כָּל שֶׁכֵּן דְּהָווּ לְהוּ נוֹלָד דַּאֲסִירִי!

The Gemara raises a difficulty: If the water was previously not in its current state, **all the more so should it be** considered as something that **came into being** [*nolad*] on the Festival, and consequently it is **prohibited** to carry it. Something that came into being or assumed its present form on Shabbat or Festivals is considered set-aside [*muktze*] and may not be handled on Shabbat or Festivals.

אֶלָּא מַיָּא בְּעָבִים מֵינַד נָיְידִי. הָשְׁתָּא דְּאָתֵית לְהָכִי – אוֹקְיָינוֹס נַמִּי לָא לִיקְשׁוּ לָךְ, מַיָּא בְּאוֹקְיָינוֹס נַמִּי מֵינַד נָיְידִי. וְתַנְיָא: נְהָרוֹת הַמּוֹשְׁכִין וּמַעְיָינוֹת הַנּוֹבְעִין – הֲרֵי הֵן כְּרַגְלֵי כָּל אָדָם.

Rather, we should say: **The water in clouds** is **in** constant **motion** and therefore does not acquire residence there. The Gemara comments: **Now that you have arrived at this** answer, **the ocean should also not be difficult for you,** as the **water in the ocean is also in** constant **motion. And it was taught** in a *baraita*: **Flowing rivers and streaming springs are like the feet of all people,** as their waters do not acquire residence in any particular place.[H] The same law also applies to clouds and seas.

אָמַר רַבִּי יַעֲקֹב בַּר אִידִי, אָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: הֲלָכָה כְּרַבִּי יוֹחָנָן בֶּן נוּרִי. אֲמַר לֵיהּ רַבִּי זֵירָא לְרַבִּי יַעֲקֹב בַּר אִידִי: בְּפֵירוּשׁ שְׁמִיעַ לָךְ, אוֹ מִכְּלָלָא שְׁמִיעַ לָךְ? אֲמַר לֵיהּ: בְּפֵירוּשׁ שְׁמִיעַ לִי.

Rabbi Ya'akov bar Idi said that **Rabbi Yehoshua ben Levi said: The *halakha* is in accordance with** the opinion of **Rabbi Yoḥanan ben Nuri,**[N] that one who was asleep at the beginning of Shabbat may travel two thousand cubits in every direction. **Rabbi Zeira said to Rabbi Ya'akov bar Idi:** Did **you hear** this *halakha* **explicitly** from Rabbi Yehoshua ben Levi, **or did you understand it by inference** from some other ruling that he issued? Rabbi Ya'akov bar Idi **said to him: I heard** it **explicitly** from him.

מַאי כְּלָלָא? דְּאָמַר רַבִּי יְהוֹשֻׁעַ בֶּן לֵוִי: הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּעֵירוּב.

The Gemara asks: From **what** other teaching could this ruling **be inferred?** The Gemara explains: From that **which Rabbi Yehoshua ben Levi said: The *halakha* is in accordance with the lenient** opinion **with regard to an *eiruv*.**[HN]

וְתַרְתֵּי לָמָּה לִי?

The Gemara asks: **Why do I need both?** Why was it necessary for Rabbi Yehoshua ben Levi to state both the general ruling that the *halakha* is in accordance with the lenient opinion with regard to an *eiruv*, and also the specific ruling that the *halakha* is in accordance with the opinion of Rabbi Yoḥanan ben Nuri on this issue?

אָמַר רַבִּי זֵירָא: צְרִיכִי, דְּאִי אַשְׁמְעִינַן הֲלָכָה כְּרַבִּי יוֹחָנָן בֶּן נוּרִי – הֲוָה אָמִינָא בֵּין לְקוּלָּא וּבֵין לְחוּמְרָא, קָא מַשְׁמַע לַן: הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּעֵירוּב.

Rabbi Zeira said: Both rulings **were necessary, as had he informed us** only that **the *halakha* is in accordance with** the opinion of **Rabbi Yoḥanan ben Nuri, I would have said** that the *halakha* is in accordance with him **whether this is a leniency,** i.e., that a sleeping person acquires residence and may walk two thousand cubits in every direction, **or** whether **it is a stringency,** i.e., that ownerless utensils acquire residence and can be carried only two thousand cubits from that place. **Consequently, he teaches us** that **the *halakha* is in accordance with the lenient** opinion **with regard to an *eiruv*,** so that we rule in accordance with Rabbi Yoḥanan ben Nuri only when it entails a leniency.

וְלֵימָא: ״הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּעֵירוּב״, ״הֲלָכָה כְּרַבִּי יוֹחָנָן בֶּן נוּרִי״ לָמָּה לִי?

The Gemara asks: **Let him state** only that **the *halakha* is in accordance with the lenient** opinion **with regard to an *eiruv*. Why do I need** the statement that **the *halakha* is in accordance with** the opinion of **Rabbi Yoḥanan ben Nuri?**

אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הָנֵי מִילֵּי – יָחִיד בִּמְקוֹם יָחִיד, וְרַבִּים בִּמְקוֹם רַבִּים. אֲבָל יָחִיד בִּמְקוֹם רַבִּים – אֵימָא לָא.

The Gemara answers: This ruling **was necessary** as well, for had he informed us only that the *halakha* is in accordance with the lenient opinion with regard to an *eiruv*, **it might have entered your mind to say** that **this statement applies only** to disputes in which **a single** authority disagrees **with** another **single** authority, **or several** authorities disagree with **several** other authorities. **But** when **a single** authority maintains a lenient opinion against **several** authorities who maintain a more stringent position, you might have **said** that we do **not** rule in his favor. Hence, it was necessary to state that the *halakha* is in accordance with the opinion of Rabbi Yoḥanan ben Nuri although he disputes the Rabbis.

אֲמַר לֵיהּ רָבָא לְאַבַּיֵי: מִכְּדִי, עֵירוּבִין דְּרַבָּנַן, מַה לִּי יָחִיד בִּמְקוֹם יָחִיד וּמַה לִּי יָחִיד בִּמְקוֹם רַבִּים?

Rava said to Abaye: Now, since the laws of ***eiruvin* are rabbinic** in origin, **what** reason is there for **me** to differentiate between a disagreement of **a single** authority **with a single** authority and a disagreement of **a single** authority **with several** authorities?

HALAKHA

Flowing water – מַיִם זוֹרְמִים: Flowing water, even if it is privately owned, has the legal status of the person who draws it. The wording of the Gemara indicates that if the water is moving, as in the case of flowing spring water, it has the legal status of the person who draws it even if it does not leave its place (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 397:15).

The *halakha* is in accordance with the lenient opinion with regard to an *eiruv* – הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּעֵירוּב: Even a sleeping person establishes residence for the purpose of walking two thousand cubits in each direction, since the *halakha* is in accordance with the opinion of Rabbi Yoḥanan ben Nuri. However, ownerless objects have the halakhic status of the person who finds them and do not establish residence on their own, because the *halakha* is in accordance with the leniency of both opinions (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 401:1).

NOTES

The *halakha* is in accordance with the opinion of Rabbi Yoḥanan ben Nuri – הֲלָכָה כְּרַבִּי יוֹחָנָן בֶּן נוּרִי: If the *halakha* is in accordance with Rabbi Yoḥanan ben Nuri only when he is lenient, and the *halakha* is in accordance with the Rabbis only where a leniency is involved, such as with regard to ownerless utensils, the result is two contradictory leniencies. Some commentaries answer that perhaps we rule in accordance with the opinion of Rabbi Yoḥanan ben Nuri, but not for his reason. Rather, since a sleeping person can establish residence when awake, he can also do so when asleep; a sleeping person establishes residence where he is. Ownerless objects, however, never establish residence (Rashba; Ritva).

The *halakha* is in accordance with the lenient opinion with regard to an *eiruv* – הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּעֵירוּב: The earlier and later commentaries discuss this principle, limiting it in several ways: They maintain that it applies only to an *eiruv*, but not to partitions, because the laws of partitions have a source in the Torah (Rivash). They further state that this principle does not apply to cases of unresolved dilemmas. Since the Sages did not resolve these dilemmas by applying this principle, leniency cannot be presumed (*Baḥ*, based on the Rif). The principle also cannot be applied if the doubt arises from two different explanations of the same statement (*Baḥ*). Some early commentaries claim that this principle refers only to disputes among the *tanna'im*, since their statements were known to Rabbi Yehoshua ben Levi and he could decide among them, but not to the words of *amora'im* (Ra'avad; see *Hagahot HaRosh*; *Me'iri*).

אֲמַר לֵיהּ רַב פָּפָּא לְרָבָא: וּבִדְרַבָּנַן לָא שָׁנֵי לָן בֵּין יָחִיד בִּמְקוֹם יָחִיד לְיָחִיד בִּמְקוֹם רַבִּים?

Rav Pappa said to Rava: Is there no difference with regard to rabbinic laws **between** a disagreement of **a single** authority **with a single** authority, **and** a disagreement of **a single** authority with **several** authorities?

וְהָתְנַן, רַבִּי אֱלִיעֶזֶר אוֹמֵר: כׇּל אִשָּׁה שֶׁעָבְרוּ עָלֶיהָ שָׁלֹשׁ עוֹנוֹת – דַּיָּיהּ שְׁעָתָהּ.

Didn't we learn in a mishna that **Rabbi Elazar says: Any woman who passed three** expected menstrual **cycles** without experiencing bleeding is presumed not to be menstruating. If afterward she sees blood, **it is enough** that she be regarded as ritually impure due to menstruation **from the time** that she examined herself[H] and saw that she had a discharge, rather than retroactively for up to twenty-four hours. The Rabbis, however, maintain that this *halakha* applies only to an older woman or to a woman after childbirth, for whom it is natural to stop menstruating, but not to a normal young woman for whom three periods have passed without bleeding.

וְתַנְיָא: מַעֲשֶׂה וְעָשָׂה רַבִּי כְּרַבִּי אֱלִיעֶזֶר. לְאַחַר שֶׁנִּזְכַּר אָמַר: כְּדַי הוּא רַבִּי אֱלִיעֶזֶר לִסְמוֹךְ עָלָיו בִּשְׁעַת הַדְּחָק.

And it was taught in a *baraita*: **It once happened that Rabbi** Yehuda HaNasi **ruled** that the *halakha* **is in accordance with** the opinion of **Rabbi Elazar. After he remembered** that Rabbi Elazar's colleagues disagree with him on this matter and that he had apparently ruled incorrectly, **he** nonetheless **said: Rabbi Elazar is worthy to rely upon in exigent circumstances.**[N]

מַאי "לְאַחַר שֶׁנִּזְכַּר"? אִילֵּימָא לְאַחַר שֶׁנִּזְכַּר דְּאֵין הֲלָכָה כְּרַבִּי אֱלִיעֶזֶר, אֶלָּא כְּרַבָּנַן – בִּשְׁעַת הַדְּחָק הֵיכִי עָבֵיד כְּוָותֵיהּ?

The Gemara comments: **What is** the meaning of: **After he remembered? If you say** that it means **after he remembered** that **the *halakha* is not in accordance with** the opinion of **Rabbi Elazar but** rather **in accordance with** the opinion of **the Rabbis,** then **how could he rule in accordance with him** even **in exigent circumstances,** given that the *halakha* had been decided against him?

אֶלָּא: דְּלָא אִיתְּמַר הִלְכְתָא לֹא כְּרַבִּי אֱלִיעֶזֶר וְלֹא כְּרַבָּנַן, לְאַחַר שֶׁנִּזְכַּר דְּלָאו יָחִיד פָּלֵיג עֲלֵיהּ אֶלָּא רַבִּים פְּלִיגִי עֲלֵיהּ, אָמַר: כְּדַי הוּא רַבִּי אֱלִיעֶזֶר לִסְמוֹךְ עָלָיו בִּשְׁעַת הַדְּחָק.

Rather, it must be that the ***halakha*** had **not been stated** on this matter, **neither in accordance with** the opinion of **Rabbi Elazar, nor in accordance with** the opinion of **the Rabbis. And after he remembered that it was not a single** authority who **disagreed with** Rabbi Elazar, **but** rather **several** authorities who **disagreed with him, he** nonetheless **said: Rabbi Elazar is worthy to rely upon in exigent circumstances.** This demonstrates that even with a dispute that involves a rabbinic decree, such as whether a woman is declared ritually impure retroactively, there is room to distinguish between a disagreement of a single authority and a single authority, and a disagreement of a single authority and several authorities.

אֲמַר רַב מְשַׁרְשְׁיָא לְרָבָא, וְאָמְרִי לַהּ רַב נַחְמָן בַּר יִצְחָק לְרָבָא: וּבִדְרַבָּנַן לָא שָׁנֵי בֵּין יָחִיד בִּמְקוֹם יָחִיד, בֵּין יָחִיד בִּמְקוֹם רַבִּים?

Rav Mesharshiya said to Rava, and some say it was **Rav Naḥman bar Yitzḥak** who said **to Rava: Is there no difference with regard to rabbinic** laws **between** a disagreement of **a single** authority **with a single** authority, **and** a disagreement of **a single** authority **with several** authorities?

וְהָתַנְיָא: שְׁמוּעָה קְרוֹבָה נוֹהֶגֶת שִׁבְעָה וּשְׁלֹשִׁים, רְחוֹקָה – אֵינָהּ נוֹהֶגֶת אֶלָּא יוֹם אֶחָד.

Wasn't it taught in a *baraita*: If a person receives **a proximate report** that one of his close relatives has died, **he practices** all the customs of the intense **seven** day mourning period as well as the customs of the **thirty** day mourning period. But if he receives **a distant** report, **he practices** only **one day** of mourning.

וְאֵי זוֹ הִיא קְרוֹבָה וְאֵיזוֹ הִיא רְחוֹקָה? בְּתוֹךְ שְׁלֹשִׁים – קְרוֹבָה, לְאַחַר שְׁלֹשִׁים – רְחוֹקָה, דִּבְרֵי רַבִּי עֲקִיבָא. וַחֲכָמִים אוֹמְרִים: אַחַת שְׁמוּעָה קְרוֹבָה וְאַחַת שְׁמוּעָה רְחוֹקָה נוֹהֶגֶת שִׁבְעָה וּשְׁלֹשִׁים.

What is considered a **proximate** report, **and what is** considered a **distant** report? If the report arrives **within thirty** days of the close relative's passing, it is regarded as **proximate,** and if it arrives **after thirty** days it is considered **distant;** this is **the statement of Rabbi Akiva. But the Rabbis say: Both** in the case of **a proximate report and** in the case of **a distant report,**[H] the grieving relative **practices** the **seven**-day mourning period **and** the **thirty**-day mourning period.

וְאָמַר רַבָּה בַּר בַּר חָנָה, אָמַר רַבִּי יוֹחָנָן: כׇּל מָקוֹם שֶׁאַתָּה מוֹצֵא יָחִיד מֵיקֵל וְרַבִּים מַחְמִירִין – הֲלָכָה כְּדִבְרֵי הַמַּחְמִירִין, הַמְרוּבִּים. חוּץ מִזּוֹ, שֶׁאַף עַל פִּי שֶׁרַבִּי עֲקִיבָא מֵיקֵל וַחֲכָמִים מַחְמִירִין – הֲלָכָה כְּדִבְרֵי רַבִּי עֲקִיבָא.

And Rabba bar bar Ḥana said that **Rabbi Yoḥanan said: Wherever you find** that a **single** authority **is lenient** with regard to a certain *halakha* **and several** other authorities **are stringent, the *halakha* is in accordance with the words of the stringent** authorities, who constitute **the majority, except for here, where despite** the fact that the opinion of **Rabbi Akiva is lenient and the** opinion of the **Rabbis is** more **stringent, the *halakha* is in accordance with** the opinion of **Rabbi Akiva.**

HALAKHA

A woman for whom it is enough that she be impure from the time she saw – אִשָּׁה שֶׁדַּיָּיהּ שְׁעָתָהּ: A woman approaching menopause who passes three expected menstrual cycles without experiencing bleeding and then sees blood is regarded as ritually impure only from the time that she examines herself and experiences menstrual flow. However, the law concerning a young woman is different. She is retroactively ritually impure for up to twenty-four hours, in accordance with the opinion of the Rabbis (Rambam *Sefer Tahara*, *Hilkhot Metamei Mishkav UMoshav* 4:1).

A proximate and a distant report – שְׁמוּעָה קְרוֹבָה וּרְחוֹקָה: One who receives a proximate report of the death of a close relative practices both the mourning customs observed for seven days and those observed for thirty days. One who receives a distant report practices mourning customs for only one day, with part of a day considered to be an entire day. Some authorities rule that although the laws governing the seven-day mourning period are not practiced in the case of a distant report concerning a father or mother, the other laws of mourning are observed (Ramban; *Shulḥan Arukh*, *Yoreh De'a* 402:1).

NOTES

In exigent circumstances – בִּשְׁעַת הַדְּחָק: The nature of the exigent circumstance referred to here is discussed by the commentaries (see Rashi and *Tosafot*). *Tosafot* explain that it refers to a case where the questioner departed, and it would be nearly impossible to find him and inform him that there had been a mistaken ruling.

NOTES

The *halakha* is in accordance with the lenient opinion with regard to mourning – הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּאֵבֶל: The rationale for this principle is that according to most commentaries and halakhic authorities, the mandate for mourning practices is not from Torah law. In addition, all the particulars of the laws of mourning are certainly instituted by rabbinic law, and consequently, the *halakha* is lenient about them. Nevertheless, certain limitations apply. For example, the principle applies to the laws of mourning but not to the laws of rending one's garments over the death of a relative (Ramban; *Baḥ*). In addition, this principle applies to only certain laws of mourning (Ramban; Rashba), and it is not operative with respect to an opinion that has been rejected by all authorities (*Baḥ*).

וְסָבַר לַהּ כִּשְׁמוּאֵל, דְּאָמַר שְׁמוּאֵל: הֲלָכָה כְּדִבְרֵי הַמֵּיקֵל בְּאֵבֶל.

And Rabbi Yoḥanan **holds like Shmuel, as Shmuel said: The *halakha* is in accordance with the lenient** opinion **with** regard to **mourning** practices,[N] i.e., wherever there is a dispute with regard to mourning customs, the *halakha* is in accordance with the lenient opinion.

בַּאֲבֵילוּת הוּא דְּאַקִילוּ בָּהּ רַבָּנַן, אֲבָל בְּעָלְמָא – אֲפִילּוּ בִּדְרַבָּנַן שָׁנֵי בֵּין יָחִיד בִּמְקוֹם יָחִיד, בֵּין יָחִיד בִּמְקוֹם רַבִּים.

From here the Gemara infers: **It is** only **with regard to mourning** practices **that the Sages were lenient, but in general,** with regard to other areas of *halakha*, **even in the case of rabbinic** laws **there is a difference** between a disagreement of **a single** authority **with a single** authority and a disagreement of **a single** authority **with several** authorities. This being the case, Rabbi Yehoshua ben Levi did well to rule explicitly that the *halakha* is in accordance with the opinion of Rabbi Yoḥanan ben Nuri, even though he is a single authority who ruled leniently in dispute with the Rabbis.

Perek **IV**
Daf **46** Amud **b**

וְרַב פַּפָּא אָמַר: אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הָנֵי מִילֵּי – בְּעֵירוּבֵי חֲצֵירוֹת, אֲבָל בְּעֵירוּבֵי תְחוּמִין – אֵימָא לָא, צְרִיכָא.

Rav Pappa said a different explanation for the fact that Rabbi Yehoshua ben Levi made both statements: **It was necessary** for Rabbi Yehoshua ben Levi to inform us that the *halakha* is in accordance with the opinion of Rabbi Yoḥanan ben Nuri, because had he said only that the *halakha* follows the lenient opinion with regard to an *eiruv*, **it could have entered your mind to say** that **this statement applies only with regard to** the laws governing the ***eiruv* of courtyards,** which are entirely rabbinic in origin. **But with regard to** the more stringent laws governing the ***eiruv* of** Shabbat **limits,** you would have **said** that we should **not** rule leniently, and therefore **it was necessary** to make both statements.

וּמְנָא תֵּימְרָא דְּשָׁנֵי לָן בֵּין עֵירוּבֵי חֲצֵירוֹת לְעֵירוּבֵי תְחוּמִין – דִּתְנַן, אָמַר רַבִּי יְהוּדָה: בַּמֶּה דְּבָרִים אֲמוּרִים – בְּעֵירוּבֵי תְחוּמִין, אֲבָל בְּעֵירוּבֵי חֲצֵירוֹת – מְעָרְבִין בֵּין לָדַעַת וּבֵין שֶׁלֹּא לָדַעַת, שֶׁזָּכִין לָאָדָם שֶׁלֹּא בְּפָנָיו, וְאֵין חָבִין לָאָדָם אֶלָּא בְּפָנָיו.

The Gemara asks: **And from where do you say that we distinguish between an *eiruv* of courtyards and an *eiruv* of** Shabbat **limits? As we learned** in a mishna that **Rabbi Yehuda said: In what** case **is this statement said,** that an *eiruv* may be established for another person only with his knowledge? It was said **with regard to an *eiruv* of** Shabbat **limits, but with regard to an *eiruv* of courtyards, an *eiruv* may be established** for another person whether **with his knowledge or without his knowledge, as one may act in a person's interest in his absence; however, one may not act to a person's disadvantage in his absence.** One may act unilaterally on someone else's behalf when the action is to that other person's benefit; however, when it is to the other person's detriment, or when there are both advantages and disadvantages to him, one may act on the other person's behalf only if one has been explicitly appointed as an agent. Since an *eiruv* of courtyards is always to a person's benefit, it can be established even without his knowledge. However, with regard to an *eiruv* of Shabbat limits, while it enables one to walk in one direction, it disallows him from walking in the opposite direction. Therefore, it can be established only with his knowledge.

רַב אַשִׁי אָמַר: אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הָנֵי מִילֵּי – בְּשִׁיּוּרֵי עֵירוּב, אֲבָל בִּתְחִילַּת עֵירוּב – אֵימָא לָא.

Rav Ashi said that Rabbi Yehoshua ben Levi's need to issue two rulings can be explained in another manner: **It is necessary** for Rabbi Yehoshua ben Levi to inform us that the *halakha* is in accordance with the opinion of Rabbi Yoḥanan ben Nuri, as if he had said only that the *halakha* is in accordance with the lenient opinion with regard to an *eiruv*, **it could have entered your mind to say** that **this statement applies only with regard to the remnants of an *eiruv*,** i.e., an *eiruv* that had been properly established, where the concern is that it might subsequently have become invalid. **But with regard to an initial *eiruv*,** i.e., an *eiruv* that is just being established and has not yet taken effect, you might have **said** that we should **not** rule leniently, and therefore it was necessary to issue both rulings.

וּמְנָא תֵּימְרָא דְּשָׁנֵי לָן בֵּין שִׁיּוּרֵי עֵירוּב לִתְחִילַּת עֵירוּב – דִּתְנַן: אָמַר רַבִּי יוֹסֵי: בַּמֶּה דְּבָרִים אֲמוּרִים – בִּתְחִילַּת עֵירוּב, אֲבָל בְּשִׁיּוּרֵי עֵירוּב – אֲפִילּוּ כׇּל שֶׁהוּא.

The Gemara asks: **And from where do you say that we distinguish between the remnants of an *eiruv* and an initial *eiruv*? As we learned** in a mishna: **Rabbi Yosei said: In what** case **is this statement said,** that the Sages stipulated that a fixed quantity of food is necessary for establishing an *eiruv*? It is said **with regard to an initial *eiruv*,** i.e., when setting up an *eiruv* for the first time; **however, with regard to the remnants of an *eiruv*,** i.e., on a subsequent Shabbat when the measure may have become diminished, **even a minimal amount** suffices.[N]

וְלֹא אָמְרוּ לְעָרֵב חֲצֵירוֹת אֶלָּא כְּדֵי שֶׁלֹּא לְשַׁכֵּחַ תּוֹרַת עֵירוּב מִן הַתִּינוֹקוֹת.

And they said to establish an *eiruv* for courtyards only after all the inhabitants of the city merge their alleyways and become like the inhabitants of a single courtyard, **so that the law of *eiruv* should not be forgotten by the children,** who may not be aware of the arrangement that has been made with regard to the alleyways.

רַבִּי יַעֲקֹב וְרַבִּי זְרִיקָא אָמְרוּ: הֲלָכָה כְּרַבִּי עֲקִיבָא מֵחֲבֵירוֹ, וּכְרַבִּי יוֹסֵי מֵחֲבֵירָיו, וּכְרַבִּי מֵחֲבֵירוֹ.

Since the Gemara discussed the principles cited with regard to halakhic decision-making, it cites additional principles. **Rabbi Ya'akov and Rabbi Zerika said:** The ***halakha* is in accordance with** the opinion of **Rabbi Akiva** in disputes **with** any individual **Sage, and** the *halakha* **is in accordance with** the opinion of **Rabbi Yosei** even in disputes **with** other **Sages,**[N] **and the *halakha* is in accordance with** the opinion of **Rabbi** Yehuda HaNasi in disputes **with** any individual **Sage.**

לְמַאי הִלְכְתָא? רַבִּי אַסִּי אָמַר: הֲלָכָה, וְרַבִּי חִיָּיא בַּר אַבָּא אָמַר: מַטִּין, וְרַבִּי יוֹסֵי בְּרַבִּי חֲנִינָא אָמַר: נִרְאִין.

The Gemara asks: With regard **to what *halakha*** do these principles apply, meaning, to what degree are they binding? **Rabbi Asi said:** This is considered binding ***halakha*. And Rabbi Ḥiyya bar Abba said: One is inclined** toward such a ruling in cases where an individual asks, but does not issue it as a public ruling in all cases. **And Rabbi Yosei, son of Rabbi Ḥanina, said: It appears** that one should rule this way, but it is not an established *halakha* that is considered binding with regard to issuing rulings.[N]

כַּלָּשׁוֹן הַזֶּה אָמַר רַבִּי יַעֲקֹב בַּר אִידִי, אָמַר רַבִּי יוֹחָנָן: רַבִּי מֵאִיר וְרַבִּי יְהוּדָה – הֲלָכָה כְּרַבִּי יְהוּדָה, רַבִּי יְהוּדָה וְרַבִּי יוֹסֵי – הֲלָכָה כְּרַבִּי יוֹסֵי, וְאֵין צָרִיךְ לוֹמַר רַבִּי מֵאִיר וְרַבִּי יוֹסֵי – הֲלָכָה כְּרַבִּי יוֹסֵי. הָשְׁתָּא בִּמְקוֹם רַבִּי יְהוּדָה – לֵיתָא, בִּמְקוֹם רַבִּי יוֹסֵי מִיבַּעְיָא?!

Rabbi Ya'akov bar Idi said that **Rabbi Yoḥanan said:** In the case of a dispute between **Rabbi Meir and Rabbi Yehuda,** the ***halakha* is in accordance with** the opinion of **Rabbi Yehuda;** in the case of a dispute between **Rabbi Yehuda and Rabbi Yosei,** the ***halakha* is in accordance with** the opinion of **Rabbi Yosei; and, needless to say,** in the case of a dispute between **Rabbi Meir and Rabbi Yosei,** the ***halakha* is in accordance with** the opinion of **Rabbi Yosei.** As **now,** if **in disputes with Rabbi Yehuda,** the opinion of Rabbi Meir **is not** accepted as law, **need it** be stated that **in disputes with Rabbi Yosei,** Rabbi Meir's opinion is rejected? Rabbi Yehuda's opinion is not accepted in disputes with Rabbi Yosei.[N]

אָמַר רַב אַסִּי: אַף אֲנִי לוֹמֵד רַבִּי יוֹסֵי וְרַבִּי שִׁמְעוֹן – הֲלָכָה כְּרַבִּי יוֹסֵי. דְּאָמַר רַבִּי אַבָּא, אָמַר רַבִּי יוֹחָנָן: רַבִּי יְהוּדָה וְרַבִּי שִׁמְעוֹן – הֲלָכָה כְּרַבִּי יְהוּדָה. הָשְׁתָּא בִּמְקוֹם רַבִּי יְהוּדָה לֵיתָא, בִּמְקוֹם רַבִּי יוֹסֵי מִיבַּעְיָא?!

Rav Asi said: I also learn based on the same principle that in a dispute between **Rabbi Yosei and Rabbi Shimon,** the ***halakha* is in accordance with** the opinion of **Rabbi Yosei. As Rabbi Abba said** that **Rabbi Yoḥanan said:** In cases of dispute between **Rabbi Yehuda and Rabbi Shimon,** the ***halakha* is in accordance with** the opinion of **Rabbi Yehuda. Now,** if **where** it is opposed by **Rabbi Yehuda** the opinion of Rabbi Shimon **is not** accepted as law, **where** it is opposed by the opinion of **Rabbi Yosei,** with whom the *halakha* is in accordance against Rabbi Yehuda, **is it necessary** to say that the *halakha* is in accordance with the opinion of Rabbi Yosei?

אִיבַּעְיָא לְהוּ: רַבִּי מֵאִיר וְרַבִּי שִׁמְעוֹן מַאי? תֵּיקוּ.

The Gemara **raises a dilemma:** In a dispute between **Rabbi Meir and Rabbi Shimon,**[N] **what** is the *halakha*? No sources were found to resolve this dilemma, and it **stands** unresolved.

אָמַר רַב מְשַׁרְשְׁיָא: לֵיתְנְהוּ לְהָנֵי כְּלָלֵי. מְנָא לֵיהּ לְרַב מְשַׁרְשְׁיָא הָא?

Rav Mesharshiya said: These principles of halakhic decision-making **are not** to be relied upon. The Gemara asks: **From where does Rav Mesharshiya** derive **this** statement?

אִילֵּימָא מֵהָא דִּתְנַן, רַבִּי שִׁמְעוֹן אוֹמֵר: לְמָה הַדָּבָר דּוֹמֶה – לְשָׁלֹשׁ חֲצֵירוֹת הַפְּתוּחוֹת זוֹ לָזוֹ וּפְתוּחוֹת לִרְשׁוּת הָרַבִּים, עֵירְבוּ שְׁתַּיִם הַחִיצוֹנוֹת עִם הָאֶמְצָעִית – הִיא מוּתֶּרֶת עִמָּהֶן, וְהֵן מוּתָּרוֹת עִמָּהּ, וּשְׁתַּיִם הַחִיצוֹנוֹת אֲסוּרוֹת זוֹ עִם זוֹ.

If you say that he derived it **from that which we learned** in the mishna that **Rabbi Shimon said: To what is this comparable?** It is like **three courtyards that open into one another, and** also **open into a public domain.** If **the two outer** courtyards **established an *eiruv* with the middle one,** the residents of the middle one **are permitted to** carry to the two outer ones, **and they are permitted to** carry to **it, but the** residents of the **two outer** courtyards **are prohibited to** carry from **one** to the **other,** as they did not establish an *eiruv* with one another.

NOTES

The remnants of an *eiruv* and an initial *eiruv* – שִׁיּוּרֵי עֵירוּב וּתְחִילַּת עֵירוּב: The distinction between an initial *eiruv* and the remnants of an *eiruv* refers to two clearly distinct stages. Namely, that there are different standards for the initial phase of acquiring residence in a given location, or establishing an *eiruv* in a given alleyway, than for the remainder of an *eiruv*, where the question is whether an *eiruv* that has been established remains valid. As stated here, it is more reasonable to be lenient with regard to the remainder of an *eiruv*.

The *halakha* is in accordance with the opinion of Rabbi Yosei even in disputes with other Sages – הֲלָכָה...כְּרַבִּי יוֹסֵי מֵחֲבֵרָיו: The different versions of this statement raise the question of whether the *halakha* accords with the opinion of Rabbi Yosei only in disputes with an individual Sage, or even in a dispute with two or more Sages. Many authorities (*Halakhot Gedolot*, Rav Sherira Gaon, Rif, Ri Migash, Rabbeinu Manoaḥ, and apparently the Rambam and Rabbi Yosef Karo as well) maintain that the *halakha* is in accordance with his opinion only in disputes with an individual Sage, but not in disputes with other Sages (see *Yad Malakhi*).

Halakha…one is inclined…it appears – הֲלָכָה...מַטִּין...נִרְאִין: These expressions have been explained in several ways (see Rashi and *Tosafot*). The *ge'onim* explain that the word *halakha* means that this matter has been established as law and must be accepted. The phrase it appears indicates that the Sages discussed this issue and the words of one Sage appear more acceptable than the statements of his colleague. The phrase one is inclined means that without examining in detail all sides of the argument, the judgment tends towards a particular opinion.

Halakhic decision-making – קְבִיעַת הֲלָכוֹת: These rules of halakhic decision-making, namely, that the *halakha* is in accordance with the opinion of a particular Sage in disputes with a given colleague, whether with regard to one issue or all issues, were established by the Sages, who examined these disputes and usually found a principle in the statements of each Sage that led them to accept or reject his approach. Nevertheless, these fixed rules are limited in several ways. The Gemara itself explicitly states that where a contradictory *halakha* is stated by *amora'im* the principle does not apply, and it was only stated with regard to cases where no explicit ruling exists. Most authorities agree that even when there is no halakhic ruling in accordance with one opinion, but the Gemara's discussion favors a particular approach and accepts it as the basis of its discussion, the *halakha* follows suit. Some commentaries state that these principles do not apply to any issue that is not practical *halakha* nowadays, such as the laws related to the Temple. In addition, other principles occasionally override these fixed rules of halakhic decision-making. Examples include the principle of accepting the lenient opinion with regard to an *eiruv*, the rules listed in tractate *Eduyot*, and the acceptance of Rabbi Meir's decrees.

Rabbi Meir and Rabbi Shimon – רַבִּי מֵאִיר וְרַבִּי שִׁמְעוֹן: This dilemma is left unresolved in the Babylonian Talmud. Several authorities write that in these disputes, the stringent opinion is accepted with regard to Torah law, and the lenient opinion is accepted with regard to rabbinic law. However, in the Jerusalem Talmud it is stated that the *halakha* is in accordance with the opinion of Rabbi Shimon in disputes with Rabbi Meir. Apparently, Rav Sherira Gaon and the Ra'avad rule in accordance with the Jerusalem Talmud, as does Rambam, according to the *Leḥem Mishne* (see *Yad Malakhi*).

וְאָמַר רַב חָמָא בַּר גּוּרְיָא, אָמַר רַב: הֲלָכָה כְּרַבִּי שִׁמְעוֹן. וּמַאן פָּלֵיג עֲלֵיהּ – רַבִּי יְהוּדָה. וְהָא אָמְרַתְּ: רַבִּי יְהוּדָה וְרַבִּי שִׁמְעוֹן הֲלָכָה כְּרַבִּי יְהוּדָה, אֶלָּא לָאו שְׁמַע מִינָּהּ: לֵיתְנְהוּ.

And Rav Ḥama bar Gurya said that **Rav said:** The *halakha* **is in accordance with** the opinion of **Rabbi Shimon; and who disagrees with** Rabbi Shimon on this matter? It is **Rabbi Yehuda. Didn't you say:** In disputes between **Rabbi Yehuda and Rabbi Shimon,** the ***halakha* is in accordance with** the opinion of **Rabbi Yehuda? Rather, can we not conclude from** this mishna that these principles should **not** be relied upon?

וּמַאי קוּשְׁיָא? דִּילְמָא: הֵיכָא דְּאִיתְּמַר – אִיתְּמַר, הֵיכָא דְּלָא אִיתְּמַר – לָא אִיתְּמַר.

The Gemara rejects this argument: **What is the difficulty** posed by this ruling? **Perhaps where it is stated** explicitly to the contrary, **it is stated,** but **where it is not stated** explicitly to the contrary, **it is not stated,** and these principles apply.

אֶלָּא מֵהָא, דִּתְנַן: עִיר שֶׁל יָחִיד וְנַעֲשֵׂית שֶׁל רַבִּים – מְעָרְבִין אֶת כּוּלָּהּ. שֶׁל רַבִּים וְנַעֲשֵׂית שֶׁל יָחִיד – אֵין מְעָרְבִין אֶת כּוּלָּהּ, אֶלָּא אִם כֵּן עוֹשֶׂה חוּצָה לָהּ כְּעִיר חֲדָשָׁה שֶׁבִּיהוּדָה, שֶׁיֵּשׁ בָּהּ חֲמִשִּׁים דִּיּוֹרִין, דִּבְרֵי רַבִּי יְהוּדָה.

Rather, the proof is **from that which we learned** elsewhere in a mishna: **If a city that belongs to a** single **individual** subsequently **becomes** one that **belongs to many** people, **one may establish an** *eiruv* of courtyards **for all of it.** But if the city **belongs to many** people, **and it** falls into the possession **of a** single **individual, one may not establish an** ***eiruv*** **for all of it, unless he excludes** from the *eiruv* an area the size **of the town of Ḥadasha in Judea, which contains fifty residents;** this is **the statement of Rabbi Yehuda.**

רַבִּי שִׁמְעוֹן אוֹמֵר:

Rabbi Shimon says:

Perek **IV**
Daf **47** Amud **a**

שָׁלֹשׁ חֲצֵירוֹת שֶׁל שְׁנֵי בָתִּים. וְאָמַר רַב חָמָא בַּר גּוּרְיָא, אָמַר רַב: הֲלָכָה כְּרַבִּי שִׁמְעוֹן. וּמַאן פָּלֵיג עֲלֵיהּ – רַבִּי יְהוּדָה. וְהָא אָמְרַתְּ: רַבִּי יְהוּדָה וְרַבִּי שִׁמְעוֹן הֲלָכָה כְּרַבִּי יְהוּדָה!

The excluded area need not be so large; rather, **three courtyards** each **containing two houses** are sufficient for this purpose. **And Rav Ḥama bar Gurya said** that **Rav said:** The ***halakha* is in accordance with** the opinion of **Rabbi Shimon; and who disagrees with** Rabbi Shimon on this matter? It is **Rabbi Yehuda. Didn't you say:** In a case where **Rabbi Yehuda and Rabbi Shimon** disagree, the ***halakha*** **is in accordance with** the opinion of **Rabbi Yehuda?** This teaches that one should not rely on these principles.

וּמַאי קוּשְׁיָא? דִּילְמָא הָכָא נַמִי, הֵיכָא דְּאִיתְּמַר – אִיתְּמַר, הֵיכָא דְּלָא אִיתְּמַר – לָא אִיתְּמַר.

The Gemara rejects this argument as well: **What is the difficulty** here? **Perhaps here, too, where it is stated** explicitly that the *halakha* is in accordance with Rabbi Shimon, **it is stated,** but **where it is not stated** explicitly, **it is not stated,** and the principle that the *halakha* is in accordance with the opinion of Rabbi Yehuda applies.

אֶלָּא מֵהָא, דִּתְנַן: הַמַּנִּיחַ אֶת בֵּיתוֹ וְהָלַךְ לִשְׁבּוֹת בְּעִיר אַחֶרֶת, אֶחָד נׇכְרִי וְאֶחָד יִשְׂרָאֵל – אוֹסֵר לִבְנֵי חֲצֵירוֹת, דִּבְרֵי רַבִּי מֵאִיר.

Rather, the proof is **from that which we learned** elsewhere in a mishna: With regard to **one who left his house** without making an *eiruv* of courtyards, **and established residence** for Shabbat **in a different town, whether** he was **a gentile or a Jew,** his lack of participation **prohibits the** other **residents of the courtyards** in which he has a share to carry objects from their houses to the courtyard, because he did not establish an *eiruv* with them, and failure to include a house in the *eiruv* imposes restrictions upon all the residents of the courtyard. This is **the statement of Rabbi Meir.**

רַבִּי יְהוּדָה אוֹמֵר: אֵינוֹ אוֹסֵר. רַבִּי יוֹסֵי אוֹמֵר: נׇכְרִי – אוֹסֵר, יִשְׂרָאֵל – אֵינוֹ אוֹסֵר, מִפְּנֵי שֶׁאֵין דֶּרֶךְ יִשְׂרָאֵל לָבֹא בְּשַׁבָּת. רַבִּי שִׁמְעוֹן אוֹמֵר: אֲפִילּוּ הִנִּיחַ אֶת בֵּיתוֹ וְהָלַךְ לִשְׁבּוֹת אֵצֶל בִּתּוֹ בְּאוֹתָהּ הָעִיר – אֵינוֹ אוֹסֵר, שֶׁכְּבָר הִסִּיחַ דַּעְתּוֹ.

Rabbi Yehuda says: His lack of participation **does not prohibit** the others to carry, since he is not present there. **Rabbi Yosei says:** Lack of participation in an *eiruv* by **a gentile** who is away **prohibits** the others to carry, because he might return on Shabbat; but lack of participation by **a Jew** who is not present **does not prohibit** the others to carry, **as it is not the way of a Jew to return on Shabbat** once he has already established his residence elsewhere. **Rabbi Shimon says: Even if he left his house and established residence** for Shabbat **with his daughter in the same town, his** lack of participation **does not prohibit** the residents of his courtyard to carry, even though he is permitted to return home, **because he has already removed it,** i.e., returning, **from his mind.**