat *ab initio*, and take produce from the other side. As we learned in a mishna: If a house filled with produce had been sealed and was then breached,^h one may take out produce from the place of the breach. Rabbi Meir disagrees and says: One may even create a breach in the wall of the house and take produce *ab initio*. Consequently, according to Rabbi Meir it is permissible to make a hole in the cupboard in order to remove the produce found inside.

והאמר רב נחמן בר אדא, אמר שמואל: באורא דליבני, הכא נמי – באורא דליבני.

The Gemara asks: Didn't Rav Nahman bar Adda say that Shmuel said that that very mishna cited as a proof is referring to a structure built from layers of bricks piled one atop the other without cement or mortar between them, in which case making a hole cannot be considered dismantling a bona fide structure? The Gemara answers: Here too, we are dealing with a cupboard made from layers of bricks.

והא אמר רבי זעירא: ביום טוב אמרו אבל לא בשבת! הכא נמי, ביום טוב.

The Gemara raises another difficulty: Didn't Rabbi Zeira say: The Sages in the aforementioned mishna, who discussed the breaching of a wall, spoke only with regard to a Festival, but not with regard to Shabbat? Therefore, it cannot be derived from that mishna that it is permitted to breach the cupboard on Shabbat in order to access the food inside. The Gemara answers: Here too, the mishna is referring to a case where the person needed an *eiruv* for a Festival but not for Shabbat.

אי הכי, היינו דקתני עלה, רבי אליעזר אומר: אם בעיר אבד – עירובו עירוב, ואם בשדה אבד – אין עירובו עירוב. ואי ביום טוב – מה לי עיר מה לי שדה?!

The Gemara asks: If it is so that the mishna is referring only to a Festival, there is a difficulty with that which was taught about it in the following *Tosefta*: Rabbi Eliezer says: If the key was lost in a city, his *eiruv* is a valid *eiruv*; and if it was lost in a field, his *eiruv* is not a valid *eiruv*, for within a city it is possible to carry the key by way of courtyards that have joined together in an *eiruv* or the like, but in a field it is impossible to carry it, as the field has the status of a *karmelit*. And if the mishna is referring to a Festival, what is the difference to me whether the key was lost in a city or a field? On a Festival there is no prohibition against carrying from a private to a public domain, and therefore if the key was lost even in a field, the *eiruv* should still be valid.

Perek III
Daf 35 Amud a

חסורי מיחסרא והכי קתני: נתנו במגדל, ונעל בפניו ואבד המפתח – הרי זה עירוב. במה דברים אמורים – ביום טוב, אבל בשבת – אין עירובו עירוב. נמצא המפתח, בין בעיר בין בשדה – אין עירובו עירוב. רבי אליעזר אומר: בעיר – עירובו עירוב, בשדה – אין עירובו עירוב.

The Gemara answers: The mishna is incomplete and it teaches the following: If one placed the *eiruv* in a cupboard and locked it, and the key is lost,^h it is nonetheless a valid *eiruv*. In what case is this statement said? On a Festival; however, on Shabbat, his *eiruv* is not a valid *eiruv*. If the key is found,^h whether in a city or in a field, his *eiruv* is not a valid *eiruv*. Rabbi Eliezer disagrees and says: If it is found in a city, his *eiruv* is a valid *eiruv*; but if it is found in a field, his *eiruv* is not a valid *eiruv*.

HALAKHA

If one placed the *eiruv* in a cupboard...and the key is lost – נתנו במגדל...ואבד המפתח: If one placed his *eiruv* in a cupboard or in a house and locked it and then lost the key before Shabbat began, and if it is impossible to remove the *eiruv* without performing a labor prohibited by Torah law, the *eiruv* is not a valid *eiruv*. Some authorities rule that if one

needs to perform only a labor prohibited by rabbinic decree to remove the *eiruv*, his *eiruv* is a valid *eiruv* (Magen Avraham; Taz). Other authorities dispute this ruling (Tur; Shulhan Arukh, Oraḥ Hayyim 394:3).

If the key is found – נמצא המפתח: If the key to the cup-

board where the *eiruv* is located was misplaced, and it was then found in a place where one can carry it without transgressing a Torah prohibition, the *eiruv* is valid. This is the ruling even though one did not have the key during the twilight period (see Shulhan Arukh HaRav; Shulhan Arukh, Oraḥ Hayyim 394:3).

His *eiruv* is not an *eiruv*, in accordance with the opinion of the Rabbis – אין עירוב עירוב כרבנן – Rabbi Zerahya HaLevi, Rabbeinu Yehonatan, and other commentaries explain that the Rabbis in this context are those who disagree with Rabbi Shimon with regard to carrying in a field. In pressing circumstances, Rabbi Shimon permits transporting an object by passing it from one person to another down a line of people. Therefore, the Gemara emphasizes that the *halakha* is not in accordance with Rabbi Shimon in this regard.

Movement and vibrations – היסט ורעדה: There are many details of these laws, and they are primarily addressed in tractate *Zavim*. The main point is the distinction between moving an object and merely causing it to vibrate. It would appear that when an object vibrates, its location does not noticeably change.

HALAKHA

ניסט – נקט Moved by his direct force and by vibrations – מוקמת כחו ומוקמת רעדה: When a utensil is attached to the ground and other utensils are stacked on top of it, if the bottom utensil was moved by a *zav* and the stack of utensils fell off, they are ritually impure because they were moved by a *zav*. However, if the upper utensils only fell because the bottom utensil was caused to vibrate, but not actually move, they are not ritually impure (Rambam *Sefer Tahara, Hilkhot Metamei Mishkav UMoshav* 9:1).

בעיר עירובו עירוב – כרבי שמעון, דאמר: אחד גגות ואחד חצירות ואחד קרפופות רשות אחת הן לכלים ששבתו בתוכן. בשדה אין עירובו עירוב – כרבנן.

The Gemara now explains the difference: If the key is found in a city, his *eiruv* is a valid *eiruv* in accordance with the opinion of Rabbi Shimon, who said: **Roofs, courtyards, and enclosed fields [karpeifot] are all one domain with regard to utensils that began Shabbat in them.** Accordingly, a utensil that was left on a roof at the beginning of Shabbat may be carried into a courtyard or a *karpef*. It is possible to transfer anything located in a city from one place to another in a similar manner. If, however, the key is found in a field, his *eiruv* is not a valid *eiruv*, in accordance with the opinion of the Rabbis,^N due to the prohibition to carry in a *karmelit*. Although carrying there is merely a *shevut*, the *eiruv* is not valid.

רבה ורב יוסף דאמרי תרוניהו: הכא במגדל של עץ עסקינן; דמר סבר: כלי הוא, ואין בגן בכלים ואין שבתיה בכלים. ומר סבר: אהל הוא.

The discussion above constitutes one understanding of the mishna. Rabba and Rav Yosef, however, both said: **Here, we are dealing with a wooden cupboard, and the *tanna'im* disagree with regard to the following point: The first, anonymous Sage, who rules that the *eiruv* is valid, holds that the cupboard is a utensil, and that there is no prohibited labor of building utensils, and similarly, there is no dismantling of utensils.** Since dismantling a utensil is not included in the prohibited labor of dismantling, one may make a hole in the cupboard in order to access the food used for the *eiruv*. **And the other Sage, Rabbi Eliezer, who invalidates the *eiruv*, holds that the cupboard is a tent.** A wooden implement of such a large size is no longer classified as a utensil; rather, it is considered a building, and therefore it is subject to the prohibitions against building and dismantling on Shabbat.

ובפלוגתא דהני תנאי; דתנן: הקיש על גבי שידה תיבה ומגדל – טמאין. רבי נחמיה ורבי שמעון מטריין.

And their dispute is parallel to the dispute between these *tanna'im*, as we learned in a mishna with regard to the ritual impurity of a *zav*: One of the unique laws of a *zav* is that he imparts impurity to an object simply by moving it, even if he does not touch it directly. If a *zav* knocked on a carriage, crate, or cupboard, even if he did not actually come into direct contact with them, they are nonetheless ritually impure because he caused them to move when he struck them. **Rabbi Neḥemya and Rabbi Shimon disagree and render them pure.**

מאי לאו בהא קמפלגי: מר סבר כלי הוא, ומר סבר: אהל הוא?

What, are they not disagreeing about this point: The first Sage holds that a carriage, crate, or cupboard is categorized as a utensil, and therefore it contracts ritual impurity when a *zav* causes it to move; and the other Sage, Rabbi Neḥemya and Rabbi Shimon, holds that it is a tent, and a building does not contract ritual impurity in any way from a *zav*?

אמר אביי: והיסקרא? והתנא: אהל וניסט – טמא, כלי ואינו ניסט – טהור. וקתני סיפא: ואם היו ניסוטין – טמאים. זה הכלל: ניסט מוקמת כחו – טמא, מוקמת רעדה – טהור!

Abaye said in refutation of this proof: **And do you think that this is a reasonable explanation of the mishna? Wasn't it taught in a *baraita*:** If a *zav* shook a real tent, and it moved, it is ritually impure; and if he shook a utensil and it did not move, it is ritually pure? This indicates that the critical factor is not whether the article is classified as a tent or as a utensil but whether or not it actually moves when shaken. Furthermore, it was taught in the latter clause of that *baraita*: **And if they moved, they are ritually impure, and this is the principle:** If a utensil or a tent moved due to the direct force of the *zav*, it is ritually impure. But if it moved due to vibrations,^{NH} e.g., if the *zav* knocked on the floor or on the platform upon which the object is located, and the vibrations of the floor or the platform caused the object to move, it is ritually pure, as it was not moved by the direct force of the *zav*. Once again, the determining factor is not the object's classification as a tent or a utensil but whether it was actually moved by the *zav*.

אלא אמר אביי: דכולי עלמא: היסט מוקמת כחו – טמא, מוקמת רעדה – טהור. והכא ברעדה מוקמת כחו עסקינן. ובהא קא מיפלגי: דמר סבר: הוי היסט, ומר סבר: לא הוי היסט.

Rather, Abaye said that the dispute between the first *tanna* and Rabbi Neḥemya and Rabbi Shimon should be understood as follows: **All agree that movement due to the direct force of the *zav* causes the object to become ritually impure, whether it is a tent or a utensil. Conversely, if the movement was due to vibrations of the floor or base, it is ritually pure. And here, we are dealing with a case where the object vibrated because of the direct force of the *zav*, i.e., where he banged upon the object itself, causing it to vibrate but not to move. And the *tanna'im* disagree with regard to the following point: The first Sage holds that this, too, is considered movement; and the other Sage, Rabbi Neḥemya and Rabbi Shimon, holds that vibration is not considered movement.** Therefore, Abaye rejects Rabba and Rav Yosef's proof for their explanation of the mishna.

HALAKHA

A lock tied with a leather strap – מְנַעוּל וְקִטְרִי בְּמִתְנָא – If one put his eiruv in a cupboard that was then locked with a knotted rope, since he can bring a knife and cut the rope, his eiruv is valid, in accordance with the opinions of Abaye and Rava (Shulḥan Arukh, Oraḥ Ḥayyim 409:4).

Utensils that may be moved on Shabbat – כְּלִים: All utensils, even ones generally used for purposes prohibited on Shabbat, may be carried on Shabbat if one needs them in order to perform a permitted act or if one needs to use the place in which they are located. However, if one is generally careful not to handle the utensil for anything other than its primary purpose due to its importance and the concern for possible monetary loss, one may not move it on Shabbat, in accordance with the opinion of Rabbi Yosei (Shulḥan Arukh, Oraḥ Ḥayyim 308:1).

Rolled beyond the Shabbat limit – נִתְגַּלְגַּל חוּץ לְתַחוּם: If one's eiruv rolled beyond his Shabbat limit but remained within four cubits of the boundary, his eiruv is valid. If, however, it rolled more than four cubits past the limit, his eiruv is invalid, as stated in the mishna and in accordance with Rava's explanation (Shulḥan Arukh, Oraḥ Ḥayyim 409:5).

If the eiruv was lost or burnt – אֶבֶד הָעִירוּב אוֹ נִשְׂרַף: If one's eiruv was lost or burnt prior to the onset of Shabbat, it is not a valid eiruv. However, if this happened after nightfall, it is a valid eiruv. In a case of doubt, it is an eiruv, in accordance with the opinions of Rabbi Yosei, Rabbi Shimon, and other Sages. A questionable eiruv is valid only if it is known with certainty that it was originally valid when it was placed in its spot. If a doubt arose at the outset, at the time of the placement of the eiruv, it is invalid (Shulḥan Arukh, Oraḥ Ḥayyim 409:6).

NOTES

A knife is required to cut it – בָּעֵי סְכִינָא לְמִיפְסָקִיָּה: The question is raised: If indeed the halakha is in accordance with Rabbi Yehuda HaNasi's opinion that there is no concern with regard to rabbinic prohibitions during the twilight period before Shabbat, carrying the knife should be permitted, as even Rabbi Neḥemya agrees that it is merely a rabbinic prohibition. If Rabbi Yehuda HaNasi's opinion is not accepted, cutting the lock with a knife should be prohibited according to everyone, as that act itself constitutes a violation of a rabbinic decree. Rabbi Ovadya of Bartenura explains that Rabbi Yehuda HaNasi permits only an action that violates one rabbinic prohibition during twilight; if two rabbinic prohibitions are involved, he too prohibits the activity.

A donkey driver and a camel driver – חֲמֵר גָּמֶל: The meaning of this expression, which appears several times in this tractate, derives from the differences in leading camels and donkeys. A donkey driver walks behind his donkey, every so often encouraging him from the rear, as a donkey is not generally accustomed to being pulled from the front. The opposite is true for a camel: One leads the camel by walking in front of it and pulling it. Consequently, the expression that a person must be both a donkey driver and a camel driver means that he must be in two places at once, both in front of and behind a particular object, and he is unable to move. A different interpretation of the expression is offered by the Arukh: One must pull a donkey and lead a camel when neither animal wants to move.

וּמִתְנִיתִין בְּמֵאֵי מוֹקְמִין לָהּ? אַבְיִי וְרַבָּא דְאָמְרֵי תְרוּוּיָהּ: בְּמִנְעוּל וְקִטְרִי בְּמִתְנָא עֲסָקִין, וּבְעֵי סְכִינָא לְמִיפְסָקִיָּה.

תְּנָא קָמָא סָבַר לָהּ כְּרַבֵּי יוֹסֵי, דְאָמַר: כָּל הַכְּלִים נִיטְלִין בְּשַׁבָּת, חוּץ מִמַּסָּר הַגְּדוּל וְיִתְד שֶׁל מַחְרִישָׁה.

וְרַבֵּי אֱלִיעֶזֶר סָבַר לָהּ כְּרַבֵּי נַחֲמִיָּה, דְאָמַר: אֶפְיִלוּ טְלִיתָ, אֶפְיִלוּ תְרוּדָה – אֵין נִיטְלִין אֶלָּא לְעוֹרְךָ תִּשְׁמִישָׁן.

מִתְנִי' נִתְגַּלְגַּל חוּץ לְתַחוּם, נִפְלַע עָלָיו גֶּל, אוֹ נִשְׂרַף, תְּרוּמָה וְנִטְמָאתָ; מִבְּעוֹד יוֹם – אֵינוֹ עִירוּב, מִשְׁחָשִׁיכָה – הָרִי זֶה עִירוּב.

אִם סָפֵק, רַבֵּי מֵאִיר וְרַבֵּי יְהוּדָה אוֹמְרִים: הָרִי זֶה חֲמֵר גָּמֶל.

רַבֵּי יוֹסֵי וְרַבֵּי שְׁמַעוֹן אוֹמְרִים: סָפֵק עִירוּב כְּשֵׁר. אָמַר רַבֵּי יוֹסֵי: אֲבָטוּלְמוֹס הָעֵיד מִשּׁוּם חֲמִשָּׁה וְקָנִים עַל סָפֵק עִירוּב שְׁכָשֵׁר.

גַּמֵּ' "נִתְגַּלְגַּל חוּץ לְתַחוּם". אָמַר רַבָּא: לֹא שָׂנוּ אֶלָּא שֶׁנִּתְגַּלְגַּל חוּץ לְאַרְבַּע אַמּוֹת, אֶבֶל לְתוֹךְ אַרְבַּע אַמּוֹת – הַנּוֹתֵן עִירוּבוֹ יֵשׁ לוֹ אַרְבַּע אַמּוֹת.

The Gemara therefore proceeds to ask: If so, how is the mishna with regard to eiruv to be interpreted? The Gemara answers: Abaye and Rava both said: We are dealing here with a lock that is tied with a leather strap,^h and a knife is required to cut itⁿ if there is no key.

The anonymous first tanna holds in accordance with the opinion of Rabbi Yosei, who said: All utensils may be moved on Shabbat, except for a large saw and the blade of a plow.^h Consequently, one may take a knife, cut the strap, and remove his eiruv from the cupboard.

And Rabbi Eliezer holds in accordance with the opinion of Rabbi Neḥemya, who said: Even a cloak, and even a spoon, which are certainly used only for activities permitted on Shabbat, may be moved on Shabbat only for the purpose of their ordinary use. The same applies to a knife, which may be moved only in order to cut food, but not for any other purpose. Consequently, one cannot cut the strap around the lock of the cupboard, and therefore his eiruv is invalid unless the key is located in town and he can transport it via courtyards.

MISHNA If one's eiruv rolled beyond the Shabbat limit,^h and he no longer has access to his eiruv since he may not go beyond his limit, or if a pile of stones fell on it, or if it was burnt,^h or if the eiruv was teruma and it became ritually impure; if any of these occurrences took place while it was still day, prior to the onset of Shabbat, it is not a valid eiruv, since one did not have an eiruv at twilight, which is the time one's Shabbat residence is established. However, if any of these occurred after dark, when it was already Shabbat, it is a valid eiruv, as it was intact and accessible at the time one's Shabbat residence is determined.

If the matter is in doubt, i.e., if he does not know when one of the aforementioned incidents occurred, Rabbi Meir and Rabbi Yehuda say: This person is in the position of both a donkey driver, who must prod the animal from behind, and a camel driver,ⁿ who must lead the animal from the front, i.e., he is a person who is pulled in two opposite directions. Due to the uncertainty concerning his Shabbat border, he must act stringently, as though his resting place were both in his town and at the location where he placed the eiruv. He must restrict his Shabbat movement to those areas that are within two thousand cubits of both locations.

Rabbi Yosei and Rabbi Shimon disagree and say: An eiruv whose validity is in doubt is nevertheless valid. Rav Yosei said: The Sage Avtolemos^p testified in the name of five Elders that an eiruv whose validity is in doubt is valid.

GEMARA We learned in the mishna: If one's eiruv rolled beyond the Shabbat limit prior to the onset of Shabbat, it is not a valid eiruv. Rava said: They only taught this in a case where one established his eiruv at the edge of his town's Shabbat limit and the eiruv rolled more than four cubits outside that limit; however, if it remained within four cubits of the Shabbat limit, it is a valid eiruv. The principle is that one who places his eiruv in a particular location has four cubits around it, since he has established his Shabbat residence there.

PERSONALITIES

Avtolemos – אֲבָטוּלְמוֹס: Almost nothing is known about Avtolemos. He was one of Rabbi Yosei's teachers, and Rabbi Yosei quotes his statements in the name of five Elders with regard to a variety of issues.

Reuven, who was granted special permission by the Sages to dress and cut his hair in the gentile manner to facilitate his efforts on behalf of the Jewish people, as he had intimate ties with the Roman government. Avtolemos may be the son of Rabbi Reuven Ha'ltztrobuli, who also fulfilled a similar function in Rome.

Some commentaries identify Avtolemos with Avtolemos ben

If a pile of stones fell on the *eiruv* – נפל עליו גל: If a pile of stones fell on the *eiruv*, but one can still access it by moving the stones, it is a valid *eiruv*. However, if one must perform a labor prohibited by Torah law in order to access his *eiruv*, the *eiruv* is invalid (*Shulhan Arukh, Orach Hayyim* 394:2).

”נפל עליו גל וכו” קא סלקא דעתך דאי בעי מצוי שקיל ליה.

The mishna continues: If a pile of stones fell on the *eiruv*^H prior to the onset of Shabbat, it is not a valid *eiruv*. It might enter your mind to say that the mishna is referring to a case where if one wanted he could take the *eiruv*, i.e., where it is physically possible to clear the stones and remove the *eiruv* from underneath them. The only reason he cannot do so is because of the rabbinic prohibition to handle items that are set-aside, such as stones, on Shabbat.

לימא מתניתין דלא ברבי דאי ברבי – האמר: כל דבר שהוא משום שבות – לא גורו עליו בין השמשות!

If so, let us say that the mishna is not in accordance with the opinion of Rabbi Yehuda HaNasi. As, if you say that it is in accordance with the opinion of Rabbi Yehuda HaNasi, there is a difficulty: Didn't he say that with regard to anything prohibited due to rabbinic decree, they did not issue the decree to apply during twilight? The prohibition to handle items that are set-aside is also a rabbinic decree, and therefore, according to Rabbi Yehuda HaNasi, since the *eiruv* was accessible at twilight, it should be valid.

איילו תימא ברבי לא צריכא, דבעי מרא וחצינא.

The Gemara rejects this argument: Even if you say that the mishna is in accordance with the opinion of Rabbi Yehuda HaNasi, we can say that this ruling was necessary only in a case where a hoe or a spade would be required in order to remove the *eiruv* from under the stones, i.e., one would have to dig, which is a Shabbat labor prohibited by Torah law, not only by rabbinic decree.

וצריכי דאי תנא "נתגלגל" – משום דליתא גביה. אבל נפל עליו גל, דאיתיה גביה – אימא ליהוי עירוב.

The Gemara comments: And both rulings, the ruling concerning an *eiruv* that rolled beyond the Shabbat limit and the ruling concerning an *eiruv* that became buried under a pile of rocks, are necessary. As, if the mishna had only taught the case of the *eiruv* that rolled away, we might have said that the *eiruv* is invalid because it is not near him, but if a pile of rocks fell on the *eiruv*, since it is near him, you might say that it should be a valid *eiruv*, as one does not actually have to eat the *eiruv*.

ואי תנא "נפל עליו גל" – משום דמיכסי, אבל נתגלגל, זימנין דאתי זיקא ומייתי ליה, אימא ליהוי עירוב – צריכא.

And conversely, if the mishna had only taught the case where a pile of rocks fell on the *eiruv*, we might have said that the *eiruv* is invalid because it is covered, but in the case where it rolled away, since sometimes a wind comes and brings it back, you might say that it should be a valid *eiruv*. Therefore, it was necessary to teach both cases.

”או נשרף, תרומה ונטמאת” למה לי? תנא נשרף –

The mishna further states: Or if the *eiruv* was burnt, or if the *eiruv* was *teruma* that became ritually impure before Shabbat, it is not a valid *eiruv*. The Gemara asks: Why do I need to teach these two cases? The essential point of both cases is the same: The *eiruv* is no longer fit to be eaten. The Gemara answers: The mishna taught the case where the *eiruv* was burnt

Perek III
Daf 35 Amud b

להודיעך כחו דרבי יוסי. תנא תרומה ונטמאת – להודיעך כחו דרבי מאיר.

to convey the far-reaching nature of Rabbi Yosei's statement, as he is lenient in a case of uncertainty whether the *eiruv* was burnt the previous day or only after nightfall, even though the *eiruv* is now entirely destroyed. Additionally, the mishna taught the case of *teruma* that became ritually impure to convey the far-reaching nature of Rabbi Meir's statement, as he is stringent even though the *teruma* itself is still present, and there is only an uncertainty about when it became impure.

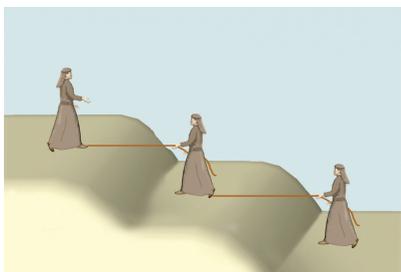
HALAKHA

A ritually impure person descended to immerse in a ritual bath – **טָמֵא שְׂרִיד לְטָבֹל** – If a ritually impure person descended to immerse himself, and a doubt arose with regard to his immersion, he is impure, since he retains his previous status of impurity until his status of purity has been clearly established. This ruling is in accordance with the opinion of Rabbi Yosei (*Be'er HaGola*). Some authorities maintain that this only applies to someone who was ritually impure by Torah law, but one who was ritually impure by rabbinic decree is presumed to have become pure, in accordance with the unattributed mishna and the Rambam's ruling (Vilna Gaon; *Shulhan Arukh, Yoreh De'a* 201:7).

NOTES

There is doubt whether he immersed – סָפֵק טָבַל: As will be explained to a certain extent below (36a, p. 188), there are other aspects to this issue that merit clarification and elucidation beyond the discussion in the Gemara in this context. The primary issue is the strength of the legal presumption that everything retains its previous legal state until it is known with certainty that it is no longer in that state. In the case of an impure person who immersed himself, the presumption is one of ritual impurity. As long as he cannot prove that he immersed and purified himself, he retains his impure status. However, the application of these principles to the discussion with regard to *eiruv* is less clear, as there appear to be differing legal presumptions that would lead to different halakhic conclusions.

We pierce mountains – מִקְדְּרֵין בְּהָרִים: Thinking of mountains as if they were pierced allows measurements to be taken along a horizontal plane, ignoring the differences in elevation, and not along the ground. This method of measurement may not be used for measurements related to Torah law, e.g., measuring the area defined by the Torah as the outskirts of a city of refuge, which provides a safe haven for unwitting killers, and measuring to determine which town is closest to a corpse found in an open space and is therefore responsible to perform the rite of the heifer whose neck is broken [*egla arufa*]. In such cases, precise measurement along the ground is required.



People measuring the Shabbat limit while ignoring the difference in elevation

וְסָבַר רַבִּי מֵאִיר סְפִיקָא לְחוּמְרָא!
וְהִתְנַן: טָמֵא שְׂרִיד לְטָבֹל, סָפֵק טָבַל
סָפֵק לֹא טָבַל, וְאִפְּלוּ טָבַל, סָפֵק
טָבַל בְּאַרְבַּעִים סָאָה סָפֵק לֹא טָבַל
בְּאַרְבַּעִים סָאָה; וְכֵן שְׁנֵי מִקְוֹאוֹת,
בְּאַחַת יֵשׁ בָּהּ אַרְבַּעִים סָאָה וּבְאַחַת
אֵין בָּהּ אַרְבַּעִים סָאָה, וְטָבַל בְּאַחַת
מֵהֶן וְאֵינוֹ יוֹדֵעַ בְּאַיְזָה מֵהֶן טָבַל –
סְפִיקוֹ טָמֵא.

בְּמָה דְּבָרִים אֲמֹרִים – בְּטוּמְאָה
חִמּוּדָה.

אֲבָל בְּטוּמְאָה קְלָה, כְּגוֹן שְׂאֵבֶל
אוֹכְלֵין טָמְאִין וְשִׁתָּה מִשְׁקִין טָמְאִין,
וְהִבָּא רֵאשׁוֹ וְרוּבוֹ בְּמִים שְׂאוּבִין, אוֹ
שְׁנַפְלוֹ עַל רֵאשׁוֹ וְעַל רוּבוֹ שְׁלִישָׁה לוּגִין
מִים שְׂאוּבִין; וְיָרַד לְטָבֹל, סָפֵק טָבַל
סָפֵק לֹא טָבַל, וְאִפְּלוּ טָבַל – סָפֵק
טָבַל בְּאַרְבַּעִים סָאָה סָפֵק לֹא טָבַל
בְּאַרְבַּעִים סָאָה. וְכֵן שְׁנֵי מִקְוֹאוֹת,
בְּאַחַת יֵשׁ בָּהּ אַרְבַּעִים סָאָה וּבְאַחַת
אֵין בָּהּ אַרְבַּעִים סָאָה, וְטָבַל בְּאַחַת
מֵהֶן וְאֵינוֹ יוֹדֵעַ בְּאַיְזָה מֵהֶן טָבַל –
סְפִיקוֹ טָהוֹר.

רַבִּי יוֹסִי מִטָּמֵא.

קִסְבַּר רַבִּי מֵאִיר: תְּחוּמֵין דְּאוּרֵיִיתָא
מִנְהוּ.

וְסָבַר רַבִּי מֵאִיר תְּחוּמֵין דְּאוּרֵיִיתָא!
וְהָא תַּנּוּ: אִם אֵין יָכוֹל לְהַבְלִיעוּ, זוּ
אָמַר רַבִּי דוֹסְתָאֵי בַר יֵנְאִי מְשׁוּם רַבִּי
מֵאִיר: שְׂמַעְתִּי שְׂמַקְדְּרִין בְּהָרִים.

וְאֵי סְלִקָא דְּעֵתְךָ תְּחוּמֵין דְּאוּרֵיִיתָא –
מִי מְקַדְרִין? וְהָא אָמַר רַב נַחֲמָן, אָמַר
רַבָּה בַר אֲבוּהַ: אֵין מְקַדְרִין לֹא בְּעָרֵי
מִקְלָט וְלֹא בְּעִגְלָה עֲרוּפָה – מִפְּנֵי שְׁהֵן
שְׁל תוֹרָה.

The Gemara questions the mishna's ruling itself: Does Rabbi Meir really hold that in cases of doubt one must be stringent? Didn't we learn the following in a mishna: If a ritually impure person descended to immerse in a ritual bath,^h and there is doubt whether he actually immersedⁿ or he did not immerse; and even if he certainly immersed, there is doubt whether he immersed in a ritual bath containing forty *se'a* of water, the minimal amount of water necessary for the ritual bath to be valid, or he did not immerse in forty *se'a*; and similarly, if there are two adjacent ritual baths, one of which has forty *se'a* of water in it and is therefore valid, and one of which does not have forty *se'a* of water in it, and he immersed in one of them, but he does not know in which of them he immersed; in each of these cases, owing to one's doubt, he remains ritually impure?

In what case is this statement, which maintains that in cases of doubt one is considered impure, said? It is said with regard to severe forms of ritual impurity, i.e., those imparted by a primary source of ritual impurity.

However, with regard to lenient forms of ritual impurity imposed only by rabbinic decree, such as one who ate half a half-loaf of impure foods; and similarly, one who drank impure liquids; and one whose head and most of his body came under drawn water, as opposed to spring water or rainwater, in which case the Sages decreed that person to be ritually impure; or if three *log* of drawn water fell on one's head and most of his body, in which case the Sages also decreed that person to be impure; and if in any of these cases one descended to immerse himself in a ritual bath to purify himself of the rabbinically decreed impurity, and there is doubt whether he actually immersed or he did not immerse; and even if he certainly immersed, there is doubt whether he immersed in forty *se'a* of water or he did not immerse in forty *se'a*; and similarly, if there were two ritual baths, one of which has forty *se'a* of water in it and one of which does not have forty *se'a* of water in it, and he immersed in one of them, but he does not know in which of them he immersed; in all of these cases, owing to his doubt, he is ritually pure.

Rabbi Yosei disagrees and renders him ritually impure. In any event, it is clear that, according to the unattributed mishna, which is generally presumed to reflect the opinion of Rabbi Meir, the *halakha* is lenient in cases of doubt relating to ritual impurity that is due to rabbinic decree. Why, then, doesn't Rabbi Meir agree that we should be lenient in cases of doubt relating to an *eiruv*, which is also of rabbinic origin?

The Gemara answers: Rabbi Meir holds that the prohibitions relating to Shabbat limits are prohibited by Torah law, and therefore the uncertainties in the mishna involve a Torah prohibition, with regard to which one may not be lenient.

The Gemara asks: Does Rabbi Meir really hold that the prohibitions of Shabbat limits are prohibited by Torah law? Didn't we learn in a mishna: When taking measurements related to Shabbat boundaries, if a fifty-cubit rope is held at either end by two people, the distance between them is deemed to be fifty cubits, even if the distance on the ground is greater, owing to inclines and depressions? If there is a hill or incline between them that cannot be swallowed by the fifty-cubit measuring rope, so that the usual mode of measurement cannot be used, in this situation, Rabbi Dostai said in the name of Rabbi Meir: I heard that we pierce mountains,ⁿ i.e., we measure the distance as if there were a hole from one side of the hill to the other, so that in effect we measure only the horizontal distance and ignore the differences in elevation.

And if it should enter your mind to say that the prohibitions relating to Shabbat limits are prohibited by Torah law, would it be permitted to pierce the mountains? Didn't Rav Nahman say that Rabba bar Avuh said: We may not pierce mountains when measuring the boundaries of cities of refuge nor when measuring which city is closest to a corpse and is therefore obligated to perform the rite of the heifer whose neck is broken, because those laws are from the Torah; therefore, a more stringent policy is used to measure the distances precisely?

If one touched a person who may be dead – נגע בקפוק מת: If one touched another person at night and does not know whether that person was alive or dead, and in the morning that person was found dead, the following distinction applies: If the doubt arose in a private domain, the person is ritually impure, in accordance with the opinion of the Rabbis. If the doubt arose in a public domain, he is ritually pure (Rambam *Sefer Tahara, Hilkhot She'ar Avot Ha-Tumot* 18:14).

NOTES

A creeping animal was on the *teruma* – היתה עליה שרץ: The commentaries question Rashi's explanation that there was a dead creeping animal [*sherez*] on the *teruma* throughout the twilight period. If so, what did Rabbi Yirmeya mean to say? The Rashba explains that there was a creeping animal, which was eventually discovered to be dead, on the *teruma*; however, it is not clear at what point it died.

Two sets of witnesses – שתי כיתי עדים: This issue is the topic of much discussion. The essential principle is that when two sets of witnesses give conflicting testimony, the matter is considered to be in doubt, and there is no room to take into consideration the preexisting circumstances or presumptions of legal status. This is unlike other circumstances of doubt, where in the absence of witnesses, the situation may be judged on the basis of the current state of affairs or on the basis of a preexisting legal status (see Rashba).

לא קשיא: הא – דידיה, הא – דרביה. דיקא נמי, דקתני: "בזו אמר רבי דוסתאי בר ינאי משום רבי מאיר ששמעתי שמקדרין בהרים" – שמע מינה.

The Gemara answers: This is **not difficult**, as there is no contradiction between the two statements. **This statement, according to which Shabbat limits are by Torah law, is his; that statement, in which he is lenient, is his teacher's.** The language of the mishna is also precise according to this explanation, as we learned: **In this case, Rabbi Dostai bar Yannai said in the name of Rabbi Meir: I have heard that we pierce mountains.** This formulation indicates that Rabbi Meir did not state his own opinion. Rather, he transmitted a ruling that he had heard from his teacher, even though he did not agree with it himself. The Gemara concludes: Indeed, **conclude from this** that this resolution is correct.

ורמי דאורייתא אדאורייתא לרבי מאיר.

The Gemara continues: There is still room to **raise a contradiction** between one ruling with regard to **Torah law** and another ruling with regard to **Torah law, according to the opinion of Rabbi Meir.**

דתני: נגע באחד בלילה, ואינו יודע אם חי אם מת, ולמחר השכים ומצאו מת, רבי מאיר מטהר וחכמים מטמאין, שכל הטמאות כשעת מצאתן!

As we learned in a mishna: If one **touched one** other person **at night, and he does not know whether** the person he touched was **alive or dead,^h and the following day he arose and found him dead**, and he is in doubt as to whether or not he contracted ritual impurity as a result of having come into contact with a corpse, **Rabbi Meir renders him ritually pure.** It is assumed that the deceased was still alive until the point that it is known with certainty that he is dead. **And the Rabbis render him ritually impure because** it is assumed that **all ritually impure items had already been in the same state as they were at the time they were discovered.** Just as the deceased was found dead in the morning, so too, it may be presumed that he was dead when he was touched in the middle of the night. Therefore, Rabbi Meir is lenient even with respect to an uncertainty relating to a Torah law, and he holds that a person is presumed to be alive until it is known with certainty that he died. Why, then, is he stringent concerning doubt as to whether the *eiruv* had already become impure on the previous day or only after nightfall? Here too, one should assume that the *eiruv* is ritually pure until he knows with certainty that it became defiled, and so the *eiruv* should be valid, even if Shabbat limits are considered Torah law.

אמר רבי ירמיה: משנתנו שהיה עליה שרץ כל בין השמשות. אי הוי – בהא לימא רבי יוסי ספק עירוב בשיר?

The Gemara answers: **Rabbi Yirmeya said: The mishna** is referring to a case where a **creeping animal that imparts ritual impurity was on the *teruma*ⁿ** that was used to establish the *eiruv* **for the entire twilight** period. The Gemara asks: **If so, in that case, would Rabbi Yosei say that an *eiruv* whose validity is in doubt is valid?** There is no uncertainty in this case.

רבה ורב יוסף דאמרי תרוניהו: הכא בשתי כיתי עדים עסקינן, אחת אומרת: מבעוד יום נטמאה, ואחת אומרת: משחשיכה.

It was **Rabba and Rav Yosef who both said:** The doubt here does not result from the facts of the case themselves, but from conflicting testimonies and an inability to decide between them. **Here, we are dealing with two sets of witnesses,ⁿ one of which says:** The *teruma* **became impure while it was still day, before the onset of Shabbat; and one of which says:** The *teruma* **became impure only after nightfall.**

Perek III
Daf 36 Amud a

רבא אמר: התם תרי תוקי לקולא, והכא חדא תוקה לקולא.

Rava said: That is not the way to resolve the apparent contradiction between the two rulings; rather, there is a difference between the cases with regard to the ritual impurity itself: **There,** with regard to touching a person who was later found dead, there are **two presumptions supporting leniency,** whereas **here,** with respect to the *teruma* being used for an *eiruv*, there is **only one presumption supporting leniency.** How so? With regard to one who touched another person who was later found to be dead, there are two presumptions of purity: Firstly, the person who was found dead was previously alive, and the presumption is that he remained in that state until we know with certainty that he was dead. Secondly, the one who touched that person was previously pure, and he remains in that presumptive state until we know with certainty that he became impure. Therefore, Rabbi Meir had adequate reason to be lenient. However, with regard to *teruma*, only one presumption exists, that the *teruma* was previously pure and presumably remained in that state until proven otherwise. Since there is no additional presumption, Rabbi Meir ruled stringently.