וְאָמַר רַב חָמָא בַּר גּוּרְיָא, אָמַר רַב: הַלָּכָה כְּרַבִּי שִׁמְעוֹן. וּמַאן פָּלֵיג עֲלֵיהּ – רַבִּי יְהוּדָה. וְהָא אָמְרַתְּ: רַבִּי יְהוּדָה וְרַבִּי שִׁמְעוֹן הַלָּכָה 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, דְּתָנַן: 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 דְּיוֹרִין, 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: הַלָּכָה כְּרַבִּי שִׁמְעוֹן. וּמַאן פָּלֵיג עֲלֵיהּ – רַבִּי יְהוּדָה. וְהָא אָמְרַתְּ: רַבִּי יְהוּדָה וְרַבִּי שִׁמְעוֹן הַלָּכָה 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 נַמִּי, 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, דְּתָנַן: הַמַּנִּיחַ אֶת בֵּיתוֹ וְהָלַךְ לִשְׁבּוֹת בְּעִיר אַחֶרֶת, אֶחָד נָכְרִי 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: נָכְרִי – אוֹסֵר, יִשְׂרָאֵל – אֵינוֹ אוֹסֵר, מִפְּנֵי שֶׁאֵין דֶּרֶךְ יִשְׂרָאֵל לָבֹא בַּשַּׁבָּת. 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.**

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

And Rav Ḥama bar Gurya said that **Rav said:** The ***halakha* is in accordance with** the opinion of **Rabbi Shimon. And who disagrees with him?** It is **Rabbi Yehuda. Didn't you say:** When there is a dispute between **Rabbi Yehuda and Rabbi Shimon,** the ***halakha* is in accordance with** the opinion of **Rabbi Yehuda?** This teaches that one cannot rely upon these principles.

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

The Gemara rejects this argument again: **What is the difficulty** here? **Perhaps here, too, where it is** explicitly **stated** that the *halakha* is in accordance with the opinion of Rabbi Shimon, **it is stated;** but **where** such a ruling **is not stated, it is not stated,** and the principle that the *halakha* is in accordance with the opinion of Rabbi Yehuda is relied upon.

אֶלָּא מֵהָא, דְּתַנְיָן: וְזֶהוּ שֶׁאָמְרוּ הָעָנִי מְעָרֵב בְּרַגְלָיו. רַבִּי מֵאִיר אוֹמֵר: אָנוּ אֵין לָנוּ אֶלָּא עָנִי.

Rather, the proof is **from that which we learned** in the mishna. **And that is what** the Sages meant when **they said: A pauper can establish an *eiruv* with his feet;** that is to say, he may walk to a place within his Shabbat limit and declare: Here shall be my place of residence, and then his Shabbat limit is measured from that spot. **Rabbi Meir says: We** apply this law **only to a pauper,** who does not have food for two meals; only such a person is permitted to establish his *eiruv* by walking to the spot that he wishes to acquire as his place of residence.

רַבִּי יְהוּדָה אוֹמֵר: אֶחָד עָנִי וְאֶחָד עָשִׁיר, לֹא אָמְרוּ מְעָרְבִין בַּפַּת אֶלָּא לְהָקֵל עַל הֶעָשִׁיר, שֶׁלֹּא יֵצֵא וְיָעֵרֵב בְּרַגְלָיו.

Rabbi Yehuda says: This allowance applies **both to a pauper and to a wealthy person.** Indeed, **they said** that **one can establish an *eiruv* with bread only in order to** make placing an *eiruv* **easier for a wealthy person, so that he** need **not** trouble himself and **go out and establish an *eiruv* with his feet,** but the basic *eiruv* is established by walking to the spot one will acquire as his place of residence.

וּמַתְנֵי לֵיהּ רַב חִיָּיא בַּר אַשִׁי לְחִיָּיא בַּר רַב קַמֵּיהּ דְּרַב: אֶחָד עָנִי וְאֶחָד עָשִׁיר. וְאָמַר לֵיהּ רַב: סַיֵּים בָּהּ נַמִּי: הֲלָכָה כְּרַבִּי יְהוּדָה.

And Rav Ḥiyya bar Ashi once **taught** this law to **Ḥiyya bar Rav in the presence of Rav,** saying: This allowance applies **both to a pauper and to a wealthy person, and Rav said to him:** When you teach this law, **conclude also with** this ruling: The ***halakha* is in accordance with** the opinion of **Rabbi Yehuda.**

תַּרְתֵּי לָמָּה לִי? וְהָא אָמְרַתְּ: רַבִּי מֵאִיר וְרַבִּי יְהוּדָה הֲלָכָה כְּרַבִּי יְהוּדָה!

The Gemara asks: **Why do I need a second** ruling? **Didn't you** already **say:** When there is a dispute between **Rabbi Meir and Rabbi Yehuda,** the ***halakha* is in accordance with** the opinion of **Rabbi Yehuda?** The fact that Rav needed to specify that the *halakha* is in accordance with the opinion of Rabbi Yehuda on this matter indicates that he does not accept the general principle that when there is a dispute between Rabbi Meir and Rabbi Yehuda, the *halakha* is in accordance with the opinion of Rabbi Yehuda.

וּמַאי קוּשְׁיָא? דִּילְמָא רַב לֵית לֵיהּ לְהָנֵי כְּלָלֵי?!

The Gemara rejects this reasoning: **What is the difficulty** here? **Perhaps Rav does not accept**[N] **these principles,** but the other Sages accept them.

אֶלָּא מֵהָא, דְּתַנְיָן: הַיְבָמָה לֹא תַּחֲלוֹץ וְלֹא תִּתְייַבֵּם עַד שֶׁיִּהוּ לָהּ שְׁלֹשָׁה חֳדָשִׁים.

Rather, the Gemara brings a proof **from that which we learned** in another mishna with regard to a woman waiting for her brother-in-law, i.e., a woman whose husband died without children but who is survived a by a brother. The brother-in-law is obligated by Torah law either to perform levirate marriage with his deceased brother's widow, or to free her to marry others by participating in *ḥalitza*. **The woman waiting for her brother-in-law may neither participate in *ḥalitza***[H] **nor undergo levirate marriage until three months have passed** following her husband's death, due to concern that she may be pregnant from him, in which case she is exempt from levirate marriage and *ḥalitza*. After the three-month waiting period it will become clear whether she is pregnant from her husband.

וְכֵן שְׁאָר כָּל הַנָּשִׁים לֹא יִנָּשְׂאוּ וְלֹא יִתְאָרְסוּ עַד שֶׁיִּהוּ לָהֶן שְׁלֹשָׁה חֳדָשִׁים. אֶחָד בְּתוּלוֹת וְאֶחָד בְּעוּלוֹת, אֶחָד אַלְמָנוֹת וְאֶחָד גְּרוּשׁוֹת, אֶחָד אֲרוּסוֹת וְאֶחָד נְשׂוּאוֹת.

And similarly, all other women may not be married or even **betrothed until three months have passed**[N] following their divorce or the death of their husbands, **whether** they are **virgins or non-virgins, whether** they are **widows or divorcees,** and **whether** they became widowed or divorced when they were **betrothed or married.** In all cases, the woman may not marry for three months. Otherwise, if she is within the first three months of her pregnancy from her first husband, and she gives birth six months later, a doubt would arise as to the identity of the father. The Sages did not differentiate between cases where this concern is applicable and where it is not; rather, they fixed a principle that applies universally.

NOTES

Perhaps Rav does not accept – דִּילְמָא רַב לֵית לֵיהּ: Although the Gemara will ultimately accept this explanation, it rejects it at this stage, preferring to suggest that there is no dispute between Rav and Rabbi Yoḥanan rather than say that Rav does not accept these principles (Ritva).

The three months of differentiation – שְׁלֹשָׁה חוֹדְשֵׁי הַבָּחָנָה: The purpose of the three-month waiting period between the first marriage and the second is to determine, in case she gives birth six months into her second marriage, whether the child she bears is the son of the first husband or the second. Two considerations determine the waiting period: The first is derived from the verse (Genesis 37:24) that indicates that a woman's pregnancy is noticeable after approximately three months. The second is based on the ambiguity that arises if she marries before three months have elapsed and a child is born seven months later. Such a child might have been born after seven months to the second husband, or possibly born after nine months to the first husband.

HALAKHA

The woman waiting for her brother-in-law may neither participate in *ḥalitza* – יְבָמָה לֹא תַּחֲלוֹץ: A widow must wait three months following the death of her husband before participating in the ceremony that frees her from the levirate bond [*ḥalitza*]. However, if she participates in the *ḥalitza* ceremony within this time period and is subsequently found not to be pregnant, her *ḥalitza* is valid. Some authorities maintain that the Sages invalidated such a *ḥalitza* (Rema; *Shulḥan Arukh*, *Even HaEzer* 164:1).

BACKGROUND

A sexually underdeveloped woman – אֲיֵילוֹנִית: A sexually underdeveloped woman is incapable of giving birth, because she lacks certain secondary female sexual characteristics, probably as a result of a congenital defect of the hormonal system. In various places the Talmud discusses the definition of a sexually underdeveloped woman [*ailonit*] and the implications in Jewish law.

HALAKHA

Waiting before marriage – הַמְתָּנָה לִפְנֵי נִישׂוּאִין: Any woman who was married or betrothed must wait three months to remarry after her husband's death or after her bill of divorce was written, or as some authorities rule, after she receives the bill of divorce (Rema, based on *Tur* and Rosh). This applies even if there is no reason to suspect that the woman is pregnant, such as if she lived apart from her husband or was incapable of conceiving. This is in accordance with the opinion of Rabbi Yoḥanan, who ultimately retracted his initial ruling and then ruled in accordance with the opinion of Rabbi Meir. It is also in accordance with the principle stated by Shmuel that the *halakha* is in accordance with Rabbi Meir's decrees (see *Migdal Oz* and *Hagahot Maimoniyot*; *Shulḥan Arukh*, *Even HaEzer* 3:1).

NOTES

The *halakha* is in accordance with Rabbi Meir with respect to his decrees – הֲלָכָה כְּרַבִּי מֵאִיר בִּגְזֵירוֹתָיו: The early commentaries distinguish between Rabbi Meir's decrees and his monetary penalties. With regard to Rabbi Meir's decrees, the *halakha* is in accordance with his opinion; with regard to his monetary penalties, his rulings are not accepted. The rationale for this difference is that decrees involve specific cases which are prohibited due to their similarity to another case, but not prohibited in and of themselves. The concern is that leniency in one case would lead people to treat the prohibited case lightly and act leniently in that case as well. Fines, however, are punishments that go beyond the letter of the law. In this way, Rabbi Meir treats the offender in a stringent manner, to prevent him from sinning again (see *Tosefot HaRosh* and *Yad Malakhi*).

רַבִּי יְהוּדָה אוֹמֵר: נְשׂוּאוֹת – יִתְאָרְסוּ,

Rabbi Yehuda says: A woman who had been **married** when she became widowed or divorced **may be betrothed** immediately, as couples do not have relations during the period of their betrothal. However, she may not marry until three months have passed, in order to differentiate between any possible offspring from the first and second husband.

וַאֲרוּסוֹת – יִנָּשְׂאוּ, חוּץ מֵאֲרוּסָה שֶׁבִּיהוּדָה, מִפְּנֵי שֶׁלִּבּוֹ גַּס בָּהּ.

A woman who had only been **betrothed** when she became widowed or divorced **may be married** immediately, as it may be assumed that the couple did not have relations during the period of their betrothal. This is **except for a betrothed woman in Judea, because** there the bridegroom's **heart is bold,** as it was customary for couples to be alone together during the period of betrothal, and consequently there is a suspicion that they might have had relations, in which case she might be carrying his child. However, no similar concern applies in other places.

רַבִּי יוֹסֵי אוֹמֵר: כָּל הַנָּשִׁים יִתְאָרְסוּ, חוּץ מִן הָאַלְמָנָה, מִפְּנֵי הָאֵיבוּל.

Rabbi Yosei says: All the women listed above **may be betrothed** immediately, because the decree applies only with regard to marriage; this is **except for a widow,** who must wait for a different reason, **because** of the **mourning** for her deceased husband.

וְאָמְרִינַן: רַבִּי אֱלִיעֶזֶר לָא עָל לְבֵי מִדְרָשָׁא, אַשְׁכַּחֵיהּ לְרַבִּי אַסִי דַּהֲוָה קָאֵים. אֲמַר לֵיהּ: מַאי אַמּוּר בְּבֵי מִדְרָשָׁא? אֲמַר לֵיהּ, הָכִי אֲמַר רַבִּי יוֹחָנָן: הֲלָכָה כְּרַבִּי יוֹסֵי. מִכְּלָל דִּיחִידָאָה פָּלֵיג עֲלֵיהּ?

And we said with regard to this: It once happened that **Rabbi Eliezer did not come to the study hall. He met Rabbi Asi, who was standing,** and **said to him: What did they say** today **in the study hall? He said to him** that **Rabbi Yoḥanan said as follows:** The ***halakha* is in accordance with** the opinion of **Rabbi Yosei.** Rabbi Eliezer asked: **By inference,** can it be inferred from the fact that the *halakha* is in accordance with his opinion that only **a single** authority **disagrees with him?**

אִין, וְהָתַנְיָא: הָרִי שֶׁהָיְתָה רְדוּפָה לֵילֵךְ לְבֵית אָבִיהָ, אוֹ שֶׁהָיְתָה לָהּ כַּעַס עִם בַּעְלָהּ, אוֹ שֶׁהָיָה בַּעְלָהּ זָקֵן אוֹ חוֹלֶה, אוֹ שֶׁהָיְתָה הִיא חוֹלָה עֲקָרָה וְזָקֵנָה קְטַנָּה וְאֵיילוֹנִית וְשֶׁאֵינָהּ רְאוּיָה לֵילֵד, אוֹ שֶׁהָיָה בַּעְלָהּ חָבוּשׁ בְּבֵית הָאֲסוּרִין, הַמַּפֶּלֶת לְאַחַר מִיתַת בַּעְלָהּ – כּוּלָּן צְרִיכִין לְהַמְתִּין שְׁלֹשָׁה חֳדָשִׁים, דִּבְרֵי רַבִּי מֵאִיר. רַבִּי יוֹסֵי מַתִּיר לֵיאָרֵס וְלִינָּשֵׂא מִיָּד.

Rabbi Asi answered: **Yes, and** so **it was taught** in the following *baraita*: **If** a woman **was eager to go to her father's house** and did not remain with her husband during his final days, **or** if she **was angry with her husband** and they separated, **or** if **her husband was elderly or sick** and could not father children, **or** if **she was sick,** or **barren,** or **an elderly woman,** or **a minor, or a sexually underdeveloped woman** who is incapable of bearing children,[B] **or a woman who was unfit to give birth** for any other reason, **or** if **her husband was imprisoned in jail,** or if **she had miscarried after the death of her husband,** so that there is no longer any concern that she might be pregnant from him, **all** these women **must wait three months**[H] before remarrying or even becoming betrothed; this is **the statement of Rabbi Meir,** who maintains that this decree applies to all women, even when the particular situation renders it unnecessary. In all these cases **Rabbi Yosei permits** the woman **to be betrothed and to marry immediately.**

לָמָּה לִי? וְהָא אָמְרַתְּ רַבִּי מֵאִיר וְרַבִּי יוֹסֵי הֲלָכָה כְּרַבִּי יוֹסֵי!

The Gemara resumes its question: **Why do I need** Rabbi Yoḥanan to state that the *halakha* is in accordance with Rabbi Yosei? **Didn't you say:** In a dispute between **Rabbi Meir and Rabbi Yosei,** the ***halakha* is in accordance with** the opinion of **Rabbi Yosei,** and therefore the *halakha* should be in accordance with him here as well? This implies that the principle is not to be relied upon.

וּמַאי קוּשְׁיָא? דִּלְמָא לְאַפּוֹקֵי מִדְּרַב נַחְמָן אָמַר שְׁמוּאֵל, דְּאָמַר: הֲלָכָה כְּרַבִּי מֵאִיר בִּגְזֵירוֹתָיו.

The Gemara rejects this argument: **What is the difficulty** here? **Perhaps** this ruling **comes to exclude** what **Rav Naḥman said** that **Shmuel said:** Although there are many cases in which the *halakha* is not in accordance with the opinion of Rabbi Meir, nonetheless, the ***halakha* is in accordance with Rabbi Meir with respect to his decrees,**[N] i.e., in those cases where he imposed a restriction in a particular case due to its similarity to another case. For this reason Rabbi Yoḥanan had to say that the *halakha* here is in accordance with the opinion of Rabbi Yosei, notwithstanding its opposition to Rabbi Meir's decree.

אֶלָּא מֵהָא, דְּתַנְיָא: הוֹלְכִין לְיָרִיד שֶׁל נָכְרִים וְלוֹקְחִים מֵהֶן בְּהֵמָה וַעֲבָדִים וּשְׁפָחוֹת בָּתִּים שָׂדוֹת וּכְרָמִים, וְכוֹתֵב וּמַעֲלֶה בְּעַרְכָּאוֹת שֶׁלָּהֶן, מִפְּנֵי שֶׁהוּא כְּמַצִּיל מִיָּדָן.

Rather, the proof that these principles do not apply is **from that which was taught** in the following *baraita*: **One may go to a fair of** idolatrous **gentiles**[H] **and buy animals, slaves, and maidservants from them,**[N] as the purchase raises them to a more sanctified state; and he may buy **houses, fields, and vineyards** from them, due to the mitzva to settle Eretz Yisrael; **and he may write** the necessary deeds **and confirm** them **in their** gentile **courts**[N] with an official seal, even though this involves an acknowledgement of their authority, **because it is as though he were rescuing** his property **from their hands,** as the court's confirmation and stamp of approval prevents the sellers from appealing the sale and retracting it.

וְאִם הָיָה כֹּהֵן – מִטַּמֵּא בְּחוּצָה לָאָרֶץ לָדוּן וּלְעֵרֵר עִמָּהֶן. וּכְשֵׁם שֶׁמִּטַּמֵּא בְּחוּצָה לָאָרֶץ, כָּךְ מִטַּמֵּא בְּבֵית הַקְּבָרוֹת.

And if he is a priest, he may become ritually impure by going **outside Eretz** Yisrael, where the earth and air are impure, in order **to litigate** with them **and to contest** their claims. **And just as** a priest **may become ritually impure** by going **outside Eretz** Yisrael, **so may he become ritually impure** for this purpose by entering **into a cemetery.**

בֵּית הַקְּבָרוֹת סָלְקָא דַּעְתָּךְ?! טוּמְאָה דְּאוֹרַיְיתָא הִיא!

The Gemara interrupts its presentation of the *baraita* to express surprise at this last ruling: **Can it enter your mind** to say that a priest may enter **a cemetery?** This would make him **ritually impure by Torah law.** How could the Sages permit a priest to become ritually impure by Torah law?

אֶלָּא בְּבֵית הַפְּרָס, דְּרַבָּנַן.

Rather, the *baraita* is referring to **an area where there is uncertainty with regard to the location of a grave or a corpse** [***beit haperas***]**,** owing to the fact that a grave had been unwittingly plowed over, and the bones may have become scattered throughout the field. Such a field imparts ritual impurity only **by rabbinic law.**

וּמִטַּמֵּא לִישָּׂא אִשָּׁה וְלִלְמוֹד תּוֹרָה. אֲמַר רַבִּי יְהוּדָה: אֵימָתַי – בִּזְמַן שֶׁאֵין מוֹצֵא לִלְמוֹד, אֲבָל מוֹצֵא לִלְמוֹד – לֹא יִטַּמֵּא.

The *baraita* continues: **And** a priest **may** likewise **become ritually impure** and leave Eretz Yisrael in order **to marry a woman or to study Torah** there. **Rabbi Yehuda said: When** does this allowance apply? When **he cannot find** a place **to study** in Eretz Yisrael. **But** if the priest can find a place **to study** in Eretz Yisrael, **he may not become ritually impure** by leaving the country.[H]

רַבִּי יוֹסֵי אוֹמֵר: אַף בִּזְמַן שֶׁמּוֹצֵא לִלְמוֹד נַמִּי יִטַּמֵּא, לְפִי

Rabbi Yosei says: Even when he can find a place **to study** Torah in Eretz Yisrael, **he may also** leave the country and **become ritually impure, because**

HALAKHA

Going to a fair of gentiles – הֲלִיכָה לְיָרִיד: One is permitted to go to a market fair held in honor of idolatry in order to purchase things from the local farmers, especially if refraining from doing so would cause him significant financial loss. However, he may not buy from a merchant at such a fair, since part of his profits go to idolatry (*Shulḥan Arukh*, *Yoreh De'a* 149:3).

When may a priest become ritually impure – מָתַי מוּתָּר לְכֹהֵן לְהִיטַּמֵּא: A priest is permitted to become ritually impure with rabbinic impurity if he walks in an area where there is uncertainty with regard to the location of a grave or a corpse [*beit haperas*], or if he leaves Eretz Yisrael in order to marry a woman, learn Torah, or fulfill other mitzvot that he cannot perform in Eretz Yisrael (*Shulḥan Arukh*, *Yoreh De'a* 372:1).

NOTES

Buy animals…from them – לוֹקְחִים מֵהֶן בְּהֵמָה: An alternate rationale for this leniency is that animals and slaves and the other items listed here are not always readily available. The Sages waived their decrees in such cases of loss or irretrievable opportunity (Ritva).

Confirm in their courts – מַעֲלֶה בְּעַרְכָּאוֹת שֶׁלָּהֶן: The Sages prohibited litigation in gentile courts, even where they judge according to Jewish law, because this belittles the Jewish court and honors the gentile one. However, it is permitted in a case where the issue is of special importance.

Perek **IV**
Daf **47** Amud **b**

שֶׁאֵין מִן הַכֹּל זוֹכֶה אָדָם לִלְמוֹד. וְאָמַר רַבִּי יוֹסֵי: מַעֲשֶׂה בְּיוֹסֵף הַכֹּהֵן שֶׁהָלַךְ אֵצֶל רַבּוֹ לְצַיְדָן לִלְמוֹד תּוֹרָה.

a person does not merit to learn from everyone, and it is possible that the only suitable teacher for him lives outside of Eretz Yisrael. **And Rabbi Yosei reported** in support of his position: **It once happened that Yosef the priest went to his teacher in Tzeidan,** outside Eretz Yisrael, **to learn Torah,** although the preeminent Sage of his generation, Rabban Yoḥanan ben Zakkai, lived in Eretz Yisrael.

וְאָמַר רַבִּי יוֹחָנָן: הֲלָכָה כְּרַבִּי יוֹסֵי. וְלָמָּה לִי? וְהָא אָמְרַתְּ: רַבִּי יְהוּדָה וְרַבִּי יוֹסֵי הֲלָכָה כְּרַבִּי יוֹסֵי!

And Rabbi Yoḥanan said about this: **The *halakha* is in accordance with** the opinion of **Rabbi Yosei.** The Gemara asks: **Why** was it necessary for Rabbi Yoḥanan to issue this ruling? **Didn't you say:** In disputes between **Rabbi Yehuda and Rabbi Yosei, the *halakha* is in accordance with** the opinion of **Rabbi Yosei,** and so it should be obvious that this *halakha* is in accordance with his opinion? Apparently, this principle is not accepted.

אָמַר אַבַּיֵי: אִיצְטְרִיךְ, סָלְקָא דַּעְתָּךְ אָמִינָא: הָנֵי מִילֵּי – בְּמַתְנִיתִין, אֲבָל בְּבָרַיְיתָא – אֵימָא לָא, קָא מַשְׁמַע לָן.

Abaye said: It was nonetheless **necessary** to issue this ruling, , **it** could have **entered your mind to say** that **this** principle **applies** only with regard to disputes **in the Mishna. But** with regard to disputes **in a *baraita*, say no,** the principle does not apply. Therefore, Rabbi Yoḥanan **is teaching us** that the *halakha* is in accordance with the opinion of Rabbi Yosei in this case as well.[N]

NOTES

In the Mishna but not in a *baraita* – בְּמִשְׁנָה, אֲבָל לֹא בְּבָרַיְיתָא: Rashi explains that it is possible that the opinions were reversed in a *baraita*, since *baraitot* were not always transmitted precisely. Elsewhere, the Sages express the concern not only about a reversal of the teachings, but also about a general lack of accuracy and inexact citation of the words of *tanna'im*. Consequently, the principles with regard to the Mishna do not always apply to the *baraitot*, even when the identity of the author is established. It is also possible that a principle was stated that takes into account everything stated in the *mishnayot*, whereas there is no way of knowing everything stated in all of the *baraitot*.

HALAKHA

Objects that belong to a gentile – חֲפָצֵי נָכְרִי: Objects that belong to a gentile establish residence in the spot where they are located, and it is permitted for a Jew to move them only two thousand cubits in each direction, in accordance with the opinion of Rabbi Yoḥanan and the conclusion of the Gemara (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 401).

אֶלָּא הָכִי קָאָמַר: הָנֵי כְּלָלֵי לָאו דְּבְרֵי הַכֹּל נִינְהוּ, דְּהָא רַב לֵית לֵיהּ הָנֵי כְּלָלֵי.

Since no proof has been found to support Rav Mesharshiya's statement that there are no principles for issuing halakhic rulings, the Gemara emends his statement. **Rather, this** is what Rav Mesharshiya **is saying: These principles were not accepted by all** authorities, **as** in fact **Rav did not accept these principles,** as demonstrated above.

אָמַר רַב יְהוּדָה, אָמַר שְׁמוּאֵל: חֲפָצֵי נָכְרִי אֵין קוֹנִין שְׁבִיתָה.

The Gemara returns to addressing acquisition of residence. **Rav Yehuda said** that **Shmuel said: Objects belonging to a gentile do not acquire residence** and do not have a Shabbat limit, either on their own account or due to the ownership of the gentile. Accordingly, if they were brought into a town from outside its limits, a Jew may carry them two thousand cubits in each direction.

לְמַאן? אִילֵימָא לְרַבָּנַן – פְּשִׁיטָא! הָשְׁתָּא חֲפָצֵי הֶפְקֵר, דְּלֵית לְהוּ בְּעָלִים, אֵין קוֹנִין שְׁבִיתָה – חֲפָצֵי הַנָּכְרִי, דְּאִית לְהוּ בְּעָלִים מִיבָּעְיָא?!

The Gemara asks: **In accordance with whose** opinion was this statement made? **If you say** that it was made **in accordance with** the opinion of **the Rabbis,** it is **obvious. Now,** if **unclaimed objects, which do not have owners, do not acquire residence, is it necessary** to say that **a gentile's objects, which have an owner,** do not acquire residence?

אֶלָּא אַלִּיבָּא דְּרַבִּי יוֹחָנָן בֶּן נוּרִי. וְקָא מַשְׁמַע לָן: אֵימַר דְּאָמַר רַבִּי יוֹחָנָן בֶּן נוּרִי קוֹנִין שְׁבִיתָה – הָנֵי מִילֵּי חֲפָצֵי הֶפְקֵר, דְּלֵית לְהוּ בְּעָלִים. אֲבָל חֲפָצֵי הַנָּכְרִי, דְּאִית לְהוּ בְּעָלִים – לֹא.

Rather, this statement must have been made **in accordance with** the opinion of **Rabbi Yoḥanan ben Nuri, and** Shmuel **is teaching us** that when we **say** that **Rabbi Yoḥanan ben Nuri said** that objects **acquire residence, this applies only** to **unclaimed objects, which have no owners; but** it does **not** apply to **objects** belonging **to a gentile, which have owners.**

מֵיתִיבִי, רַבִּי שִׁמְעוֹן בֶּן אֶלְעָזָר אוֹמֵר: הַשּׁוֹאֵל כְּלִי מִן הַנָּכְרִי בְּיוֹם טוֹב, וְכֵן הַמַּשְׁאִיל לוֹ לַנָּכְרִי כְּלִי מֵעֶרֶב יוֹם טוֹב וְהֶחֱזִירוֹ לוֹ בְּיוֹם טוֹב, וְהַכֵּלִים וְהָאוֹצָרוֹת שֶׁשָּׁבְתוּ בְּתוֹךְ הַתְּחוּם – יֵשׁ לָהֶן אַלְפַּיִם אַמָּה לְכָל רוּחַ. וְנָכְרִי שֶׁהֵבִיא לוֹ פֵּירוֹת מִחוּץ לַתְּחוּם – הֲרֵי זֶה לֹא יְזִיזֵם מִמְּקוֹמָן.

The Gemara raises an objection from a *baraita*. **Rabbi Shimon ben Elazar says:** With regard to a Jew **who borrowed a utensil from a gentile on a Festival, and similarly** with regard to a Jew **who lent a utensil to a gentile on the eve of a Festival and** the gentile **returned it to him on the Festival, and** likewise **utensils or bins that acquired residence within the** city's Shabbat **limit,** in all these cases the utensils **have,** i.e., can be moved, **two thousand cubits in each direction. But if a gentile brought** the Jew **produce from outside** the Shabbat **limit,** the Jew **may not move it from its place.**

אִי אָמְרַתְּ בְּשִׁלְמָא קָסָבַר רַבִּי יוֹחָנָן בֶּן נוּרִי חֲפָצֵי נָכְרִי קוֹנִין שְׁבִיתָה, הָא מַנִּי – רַבִּי יוֹחָנָן בֶּן נוּרִי הִיא.

Granted if you say that Rabbi Yoḥanan ben Nuri holds that **objects that belong to a gentile acquire residence,** one can say that **this** *baraita* is in accordance with **whose** opinion? **It** is in accordance with the opinion of **Rabbi Yoḥanan ben Nuri,** that even a gentile's objects acquire residence.

אֶלָּא אִי אָמְרַתְּ קָסָבַר רַבִּי יוֹחָנָן בֶּן נוּרִי חֲפָצֵי הַנָּכְרִי אֵין קוֹנִין שְׁבִיתָה, הָא מַנִּי? לֹא רַבִּי יוֹחָנָן בֶּן נוּרִי וְלֹא רַבָּנַן!

However, if you say that Rabbi Yoḥanan ben Nuri holds that **objects belonging to a gentile do not acquire residence,** in accordance with **whose** opinion is **this** *baraita*? It is **neither** in accordance with that of **Rabbi Yoḥanan ben Nuri nor** that of **the Rabbis.**

לְעוֹלָם קָסָבַר רַבִּי יוֹחָנָן בֶּן נוּרִי "חֲפָצֵי הַנָּכְרִי קוֹנִין שְׁבִיתָה", וּשְׁמוּאֵל דְּאָמַר כְּרַבָּנַן. וּדְקָאָמְרַתְּ לְרַבָּנַן פְּשִׁיטָא – מַהוּ דְּתֵימָא: גְּזֵירָה בְּעָלִים דְּנָכְרִי אַטּוּ בְּעָלִים דְּיִשְׂרָאֵל, קָא מַשְׁמַע לָן.

The Gemara answers: **Actually,** say that **Rabbi Yoḥanan ben Nuri holds** that **a gentile's objects acquire residence,** and that **Shmuel,** who said that they do not acquire residence, **spoke in accordance with** the opinion of **the Rabbis. And** with regard to **that which you said,** that **according to** the opinion of **the Rabbis,** it is **obvious** that a gentile's objects do not acquire residence, so this ruling need not have been stated at all. The Gemara answers: That is incorrect, as **you might have said** that the Sages should issue a **decree** in the case of **gentile owners** that his objects acquire residence in his location and that they may not be carried beyond two thousand cubits from that spot, lest people carry objects belonging to **a Jewish owners** beyond their two-thousand-cubit limit. Therefore, it **is teaching us** that no decree was issued.

וְרַב חִיָּיא בַּר אָבִין אָמַר רַבִּי יוֹחָנָן: חֲפָצֵי נָכְרִי קוֹנִין שְׁבִיתָה, גְּזֵירָה בְּעָלִים דְּנָכְרִי אַטּוּ בְּעָלִים דְּיִשְׂרָאֵל.

Rav Ḥiyya bar Avin, however, **said** that **Rabbi Yoḥanan said: Objects that belong to a gentile**[H] indeed **acquire residence,** due to the aforementioned **decree** issued in the case of **gentile owners due to** the case of **Jewish owners.**

הֲנָהוּ דִּכְרֵי דְּאָתוּ לְמַבְרְכְתָּא, שְׁרָא לְהוּ רָבָא לִבְנֵי מְחוֹזָא לְמִיזְבַּן מִינַּייהוּ.

The Gemara relates that **certain rams were brought to** the town of **Mavrakhta** on Shabbat. **Rava permitted the residents of Meḥoza to purchase them**[N] and take them home, although Mavrakhta was outside the Shabbat limit of Meḥoza and could be reached by the residents of Meḥoza only by way of an *eiruv* of Shabbat limits.

אֲמַר לֵיהּ רָבִינָא לְרָבָא: מַאי דַּעְתָּךְ – דְּאָמַר רַב יְהוּדָה, אָמַר שְׁמוּאֵל: חֻפְצֵי נָכְרִי אֵין קוֹנִין שְׁבִיתָה,

Ravina said to Rava: What is your reasoning in permitting these rams? You must rely upon that which **Rav Yehuda said** that **Shmuel said: Objects belonging to a gentile do not acquire residence,** and so they are permitted even if they were brought to Meḥoza from outside the Shabbat limit.

וְהָא שְׁמוּאֵל וְרַבִּי יוֹחָנָן הֲלָכָה כְּרַבִּי יוֹחָנָן, וְאָמַר רַב חִיָּיא בַּר אָבִין אָמַר רַבִּי יוֹחָנָן: חֻפְצֵי נָכְרִי קוֹנִין שְׁבִיתָה, גְּזֵירָה בְּעָלִים דְּנָכְרִי אַטּוּ בְּעָלִים דְּיִשְׂרָאֵל!

Isn't the principle, in disputes between **Shmuel and Rabbi Yoḥanan,** that **the *halakha* is in accordance with** the opinion of **Rabbi Yoḥanan? And Rav Ḥiyya bar Avin** already **said** that **Rabbi Yoḥanan said: Objects that belong to a gentile acquire residence,** based on **a decree** in the case of **a gentile owner, due to** the case of **a Jewish owner.** The *halakha* is in accordance with his opinion.

הַדַּר אֲמַר רָבָא: לִיזַּדְּבְנוּ לִבְנֵי מַבְרְכְתָּא. דְּכוּלָּה מַבְרְכְתָּא לְדִידְהוּ כְּאַרְבַּע אַמּוֹת דְּמָיָא.

Rava reconsidered and said: Let the rams **be sold** only **to the residents of Mavrakhta.**[N] Although the rams acquired residence, and may be moved only four cubits as they were taken beyond their Shabbat limit, the legal status of **all Mavrakhta is like four cubits for them.** However, they may not be sold to the residents of Meḥoza, as the *halakha* is in accordance with the opinion of Rabbi Yoḥanan.[H]

תָּנֵי רַבִּי חִיָּיא: חֵרֶם שֶׁבֵּין תְּחוּמֵי שַׁבָּת – צָרִיךְ

Rabbi Ḥiyya taught a *baraita*: **A water-filled ditch** [***ḥerem***][N] **that** lies **between** two **Shabbat limits requires**

NOTES

Acquisition on Shabbat – קְנָיָן בְּשַׁבָּת: The commentaries discuss the problematic aspect of the story itself: How could Rava have permitted buying and selling on Shabbat? Some commentaries answer that this case is not a standard purchase. Rather, shepherds who were well known to the locals entered the town and left various items in the possession of their Jewish acquaintances, without settling accounts on that day. The assumption is that the decree that prohibits buying and selling does not apply in that case (*Me'iri*; Rav Ya'akov Emden).

To the residents of Mavrakhta – לִבְנֵי מַבְרְכְתָּא: The assumption must be that these gentiles intended to bring the rams to the residents of Meḥoza, rather than Mavrakhta. This is because most authorities rule that a Jew may not utilize an object that was brought for him from outside the city, even if the whole city is considered like four cubits (Rashba).

Water-filled ditch [*ḥerem*] – חֵרֶם: Several explanations have been offered for this word (see *Tosafot*). One possibility is that the correct word is *ḥeres*, meaning a trench [*ḥaritz*], with the letter *tzaddi* interchanged with the letter *samekh*. However, most commentaries maintain that the word *ḥerem* is the correct version. According to some, the word *ḥerem* refers to a fishing net; a water trench is called a *ḥerem* because they would catch fish in it (Rabbeinu Yehonatan). According to others, it is derived from the verse: "One who is *ḥarum* or long-limbed" (Leviticus 21:18), in which the word *ḥarum* means sunken; and a sunken portion of the ground is also referred to as *ḥerem* (*Ge'on Ya'akov*).

HALAKHA

The objects of a gentile in a city – חֻפְצֵי נָכְרִי בָּעִיר: If a gentile brings objects from outside the Shabbat limit to a city that is enclosed for the purpose of residence, it is permitted for a Jew to carry these objects within the city, in accordance with Rava's opinion (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 401).

Perek **IV**
Daf **48** Amud **a**

מְחִיצָה שֶׁל בַּרְזֶל לְהַפְסִיקוּ. מְחַיֵּיךְ עֲלֵיהּ רַבִּי יוֹסֵי בְּרַבִּי חֲנִינָא,

an iron partition to divide it into two separate areas, so that the residents of both places may draw water from it.[N] **Rabbi Yosei, son of Rabbi Ḥanina,** would **laugh at this** teaching,[N] as he deemed it unnecessary.

מַאי טַעְמָא קָא מְחַיֵּיךְ? אִילֵימָא מִשּׁוּם דְּתָנֵי לָהּ כְּרַבִּי יוֹחָנָן בֶּן נוּרִי לְחוּמְרָא, וְאִיהוּ סְבִירָא לֵיהּ כְּרַבָּנַן לְקוּלָּא? וּמִשּׁוּם דְּסָבַר לְקוּלָּא, מַאן דְּתָנֵי לְחוּמְרָא מְחַיֵּיךְ עֲלָהּ?

The Gemara asks: **Why did** Rabbi Yosei, son of Rabbi Ḥanina, **laugh? If you say** that it is **because** Rabbi Ḥiyya **taught** the *baraita* **stringently, in accordance with** the opinion of **Rabbi Yoḥanan ben Nuri,** saying that ownerless objects acquire a place of residence, **and** Rabbi Yosei, son of Rabbi Ḥanina **holds leniently, in accordance with** the opinion of **the Rabbis** and says that those objects do not acquire residence, this is difficult. Just **because he holds leniently, does he laugh at one who teaches stringently?**

אֶלָּא מִשּׁוּם דְּתַנְיָא: נְהָרוֹת הַמּוֹשְׁכִין וּמַעְיָינוֹת הַנּוֹבְעִין – הֲרֵי הֵן כְּרַגְלֵי כָּל אָדָם.

Rather, he must have laughed for a different reason, **as it was taught** in a *baraita*: **Flowing rivers and streaming springs are like the feet of all people,** as the water did not acquire residence in any particular spot. Consequently, one who draws water from rivers and springs may carry it wherever he is permitted to walk, even if it had previously been located outside his Shabbat limit. According to Rabbi Yosei, son of Rabbi Ḥanina, the same *halakha* should apply to the water in the ditch.

וְדִילְמָא בִּמְכוּנָּסִין?

The Gemara rejects this argument: No proof can be brought from this ruling concerning rivers and springs, as **perhaps** we are dealing here with a ditch of still, **collected** water that belongs exclusively to the residents of that particular place.

NOTES

A water-filled ditch between Shabbat limits – חֵרֶם שֶׁבֵּין תְּחוּמֵי שַׁבָּת: According to some commentaries, Rabbi Ḥiyya maintains that going beyond the Shabbat limits is prohibited by Torah law. Consequently, a suspended partition is insufficient in that case, unlike the case of other water, where the carrying is prohibited by rabbinic law. Rabbi Yosei bar Ḥanina, however, maintains that going beyond the Shabbat limits is prohibited by rabbinic law. Therefore, a suspended partition suffices (*Kehillot Ya'akov*).

Laugh at this – מְחַיֵּיךְ עֲלֵיהּ: This expression, as an expression of objection to a particular opinion, is characteristic of Rabbi Yosei bar Ḥanina. It is stated in tractate *Sanhedrin* (17b): They laughed about this in the West, i.e., in Eretz Yisrael. Presumably, the reference there is to Rabbi Yosei bar Ḥanina.