Perek **VI**
Daf **61** Amud **b**

מתני׳ הַדָּר עִם הַנָּכְרִי בְּחָצֵר, אוֹ עִם מִי שֶׁאֵינוֹ מוֹדֶה בָּעֵירוּב – הֲרֵי זֶה אוֹסֵר עָלָיו.

MISHNA **One who resides with a gentile in** the same **courtyard, or** one who lives in the same courtyard **with one who does not accept** the principle of ***eiruv*,** even though he is not a gentile, such as a Samaritan [*Kuti*], **this** person **renders it prohibited for him** to carry from his own house into the courtyard or from the courtyard into his house, unless he rents this person's rights in the courtyard, as will be explained below.

רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: לְעוֹלָם אֵינוֹ אוֹסֵר עַד שֶׁיִּהוּ שְׁנֵי יִשְׂרְאֵלִים אוֹסְרִין זֶה עַל זֶה.

Rabbi Eliezer ben Ya'akov says: Actually, the gentile **does not render it prohibited** for one to carry, **unless there are two Jews** living in the same courtyard who themselves would **prohibit one another** from carrying if there were no *eiruv*. In such a case, the presence of the gentile renders the *eiruv* ineffective. However, if only one Jew lives there, the gentile does not render it prohibited for him to carry in the courtyard.[H]

אָמַר רַבָּן גַּמְלִיאֵל: מַעֲשֶׂה בְּצָדוֹקִי אֶחָד שֶׁהָיָה דָּר עִמָּנוּ בְּמָבוֹי בִּירוּשָׁלַיִם, וְאָמַר לָנוּ אַבָּא: מַהֲרוּ וְהוֹצִיאוּ אֶת הַכֵּלִים לַמָּבוֹי עַד שֶׁלֹּא יוֹצִיא וְיֶאֱסֹר עֲלֵיכֶם.

Rabban Gamliel said: There was **an incident involving a certain Sadducee**[N] **who lived with us in** the same **alleyway in Jerusalem,** who renounced his rights to the alleyway before Shabbat. **And Father said to us: Hurry and take out** your **utensils to the alleyway** to establish possession of it, **before he** changes his mind and **takes out** his own utensils so as to reclaim his rights, in which case **he would render it prohibited for you to** use the entire alleyway.

רַבִּי יְהוּדָה אוֹמֵר בְּלָשׁוֹן אַחֵר: מַהֲרוּ וַעֲשׂוּ צָרְכֵיכֶם בַּמָּבוֹי, עַד שֶׁלֹּא יוֹצִיא וְיֶאֱסֹר עֲלֵיכֶם.

Rabbi Yehuda says: Rabban Gamliel's father spoke to them **with a different formulation,** saying: **Hurry and do** whatever **you must do in the alleyway** prior to Shabbat, **before he takes out** his utensils **and renders it prohibited for you to** use the alleyway. In other words, you may not bring out utensils to the alleyway at all on Shabbat, as the institution of an *eiruv* cannot be used in the neighborhood of a Sadducee. This is because, even if he renounced his rights to the alleyway, he can always retract and reclaim them.

HALAKHA

When does a gentile render it prohibited – מָתַי אוֹסֵר גּוֹי: A gentile who shares a courtyard with a Jew renders it prohibited for the Jew to carry into the courtyard only if there are two Jews who would prohibit each other from carrying in the courtyard if there were no *eiruv*. This ruling is in accordance with the statement of Rabbi Eliezer ben Ya'akov (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 382:1).

NOTES

A gentile, a Samaritan, and a Sadducee – נוֹכְרִי כּוּתִי וְצָדוֹקִי: The mishna mentions at least three types of people who do not have the same status as Jews with regard to the laws of *eiruv*. The Gemara elaborates on each of these categories. The status of a gentile and that of a Jew is clear with regard to *eiruv*: A gentile is not obligated in any of the *halakhot* of *eiruv*, whereas all of these *halakhot* apply to a Jew. The status of a Samaritan, who is referred to by the phrase: One who does not accept the principle of an *eiruv*, in the mishna, has been disputed by the Sages over the generations. Does a Samaritan have the status of a Jew or a gentile? The mishna mentions a Sadducee, who is a full-fledged Jew but does not accept the words of the Sages. The dispute is with regard to whether his status with regard to the *halakhot* of *eiruv* is like that of a gentile, as Rabbi Yehuda states, or that of a regular Jew.

Perek **VI**
Daf **62** Amud **a**

גמ׳ יָתֵיב אַבַּיֵי בַּר אָבִין וְרַב חִינָּנָא בַּר אָבִין, וְיָתֵיב אַבַּיֵי גַּבַּייְהוּ. וְיָתְבִי וְקָאָמְרִי: בִּשְׁלָמָא רַבִּי מֵאִיר קָסָבַר: דִּירַת גּוֹי שְׁמָהּ דִּירָה, וְלָא שְׁנָא חַד וְלָא שְׁנָא תְּרֵי.

GEMARA **Abaye bar Avin and Rav Ḥinana bar Avin were sitting, and Abaye was sitting beside them, and they sat and said: Granted,** the opinion of **Rabbi Meir,** the author of the unattributed mishna, is clear, as **he holds** that **the residence of a gentile is considered a** significant **residence.** In other words, the gentile living in the courtyard is considered a resident who has a share in the courtyard. Since he cannot join in an *eiruv* with the Jew, he renders it prohibited for the Jew to carry from his house to the courtyard or from the courtyard to his house. Consequently, the case of **one** Jew living in the courtyard is **no different** from the case of **two** Jews living there. In both cases, the gentile renders it prohibited for carrying.

אֶלָּא רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב מַאי קָסָבַר? אִי קָסָבַר דִּירַת גּוֹי שְׁמָהּ דִּירָה – אַפִּילּוּ חַד נַמִּי נִיתְסַר! וְאִי לֹא שְׁמָהּ דִּירָה – אַפִּילּוּ תְּרֵי נַמִּי לָא נִיתְסַר!

But Rabbi Eliezer ben Ya'akov, what does he hold? If you say **he holds** that **the residence of a gentile is considered a** significant **residence, he should prohibit** carrying **even** when there is only **one** Jew living in the courtyard. **And if it is not considered a** significant **residence, he should not prohibit** carrying **even** when there are **two** Jews living there.

אֲמַר לְהוּ אַבַּיֵי: וְקָסָבַר רַבִּי מֵאִיר דִּירַת גּוֹי שְׁמָהּ דִּירָה? וְהָתַנְיָא: חֲצֵירוֹ שֶׁל נָכְרִי הֲרֵי הוּא כְּדִיר שֶׁל בְּהֵמָה!

Abaye said to them: Your basic premise is based on a faulty assumption. **Does Rabbi Meir** actually **hold** that **the residence of a gentile is considered a** significant **residence? Wasn't it taught** in the *Tosefta*: **The courtyard of a gentile is like the pen of an animal,**[N] i.e., just as an animal pen does not render it prohibited to carry in a courtyard, so too, the gentile's residence in itself does not impose restrictions on a Jew.

NOTES

The pen of an animal – דִּיר שֶׁל בְּהֵמָה: All of the *halakhot* of *eiruv*, like the rest of the *halakhot* of Shabbat, were given only to the Jewish people. Therefore, they do not apply to one who is not a Jew. This statement means that as a result, a gentile who lives in a certain place may be ignored for the purposes of *eiruv*, as he is not included among those to whom the *halakhot* of *eiruv* apply.

אֶלָּא דְּכוּלֵי עָלְמָא דִּירַת גּוֹי – לֹא שְׁמָהּ דִּירָה, וְהָכָא בִּגְזֵירָה שֶׁמָּא יִלְמַד מִמַּעֲשָׂיו קָא מִיפַּלְגִי,

Rather, this explanation must be rejected, and the dispute in the mishna should be understood differently: **Everyone agrees** that **the residence of gentile is not considered a** significant **residence, and here they disagree about a decree** that was issued **lest** the Jew **learn from** the gentile's **ways.** The disagreement is with regard to whether this decree is applicable only when there are two Jews living in the courtyard, or even when there is only one Jew living there.

רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב סָבַר: כֵּיוָן דְּגוֹי חָשׁוּד אַשְׁפִּיכוּת דָּמִים, תְּרֵי דְּשָׁכְיחִי דְּדָיְירִי – גָּזְרוּ בְּהוּ, חַד לָא שָׁכִיחַ – לָא גָּזְרוּ בֵּיהּ רַבָּנַן.

The disagreement should be understood as follows: **Rabbi Eliezer ben Ya'akov holds** that **since a gentile is suspected of bloodshed,** it is unusual for a single Jew to share a courtyard with a gentile. However, it is not unusual for two or more Jews to do so, as they will protect each other. Therefore, in the case of **two** Jews, **who commonly live** together with a gentile in the same courtyard, the Sages **issued a decree** to the effect that the gentile renders it prohibited for them to carry. This would cause great inconvenience to Jews living with gentiles and would thereby motivate the Jews to distance themselves from gentiles. In this manner, the Sages sought to prevent the Jews from learning from the gentiles' ways. However, in the case of **one** Jew, for whom **it is not common** to live together with a gentile in the same courtyard, **the Sages did not issue a decree** that the gentile renders it prohibited for him to carry, as the Sages do not issue decrees for uncommon situations.

וְרַבִּי מֵאִיר סָבַר: זְמָנִין דְּמִקָּרֵי וְדָיֵיר. וְאָמְרוּ רַבָּנַן: אֵין עֵירוּב מוֹעִיל בִּמְקוֹם גּוֹי, וְאֵין בִּיטּוּל רְשׁוּת מוֹעִיל בִּמְקוֹם גּוֹי עַד שֶׁיַּשְׂכִּיר, וְגוֹי לֹא מוֹגֵר.

On the other hand, **Rabbi Meir holds** that **sometimes it happens that** a single Jew **lives** together with a gentile in the same courtyard, and hence it is appropriate to issue the decree in such a case as well. **Therefore, the Sages said: An *eiruv* is not effective in a place** where **a gentile** is living, **nor is the renunciation of rights** to a courtyard in favor of the other residents **effective in a place** where **a gentile** is living. Therefore, carrying is prohibited in a courtyard in which a gentile resides, **unless** the gentile **rents** out his property to one of the Jews for the purpose of an *eiruv* regardless of the number of Jews living there.[H] **And** as **a gentile** would **not** be willing **to rent** out his property for this purpose, the living conditions will become too strained, prompting the Jew to move.

מַאי טַעְמָא? אִילֵּימָא מִשּׁוּם דְּסָבַר: דִּלְמָא אָתֵי לְאַחֲזוֹקֵי בִּרְשׁוּתוֹ, הָנִיחָא לְמַאן דְּאָמַר "שְׁכִירוּת בְּרִיאָה בָּעֵינַן", אֶלָּא לְמַאן דְּאָמַר "שְׁכִירוּת רְעוּעָה בָּעֵינַן" מַאי אִיכָּא לְמֵימַר? דְּאִתְּמַר, רַב חִסְדָּא אָמַר: שְׁכִירוּת בְּרִיאָה, וְרַב שֵׁשֶׁת אָמַר: שְׁכִירוּת רְעוּעָה.

The Gemara poses a question: **What is the reason** that a gentile will not rent out his property for the purpose of an *eiruv*? **If you say** it is **because** the gentile **thinks** that **perhaps they will** later **come to take possession of his property** based on this rental, **this works out well according to the one who said** that **we require a full-fledged rental,** i.e., that rental for the purpose of an *eiruv* must be proper and valid according to all the *halakhot* of renting.

However, according to the one who said that **we require** only **a flawed,** symbolic **rental,**[H] i.e., all that is needed is a token gesture that has the appearance of renting, **what is there to say?** The gentile would understand that it is not a real rental, and therefore he would not be wary of renting out his residence. **As it was stated** that the *amora'im* disputed this issue as follows: **Rav Ḥisda said** that we require a **full-fledged rental, and Rav Sheshet said: A flawed,** symbolic **rental** is sufficient.

מַאי רְעוּעָה, מַאי בְּרִיאָה? אִילֵּימָא: בְּרִיאָה – בִּפְרוּטָה, רְעוּעָה – פָּחוֹת מִשָּׁוֶה פְּרוּטָה, מִי אִיכָּא לְמַאן דְּאָמַר מִגּוֹי בְּפָחוֹת מִשָּׁוֶה פְּרוּטָה לֹא? וְהָא שָׁלַח רַבִּי יִצְחָק בְּרַבִּי יַעֲקֹב בַּר גִּיּוֹרֵי מִשְּׁמֵיהּ דְּרַבִּי יוֹחָנָן: הֱוֵי יוֹדֵעַ שֶׁשּׁוֹכְרִין מִן הַגּוֹי אֲפִילּוּ בְּפָחוֹת מִשָּׁוֶה פְּרוּטָה.

Having mentioned this dispute, the Gemara now clarifies its particulars: **What is** a **flawed** rental, and **what is** a **full-fledged** one? **If you say** that a **full-fledged** rental refers to a case where one gives another person **a *peruta*** as rent, whereas in a **flawed** rental he provides him with **less than the value of a *peruta*,** this poses a difficulty. **Is there anyone who said** that renting **from a gentile for less than the value of a *peruta*** is **not** valid? **Didn't Rabbi Yitzḥak, son of Rabbi Ya'akov bar Giyorei, send in the name of Rabbi Yoḥanan: You should know that one** may **rent from a gentile even for less than the value of a *peruta*?**[H]

HALAKHA

עֵירוּב בִּמְקוֹם נוֹכְרִי: An *eiruv* in a place where there is a gentile – Neither an *eiruv* nor a renunciation of rights is effective when there is a gentile living in the courtyard. The only solution is for the gentile to rent his domain to a Jewish resident of the courtyard (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 382:1).

שְׁכִירוּת רְעוּעָה: Flawed rental – The type of rental mentioned by the Sages in the context of a joining of courtyards is not the standard form of rental, as even a flawed or symbolic rental suffices (Rambam). It is not necessary to draw up a document for such a rental, and one need not explain the reason for it. This is in accordance with the opinion of Rav Sheshet, who was a greater authority than Rabbi Ḥisda and whose opinion is lenient here, as the lenient opinion is generally accepted in disputes relating to the *halakhot* of *eiruv* (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 382:4).

שְׁכִירוּת בְּפָחוֹת מִשָּׁוֶה פְּרוּטָה: Rental for less than the value of a *peruta* – One may rent property from a gentile even for less than the value of a penny [*peruta*] (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 382:5).

וְאָמַר רַבִּי חִיָּיא בַּר אַבָּא אָמַר רַבִּי יוֹחָנָן: בֶּן נֹחַ נֶהֱרָג עַל פָּחוֹת מִשָּׁוֶה פְּרוּטָה, וְלֹא נִיתָּן לְהִשָּׁבוֹן!

And Rabbi Ḥiyya bar Abba said that **Rabbi Yoḥanan said: A Noahide,** i.e., a gentile who stole **is executed** for his crime, according to the laws applying to Noahides, even if he stole **less than the value of a *peruta*.**[N] A Noahide is particular about his property and unwilling to waive his rights to it, even if it is of minimal value; therefore, the prohibition against stealing applies to items of any value whatsoever. **And** in the case of Noahides, the stolen item **is not returnable,**[N] as the possibility of rectification by returning a stolen object was granted only to Jews. The principle that less than the value of a *peruta* is not considered money applies to Jews alone. With regard to gentiles, it has monetary value, and therefore one may rent from a gentile with this amount.

אֶלָּא: בִּרְיאָה – בְּמוֹהַרְקֵי וְאַבּוּרְגָנֵי, רְעוּעָה – בְּלֹא מוֹהַרְקֵי וְאַבּוּרְגָנֵי. הָנִיחָא לְמַאן דְּאָמַר שְׁכִירוּת בִּרְיאָה בָּעֵינַן,

Rather, the distinction between a full-fledged rental and a flawed rental should be explained as follows: **A full-fledged** rental refers **to** one that is confirmed **by legal documents** [***moharkei***] and guaranteed by **officials** [***aburganei***];[L] and **a flawed** rental means one that is **not** confirmed **by legal documents and** guaranteed by **officials,** an agreement that is unenforceable in court. Based on this explanation, the Gemara reiterates what was stated earlier with regard to the gentile's concern about renting: **This works out well according to the one who said** that **we require a full-fledged rental,** as it is clear why the gentile would refuse to rent out his property.

אֶלָּא לְמַאן דְּאָמַר שְׁכִירוּת רְעוּעָה בָּעֵינַן, מַאי אִיכָּא לְמֵימַר? אֲפִילּוּ הָכִי חָשֵׁישׁ גּוֹי לִכְשָׁפִים וְלָא מוֹגַר.

But according to the one who said that **we require** only **a flawed rental, what is there to say** in this regard? Why shouldn't the gentile want to rent out his residence? The Gemara answers: **Even so, the gentile is concerned** about **witchcraft,**[N] i.e., that the procedure is used to cast a spell on him, **and** therefore he **does not rent out** his residence.

גּוּפָא: חֲצֵירוֹ שֶׁל גּוֹי הֲרֵי הוּא כְּדִיר שֶׁל בְּהֵמָה, וּמוּתָּר לְהַכְנִיס וּלְהוֹצִיא מִן חָצֵר לְבָתִּים וּמִן בָּתִּים לְחָצֵר.

The Gemara examines the ruling in the *Tosefta* cited in the previous discussion. Returning to **the matter itself: The courtyard of a gentile is like the pen of an animal, and it is permitted to carry in and carry out from the courtyard to the houses and from the houses to the courtyard,** as the *halakhot* of *eiruvin* do not apply to the residences of gentiles.

וְאִם יֵשׁ שָׁם יִשְׂרָאֵל אֶחָד – אוֹסֵר, דִּבְרֵי רַבִּי מֵאִיר.

But if there is one Jew living **there** in the same courtyard as the gentile, the gentile **renders it prohibited** for the Jew to carry from his house to the courtyard or vice versa. The Jew may carry there only if he rents the gentile's property for the duration of Shabbat. This is **the statement of Rabbi Meir.**

רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אוֹמֵר: לְעוֹלָם אֵינוֹ אוֹסֵר עַד שֶׁיִּהוּ שְׁנֵי יִשְׂרְאֵלִים אוֹסְרִים זֶה עַל זֶה.

Rabbi Eliezer ben Ya'akov says: Actually, the gentile **does not render it prohibited** for the Jew to carry **unless there are two Jews** living in the same courtyard who themselves would **prohibit one another** from carrying if there were no *eiruv*, and the presence of the gentile renders the *eiruv* ineffective.

Perek **VI**
Daf **62** Amud **b**

אָמַר מָר: חֲצֵירוֹ שֶׁל גּוֹי הֲרֵי הוּא כְּדִיר שֶׁל בְּהֵמָה. וְהָא אֲנַן תְּנַן: הַדָּר עִם הַנָּבְרִי בֶּחָצֵר הֲרֵי זֶה אוֹסֵר עָלָיו! –

The Gemara proceeds to analyze the *Tosefta*: **The Master said** above: **The courtyard of a gentile is like the pen of an animal,** which implies that the residence of a gentile is not considered a significant residence. **But didn't we learn** otherwise in the mishna: **One who resides with a gentile in** the same **courtyard this** person **prohibits him** from carrying? This implies that a gentile's residence is in fact of significance.

לָא קַשְׁיָא; הָא – דְּאִיתֵּיהּ, הָא – דְּלֵיתֵיהּ.

The Gemara answers: **That** is **not difficult. This** *halakha* in the mishna is referring to a situation **where** the gentile **is present,** and therefore carrying is prohibited, whereas **that** *halakha* in the *Tosefta* refers to a situation **where he is not present,** and therefore carrying is permitted.

NOTES

Executed for less than the value of a *peruta* – נֶהֱרָג עַל פָּחוֹת מִשָּׁוֶה פְּרוּטָה: The Noahide laws are discussed in detail in tractate *Sanhedrin*. There are seven Noahide commandments that were given to all gentiles, one of which is the prohibition against stealing. Consequently, a gentile who stole is liable for punishment. The Sages had a tradition that the only punishment given for violation of the Noahide commandments is the death penalty. Therefore, a gentile who steals any amount is liable for execution (see Genesis 6:13). For Jews, the *halakhot* of theft do not apply to an object worth less than the value of a penny [*peruta*]. This is a unique stipulation based on the assumption that Jews are not particular about such a small sum, and anything worth less than a penny is not considered money. Nevertheless, the basic law of stealing applies to items of any value whatsoever.

Not returnable – לֹא נִיתָּן לְהִשָּׁבוֹן: Most commentaries explain that stolen property is not returnable because the Torah did not institute the option of returning stolen goods for gentiles. An alternate explanation is that if the stolen item is not worth a penny [*peruta*], it is not of sufficient value to be returned.

The gentile is concerned about witchcraft – נוֹכְרִי חָשֵׁישׁ לְכָשָׁפִים: Rabbeinu Yehonatan explains: When the gentile sees that the Jew is not satisfied with permission to use his residence but insists on an actual rental, he assumes that the Jew must have an ulterior motive and plans to cast a spell on him. Elsewhere, the Talmud mentions that practitioners of witchcraft find it necessary to take possession of an item that belongs to the person whom they wish to harm.

LANGUAGE

By legal documents and officials [*moharkei ve'aburganei*] – בְּמוֹהַרְקֵי וְאַבּוּרְגָנֵי: Several explanations have been suggested for these words (see Rashi and *Tosafot*). The *Arukh* explains that *moharkei* means writing, and *aburganei* means messengers. Apparently, *moharkei* derives from the Middle Persian muhrak, meaning document, and *waborganei* comes from the Middle Persian wābarīgān, meaning validated or trustworthy.

HALAKHA

מִי שֶׁיָּצָא מִדִּירָתוֹ בְּשַׁבָּת: One who left his house on Shabbat – If a Jew leaves his home to spend Shabbat elsewhere without intending to return on Shabbat, he does not impose any restrictions upon his neighbors. However, a gentile does impose such restrictions, even if he is in a different town, provided he is close enough to return that day (Rambam). Others maintain that a gentile also does not impose restrictions, even if he goes to a nearby location (Rosh; *Sefer Mitzvot Gadol*; Rema; *Shulḥan Arukh*, *Oraḥ Ḥayyim* 371:1).

מָתַי אוֹסֵר נָכְרִי: When does a gentile render it prohibited – A gentile renders it prohibited to carry in the shared courtyard only if there are two Jews living there who would prohibit one another from carrying if there were no *eiruv*. This *halakha* is in accordance with the opinion of Rabbi Eliezer ben Ya'akov (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 382:1).

NOTES

קַב וְנָקִי: Measures a *kav* but is clean – The statement that the teaching of Rabbi Eliezer ben Ya'akov is measured but clean appears in several places in the Talmud. The commentaries discuss whether this principle is applied in every instance or if certain distinctions should be specified. Should one apply this rule only in the case of a mishna, or can it be applied to a *baraita* as well? Is his halakhic opinion accepted in disputes with only a single authority, or even when contrary to the majority opinion? The consensus is that the opinion of Rabbi Eliezer ben Ya'akov is accepted in all instances, even in a *baraita* and even contrary to the majority opinion, except where the Gemara explicitly rules otherwise. There is an ancient tradition that statements ascribed to Rabbi Eliezer ben Ya'akov are mentioned in 102 places, the numerical value of the word *kav*, meaning measured, and that his opinion is accepted in all of these cases. Consequently, the Sages have an aphorism that his teaching is measured, *kav*, but clean (see *Yad Malakhi; Seder HaDorot*).

וּמַאי קָסָבַר? אִי קָסָבַר דִּירָה בְּלֹא בְּעָלִים שְׁמָהּ דִּירָה – אֲפִילּוּ גּוֹי נַמִּי נִיתְסַר. וְאִי קָסָבַר: דִּירָה בְּלֹא בְּעָלִים לֹא שְׁמָהּ דִּירָה – אֲפִילּוּ יִשְׂרָאֵל נַמִּי לֹא נִיתְסַר!

The Gemara poses a question: **What does** Rabbi Meir **hold? If he holds** that **a residence without** its **owners is** still **considered a residence,** and it is prohibited to carry in the courtyard even when the owner is away, then **even a gentile** in absentia **should likewise render it prohibited** for carrying. **And if he holds** that **a residence without** its **owners is not considered a residence,** then **even a Jew** who is away **should also not render it prohibited** for carrying.

לְעוֹלָם קָסָבַר: דִּירָה בְּלֹא בְּעָלִים – לֹא שְׁמָהּ דִּירָה. וְיִשְׂרָאֵל, דְּכִי אִיתֵּיהּ – אָסַר, כִּי לֵיתֵיהּ – גָּזְרוּ בֵּיהּ רַבָּנַן.

The Gemara answers: **Actually, he holds** that **a residence without** its **owners is not considered a residence, but** nevertheless, he draws a distinction between a Jew and a gentile. In the case of **a Jew, who renders it prohibited** to carry for those who dwell in the same courtyard **when** he is **present** in his residence, **the Sages decreed with regard to him** that even **when he is not present,** his residence renders it prohibited for them to carry as though he were present.

גּוֹי דְּכִי אִיתֵּיהּ – גְּזֵירָה שָׁמָא יִלְמַד מִמַּעֲשָׂיו; כִּי אִיתֵּיהּ – אָסַר, כִּי לֵיתֵיהּ – לֹא אָסַר.

However, with regard to **a gentile,** who even **when he is present** does not fundamentally render it prohibited to carry, but only due to **a rabbinic decree** that was issued **lest** the Jew **learn from** the gentile's **ways,** no further decree was necessary. Thus, **when he is present,** the gentile **renders it prohibited to** carry; but **when he is not present, he does not render it prohibited to** carry.

וְכִי לֵיתֵיהּ לֹא אָסַר?! וְהָתְנַן: הַמַּנִּיחַ אֶת בֵּיתוֹ וְהָלַךְ לוֹ לִשְׁבּוֹת בְּעִיר אַחֶרֶת, אֶחָד נָכְרִי וְאֶחָד יִשְׂרָאֵל – אוֹסֵר, דִּבְרֵי רַבִּי מֵאִיר!

The Gemara asks: **And when** the gentile **is not present, does he** really **not render it prohibited** for carrying? **Didn't we learn** elsewhere in a mishna: With regard to **one who left his house** without establishing an *eiruv* **and went to spend Shabbat in a different town, whether** he was **a gentile or a Jew, he renders it prohibited** for the other residents of his courtyard to carry objects from their houses to the courtyard and vice versa. This is **the statement of Rabbi Meir.** This indicates that according to Rabbi Meir, a gentile renders it prohibited to carry in the courtyard even if he is not present.[H]

הָתָם דְּאָתֵי בְּיוֹמֵיהּ.

The Gemara answers: **There,** it is referring to a situation **where** the person who left his house without establishing an *eiruv* intends to **return on that** same **day,** on Shabbat. Since upon his return he will render it prohibited for others to carry in the courtyard, the decree is applied even before he returns home. However, if he left his house intending to return after the conclusion of Shabbat, he does not render it prohibited to carry, in abstentia.[H]

אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב. וְרַב הוּנָא אָמַר: מִנְהָג כְּרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב. וְרַבִּי יוֹחָנָן אָמַר: נָהֲגוּ הָעָם כְּרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב.

Rav Yehuda said that **Shmuel said:** The ***halakha*** in this dispute **is in accordance with** the opinion of **Rabbi Eliezer ben Ya'akov. And Rav Huna said:** This is not an established *halakha* to be issued publicly; rather, **the custom is in accordance with** the opinion of **Rabbi Eliezer ben Ya'akov,** i.e., a Sage would rule according to his opinion for those who come to ask. **And Rabbi Yoḥanan said: The people are accustomed** to conduct themselves **in accordance with** the opinion of **Rabbi Eliezer ben Ya'akov.** Accordingly, a Sage would not issue such a ruling even to those who inquire, but if someone acts leniently in accordance with his opinion, he would not object.

אָמַר לֵיהּ אַבַּיֵי לְרַב יוֹסֵף: קַיְימָא לָן, מִשְׁנַת רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב קַב וְנָקִי, וְאָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב.

Abaye said to Rav Yosef, his teacher: **We maintain** that **the teaching of Rabbi Eliezer ben Ya'akov** measures **a kav, but is clean,**[N] meaning that it is small in quantity but clear and complete, and that the *halakha* is in accordance with his opinion in all instances. Moreover, with regard to our issue, **Rav Yehuda said** that **Shmuel said:** The ***halakha* is in accordance with** the opinion of **Rabbi Eliezer ben Ya'akov,** and therefore there is no doubt about the matter.

מַהוּ לְאוֹרוֹיֵי בִּמְקוֹם רַבּוֹ?

However, **what is** the *halakha* with regard to whether a disciple **may issue a ruling** according to the opinion of Rabbi Eliezer ben Ya'akov **in his teacher's place** of jurisdiction, i.e., in a place where he is the recognized authority? Although it is usually prohibited to do so, perhaps such an evident and well-known principle such as this does not fall into the category of rulings that a disciple may not issue in his teacher's territory.

אָמַר לֵיהּ: אֲפִילּוּ בֵּיעָתָא בְּכוּתְּחָא בָּעוּ מִינֵּיהּ מֵרַב חִסְדָּא כָּל שְׁנֵי דְּרַב הוּנָא, וְלָא אוֹרֵי.

Rav Yosef **said to** Abaye: **Even** when **Rav Ḥisda was asked** about the permissibility of cooking **an egg in *kutaḥ*,**[B] a dairy dish, **throughout the years of Rav Huna's** life, **he refused to issue a ruling.** Rav Ḥisda was a disciple of Rav Huna, and a disciple may not issue a ruling in his teacher's place of jurisdiction about even the simplest of matters.

אָמַר לֵיהּ רַבִּי יַעֲקֹב בַּר אַבָּא לְאַבַּיֵי: כְּגוֹן מְגִלַּת תַּעֲנִית, דִּכְתִיבָא וּמַנְחָא, מַהוּ לְאוֹרוּיֵי בְּאַתְרֵיהּ דְּרַבֵּיהּ? אָמַר לֵיהּ, הָכִי אָמַר רַב יוֹסֵף: אֲפִילּוּ בֵּיעָתָא בְּכוּתְּחָא בָּעוּ מִינֵּיהּ מֵרַב חִסְדָּא כָּל שְׁנֵי דְּרַב הוּנָא וְלָא אוֹרֵי.

Rabbi Ya'akov bar Abba said to Abaye: With regard to matters **such as** those detailed in ***Megillat Ta'anit,***[N] **which** is **written and laid** on the shelf for all to access and offers a list of the days on which fasting is prohibited, **what is** the *halakha* concerning whether or not a disciple **may rule** about these matters **in his teacher's place** of jurisdiction? Abaye **said to him: Rav Yosef said as follows: Even** when **Rav Ḥisda was asked about** the permissibility of cooking **an egg in *kutaḥ* throughout the years of Rav Huna's** life, **he refused to issue a ruling.**[H]

רַב חִסְדָּא אוֹרֵי בְּכַפְרֵי בִּשְׁנֵי דְּרַב הוּנָא.

The Gemara relates that **Rav Ḥisda** nonetheless **issued** halakhic **rulings in** the town of **Kafri during the years of Rav Huna's** life, as he was not actually in his teacher's place.[N]

BACKGROUND

***Kutaḥ* – כּוּתָּח:** *Kutaḥ* was a common seasoning used in Babylonia. It was made from milk serum, salt, and bread fermented to the point of moldiness, with the occasional addition of other spices.

NOTES

***Megillat Ta'anit* – מְגִלַּת תַּעֲנִית:** Rashi explains that in the talmudic period this was the only portion of the Oral Law that was committed to writing. Even according to those who maintain that the Mishna was written down during the period of the *amora'im*, halakhic rulings may not be issued directly from a mishna without further analysis. Clear halakhic rulings could be found only in *Megillat Ta'anit*.

Ruling in one's teacher's place – לְהוֹרוֹת בִּמְקוֹם רַבּוֹ: The main rationale for this prohibition is the disrespect shown for the teacher when a disciple assumes the role of a ruling authority. It is similar to one who rebels against the monarchy by appropriating honor reserved for the king. For this reason, some authorities state that a student may not issue rulings in the place of his principal teacher, even if he received explicit permission from the teacher to do so.

HALAKHA

Ruling in one's teacher's place – לְהוֹרוֹת בִּמְקוֹם רַבּוֹ: A disciple is prohibited from issuing a halakhic ruling in his teacher's place. Even explicit permission from the teacher does not remove this prohibition so long as the student is within three parasangs of his teacher (Rema; *Shulḥan Arukh*, *Yoreh De'a* 242:4).

Perek **VI**
Daf **63** Amud **a**

רַב הַמְנוּנָא אוֹרֵי בְּחַרְתָּא דְּאַרְגֵּז בִּשְׁנֵי דְּרַב חִסְדָּא.

Rav Hamnuna issued halakhic **rulings in** the town of **Ḥarta De'argez**[B] **during the years of Rav Ḥisda's** life, even though Rav Ḥisda was his teacher.

רָבִינָא סָר סַכִּינָא בְּבָבֶל. אֲמַר לֵיהּ רַב אַשִׁי: מַאי טַעְמָא עֲבַד מָר הָכִי?

The Gemara relates that **Ravina** once **examined** a slaughterer's **knife in Babylonia** to check if it was fit for slaughtering,[N] during the lifetime of his teacher, Rav Ashi, who also lived in Babylonia. **Rav Ashi said to him: What is the reason** that the **Master acted in this manner?** Isn't it prohibited for a disciple to issue rulings while his teacher is still alive?[H]

אֲמַר לֵיהּ: וְהָא רַב הַמְנוּנָא אוֹרֵי בְּחַרְתָּא דְּאַרְגֵּז בִּשְׁנֵי דְּרַב חִסְדָּא. אֲמַר לֵיהּ: ״לָאו אוֹרֵי״ אִתְּמַר.

Ravina **said to him: Didn't Rav Hamnuna issue** halakhic **rulings in Ḥarta De'argez during the years of Rav Ḥisda's** life, as they were not in the same town, even though they were both located in Babylonia? Since I do not live in the same town as you, it stands to reason that I would be permitted to issue rulings as well. Rav Ashi **said to** Ravina: **It was** actually **stated** that Rav Hamnuna **did not issue** halakhic **rulings** during Rav Ḥisda's lifetime, and that is the correct tradition.

אֲמַר לֵיהּ: אִתְּמַר אוֹרֵי, וְאִתְּמַר לָא אוֹרֵי. בִּשְׁנֵי דְּרַב הוּנָא רַבֵּיהּ – הוּא דְּלָא אוֹרֵי, וְאוֹרֵי בִּשְׁנֵי דְּרַב חִסְדָּא, דְּתַלְמִיד חָבֵר דִּילֵיהּ הֲוָה. וַאֲנָא נָמֵי, תַּלְמִיד חָבֵר דְּמָר אֲנָא.

Ravina **said to** Rav Ashi: In fact, **it was stated** that Rav Hamnuna **issued rulings, and it was** also stated that he **did not issue rulings,** and both traditions are correct. **During the years of** the life of **Rav Huna,** Rav Hamnuna's principal **teacher,** Rav Hamnuna **did not issue rulings** at all, **but he did issue rulings during the years of Rav Ḥisda's** life, **for** Rav Hamnuna **was** Rav Ḥisda's **disciple-colleague.**[H] **And** since **I, too, am the Master's disciple and colleague,** I should also be permitted to examine a slaughterer's knife when I am not in the same town.

אָמַר רָבָא: צוּרְבָא מֵרַבָּנַן חָזֵי לְנַפְשֵׁיהּ. רָבִינָא אִיקְלַע לְמָחוֹזָא, אַיְיתִי אוֹשְׁפִּיזְכָנֵיהּ סַכִּינָא וְקָא מְחַוֵּי לֵיהּ. אֲמַר לֵיהּ: זִיל אַמְטֵיהּ לְרָבָא.

Rava said: A Torah scholar may examine a knife **for himself** and use it for slaughtering, without having to show it to the local Sage. The Gemara relates that **Ravina happened** to come **to Meḥoza,** the home town of Rava. **His host brought** out **a knife** for slaughtering **and showed** it **to him. He said to him: Go, bring it to Rava,** the town Sage, for examination.

BACKGROUND

Ḥarta De'argez – חַרְתָּא דְּאַרְגֵּז: Ḥarta De'argez was a town in Babylonia, whose builder, Argez, is the subject of various traditions. A geonic tradition places the town near Baghdad, about a parasang, or approximately 4 km, away.

NOTES

The examination of a knife – בְּדִיקַת סַכִּין: The knife utilized in ritual slaughtering must be without blemish, as an animal slaughtered with a blemished knife has the status of an unslaughtered carcass [*neveila*] and may not be eaten. Therefore, the knife must be examined before use. The Sages in tractate *Ḥullin* state that fundamentally, the slaughterer is considered trustworthy in this regard, and he is relied upon to check the knife himself. Nevertheless, out of respect for the Sages, the slaughterer must present his knife before a scholar. If the slaughterer is himself a scholar, the Sage in his town would certainly not require him to present his knife (Rosh).

HALAKHA

Examining a knife before one's teacher – בְּדִיקַת סַכִּין בִּפְנֵי רַבּוֹ: It is prohibited for a student to examine a slaughterer's knife in the presence of his teacher (*Tur*, *Yoreh De'a* 242).

Disciple-colleague – תַּלְמִיד חָבֵר: A disciple who is also his teacher's colleague may not issue a ruling in his teacher's presence if he is within three parasangs of him. If he is farther away than this, it is permitted. If the student received permission from his teacher (*Shakh*; Vilna Gaon), it is permitted for him issue a ruling even within three parasangs of his teacher (Rema). However, with regard to his principal teacher, it is prohibited in all circumstances (*Shulḥan Arukh*, *Yoreh De'a* 242:4 and in the comment of the Rema).