

אָמַר מַר: "הוֹצִיאוּ מֵה שְׂאֵתֶם מוֹצִיאִין וְהַכְנִסוּ מֵה שְׂאֵתֶם מְכַנְסִין עַד שְׁלֹא יוֹצִיא הַתּוֹעֵב הַזֶּה וַיֵּאסֹר עֲלֵיכֶם." לְמִימְרָא דְרַבִּי מִפְקִי אֵינְהוּ, וְהָדַר מִפְּקִי אֵינְהוּ לֹא אָסֹר!?

The Gemara proceeds to analyze this *baraita*. The Master said previously: Take out those utensils that you wish to take out, and bring in those utensils that you wish to bring in, before that loathsome person takes out his utensils and prohibits you from using the alleyway. The Gemara poses a question: Is that to say that, according to Rabbi Meir, if they took out their utensils and then afterward the gentile or Sadducee took out his utensils on Shabbat, he does not render carrying prohibited for them?

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NOTES

Where the residents of the alleyway had taken possession – שְׂהִחְזִיקוּ בְּנֵי מְבוֹי: The establishment of possession [*hezaka*] in this context is different from the meaning of the term in other talmudic contexts. In general, *hezaka* refers to the acquisition of a domain or a certain right over property. In this context, however, the *hezaka* is merely symbolic. Nevertheless, their use of the alleyway is considered a kind of acquisition for these purposes alone (see *Me'iri*).

HALAKHA

One gave away his rights and then carried – נָתַן רְשׁוֹתוֹ וְהוֹצִיא: With regard to a person who renounced his rights and subsequently carried something into the alleyway, if he did so inadvertently, his act of renunciation does not render carrying prohibited for the residents of the alleyway. However, if he did so intentionally, his action renders it prohibited to carry, as stated by Rabbi Yehuda, since the *halakha* is in accordance with his opinion in disputes with Rabbi Meir. If the residents of the alleyway had already taken possession of the alleyway, he can no longer reconsider, in accordance with the statement of Rabbi Yehuda in the *baraita* (*Shulhan Arukh, Orah Hayyim* 381:1).

וְהִתְנַן: מִי שֶׁנָּתַן רְשׁוֹתוֹ וְהוֹצִיא, בֵּין בְּשׁוּגָג בֵּין בְּמֵזִיד – אוֹסֵר, דְּבַרְי רַבִּי מֵאִיר!

But didn't we learn elsewhere in the mishna: If one gave away his rights in his courtyard to the other residents of the courtyard, renouncing them after having forgotten to establish an *eiruv* with them the previous day, and then he carried something out from his house into the courtyard, whether unwittingly or intentionally, he again renders it prohibited for all the residents of the courtyard to carry; this is the statement of Rabbi Meir. This indicates that according to Rabbi Meir, even if the resident carried something into the courtyard on Shabbat itself, he cancels his renunciation, contrary to Rabbi Meir's own statement in the mishna with regard to a Sadducee.

אָמַר רַב יוֹסֵף: אֵימָא: "אֵינוֹ אוֹסֵר." אֲבֵי אָמַר: לֹא קָשְׁיָא; כָּאֵן – שְׂהִחְזִיקוּ בְּנֵי מְבוֹי בְּמֵזִיד, כָּאֵן – שְׁלֹא הִחְזִיקוּ בְּנֵי מְבוֹי בְּמֵזִיד.

Rav Yosef said: Say that Rabbi Meir's statement should read instead: He does not render it prohibited. Abaye said: It is not difficult, as the contradiction between the two teachings of Rabbi Meir can be resolved as follows: Here, where the Sadducee cannot cancel his renunciation, it refers to a case where the residents of the alleyway had already taken possessionⁿ of the alleyway before he brought out his vessels; whereas here, where the Jew cancels his renunciation, it refers to a case where the residents of the alleyway had not taken possession of the alleyway prior to his act of carrying.

וְהִתְנַן: עַד שְׁלֹא נָתַן רְשׁוֹתוֹ, הוֹצִיא בֵּין בְּשׁוּגָג בֵּין בְּמֵזִיד – יָכוֹל לְבַטֵּל, דְּבַרְי רַבִּי מֵאִיר. רַבִּי יְהוּדָה אוֹמֵר: בְּשׁוּגָג – יָכוֹל לְבַטֵּל, בְּמֵזִיד – אֵינוֹ יָכוֹל לְבַטֵּל.

And similarly, it was taught in a *baraita*: With regard to one who failed to join in an *eiruv* with the other residents of his alleyway, if he carried something from his house into the alleyway before he gave away, i.e., renounced, his rights in the alleyway, whether unwittingly or intentionally, he can still renounce his rights; this is the statement of Rabbi Meir. Rabbi Yehuda says: If he unwittingly carried from his house into the alleyway, he can still renounce his rights, but if he did so intentionally, he cannot renounce them, for one who publicly transgresses the words of the Sages and intentionally desecrates Shabbat has the status of a gentile.

מִי שֶׁנָּתַן רְשׁוֹתוֹ – וְהוֹצִיא, בֵּין בְּשׁוּגָג בֵּין בְּמֵזִיד – אוֹסֵר, דְּבַרְי רַבִּי מֵאִיר. רַבִּי יְהוּדָה אוֹמֵר: בְּמֵזִיד – אוֹסֵר, בְּשׁוּגָג – אֵינוֹ אוֹסֵר. בְּמֵה דְּבָרִים אֲמוּרִים – בְּשְׁלֹא הִחְזִיקוּ בְּנֵי מְבוֹי בְּמֵזִיד, אֲבָל הִחְזִיקוּ בְּנֵי מְבוֹי בְּמֵזִיד – בֵּין בְּשׁוּגָג בֵּין בְּמֵזִיד אֵינוֹ אוֹסֵר.

However, if one already gave away, i.e., renounced, his rights in the alleyway, and then he carriedⁿ something from his house into the alleyway, whether unwittingly or intentionally, he renders prohibited all the residents' use of the alleyway, for his action cancels his renunciation; these are the words of Rabbi Meir. Rabbi Yehuda says: If he did it intentionally, he renders carrying prohibited; but if he carried inadvertently, he does not render carrying prohibited. In what case is this statement said? In a case where the residents of the alleyway had not already taken possession of the alleyway. But if the residents of the alleyway had already taken possession of the alleyway before he carried something into the alleyway, all agree that whether he did it unwittingly or intentionally, he does not render prohibited their use of the alleyway.

אָמַר מַר: "רַבִּי יְהוּדָה אוֹמֵר בְּלָשׁוֹן אַחֲרָת: מְהֵרוּ וַעֲשׂוּ צוּרֵיכֶם בְּמֵזִיד עַד שְׁלֹא תַחֲשֶׁךְ וַיֵּאסֹר עֲלֵיכֶם." אֲלֵמָא: גּוֹי הוּא. וְהָא אָנִן "עַד שְׁלֹא יוֹצִיא" תִּנְנָן:

The Master said above in the *baraita*: Rabbi Yehuda says: Rabban Gamliel spoke to them with a different formulation, saying: Hurry, and do whatever you must do in the alleyway prior to Shabbat, before night falls, and he will render prohibited your use of the alleyway. It is apparent from this statement that a Sadducee is considered a gentile, whose renunciation of his rights in an alleyway is ineffective. But didn't we learn in the mishna that according to Rabbi Yehuda, he said: Hurry, and do whatever you have to do before he takes out [*yotzi*] his vessels and renders prohibited your use of the alleyway, which implies that until then they may in fact use the alleyway; that is, his renunciation is effective?

In public [*befarhesya*] – בְּפִרְהֶסְיָא: From the Greek *παρρησία*, *parèsiya*, meaning free, open, or unbridled speech. The Sages used this word to refer to anything performed in public for all to see.

NOTES

A certain person went out with a coral ring – הוּוּא דְנִפְק בְּחוּמְרָתָא דְמְדוּשָׁא: There are several variant readings of this passage. The reading in the Gemara describes a person who did this on only one occasion, despite the fact that he acted with full intention. Other variant readings indicate that the person would habitually act in this manner. Nevertheless, one can learn from this story about the criteria for one who qualifies as a brazen-faced apostate. The story indicates that even with regard to one who sins in public, if he is ashamed to do so in front of a great Torah authority to the extent that he will avoid passing before him, he is not considered a public sinner.

One who is suspected of transgressing one matter – חָשׂוּד לְדָבָר אֶחָד: This refers to a person who is known to commit a particular transgression, as a person is not disqualified based on suspicions alone. The word suspected is used in this context because the relevant issue is whether this transgression is sufficient grounds for suspecting him of transgressing the entire Torah, or whether he is unreliable only with regard to committing this particular transgression.

PERSONALITIES

Rabbi Yehuda Nesia – רַבִּי יְהוּדָה נְשִׂיָא: Rabbi Yehuda Nesia was the son of Rabban Gamliel, who was the son of Rabbi Yehuda HaNasi. He was called Nesia to differentiate him from his illustrious grandfather, the editor of the Mishna. One of the earliest *amora'im* in Eretz Yisrael, he was a colleague of Rabbi Yehuda HaNasi's great students. His own students included Rabbi Yohanan and Reish Lakish.

Rabbi Yehuda Nesia's court enacted various decrees. It was considered the great Torah center in the Jewish world, to the extent that even the great *amora* Rav deferred to its authority.

Rabbi Yehuda Nesia served as *nasi* for many years and was probably the last *nasi* to have outstanding Torah knowledge and to serve as the head of the Sanhedrin. In his honor, he, like his grandfather, is sometimes referred to simply as Rabbi (especially in the Jerusalem Talmud). He was succeeded as *nasi*, but not as head of the Sanhedrin, by his son, Rabban Gamliel.

HALAKHA

A Jew who may not renounce his rights – יִשְׂרָאֵל שְׂאִינוּ: A Jew who is an apostate with regard to idolatry or who desecrates Shabbat in public, even if he violates only rabbinic prohibitions (*Ba'al Halakhot Gedolot*; Rashi; *Tosafot*; Rosh), has the legal status of a gentile, and he may not renounce his rights in a courtyard, but rather he must rent it out. If the person desecrates Shabbat only in private, even if he performs labors prohibited by the Torah, he is considered a Jew with regard to such renunciation, in accordance with the *baraita* in the Gemara (*Shulhan Arukh, Oraḥ Hayyim* 385:3).

אֵימָא "עַד שְׁלֵא יוֹצִיא הַיּוֹם".
וְאֵיבְעִית אֵימָא: לֹא קָשְׁיָא; כָּאֵן –
בְּמוֹמֵר לְחַלֵּל שַׁבָּתוֹת בְּצַנְעָא, כָּאֵן –
בְּמוֹמֵר לְחַלֵּל שַׁבָּתוֹת בְּפִרְהֶסְיָא.

The Gemara answers: Say that the mishna should read as follows: Hurry, and do whatever you have to do **before the day goes out** [*yotzi hayom*], i.e., before the end of Friday. **And if you wish, say:** It is **not difficult**. Here, where the mishna implies that a Sadducee may renounce his rights in an alleyway, it refers to an apostate of the kind who desecrates Shabbat in private; here, where the *baraita* implies that a Sadducee may not renounce his rights in an alleyway, it refers to an apostate who desecrates Shabbat in public [*befarhesya*].¹ Such a person is likened to a gentile in all regards, and therefore he may not renounce his rights in the alleyway.

כִּמְאֵן אֵלֵּא הָא דְתַנָּא: מוֹמֵר וְגִילוי
פְּנִים – הָרִי זֶה אֵינוֹ מְבַטֵּל רְשׁוֹת.
גִּילוי פְּנִים מוֹמֵר הוּוּ?¹

The Gemara comments: In accordance with which *tanna* is the ruling that was taught in the following *baraita*: An apostate or a brazen-faced person may not renounce his rights in favor of his neighbors. Before discussing the *halakha* itself, the Gemara wonders at the phrase brazen-faced person. It would appear to mean an impudent person who acts against the Torah in a brazen manner, but is not such a one an apostate? Why then are the two listed separately?

אֵלֵּא מוֹמֵר בְּגִילוי פְּנִים אֵינוֹ יוֹבֵל
לְבִטֵּל רְשׁוֹת, כִּמְאֵן – כְּרַבִּי יְהוּדָה.

Rather, read the *baraita* as follows: A brazen-faced apostate, i.e., one who publicly displays his deviation from Torah, may not renounce his rights in favor of his neighbors. In accordance with whose opinion was this stated? It is in accordance with the opinion of Rabbi Yehuda.

הוּוּא דְנִפְק בְּחוּמְרָתָא דְמְדוּשָׁא,
כִּינֵן דְחֻזְיָא לְרַבִּי יְהוּדָה נְשִׂיָא
כְּסִיָּיא. אָמַר: כְּגוֹן זֶה מְבַטֵּל רְשׁוֹת
לְרַבִּי יְהוּדָה.

The Gemara now relates that a certain person went out with a coral ringⁿ into the public domain, and it is prohibited to do so on Shabbat. When he saw Rabbi Yehuda Nesia^p approaching, he quickly covered it. Although he was desecrating the Shabbat, he did not want the Sage to see it. Rabbi Yehuda Nesia said: A person such as this, who is careful not to desecrate Shabbat in public, may renounce his rights in his courtyard according to the opinion of Rabbi Yehuda.

אָמַר רַב הוּנָא: אֵיזוּהוּ יִשְׂרָאֵל מוֹמֵר –
זֶה הַמְּחַלֵּל שַׁבָּתוֹת בְּפִרְהֶסְיָא. אָמַר
לֵיהּ רַב נַחֲמָן: כִּמְאֵן? אֵי כְּרַבִּי מֵאִיר
דְּאָמַר חָשׂוּד לְדָבָר אֶחָד חָשׂוּד לְכֹל
הַתּוֹרָה כּוּלָּהּ – אֶפְּלִיּוּ בְּאֶחָד מִכֹּל
אִיסוּרֵי שַׁבָּתוֹרָה נִמְוּ!

In connection with the preceding discussion with regard to one who does not conform to Torah law, Rav Huna said: Who is an apostate Jew? This is one who desecrates Shabbat in public. Rav Nahman said to him: In accordance with whose opinion did you say this? If he said this in accordance with the opinion of Rabbi Meir, who said: One who is suspected of transgressing one matter,ⁿ i.e., someone who is known to have committed one transgression, is suspected of transgressing the entire Torah, he should be considered an apostate even if he transgresses one of all the other prohibitions of the Torah as well, and not necessarily one as severe as Shabbat desecration.

אֵי כְּרַבִּי נַחֲמָן – הָאָמַרְי חָשׂוּד לְדָבָר אֶחָד
לֹא הוּוּ חָשׂוּד לְכֹל הַתּוֹרָה כּוּלָּהּ.

If he said this in accordance with the opinion of the Rabbis, it is difficult. Didn't they say: One who is suspected of transgressing one matter is not suspected of transgressing the entire Torah,

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עַד דְּהָיוּ מוֹמֵר לְעִבּוּדָא זָרָה!

unless he is an apostate with regard to idolatry. As long as he has not worshipped idols, his transgression of a single prohibition does not put him under suspicion of transgressing the rest of the Torah.

אָמַר רַב נַחֲמָן בְּרִי יִצְחָק: לֵיתֵן רְשׁוֹת
וְלְבִטֵּל רְשׁוֹת. וְכִדְתַּנָּא: יִשְׂרָאֵל
מוֹמֵר מְשַׁמֵּר שַׁבָּתוֹ בְּשׁוּק – מְבַטֵּל
רְשׁוֹת, שְׂאִינוֹ מְשַׁמֵּר שַׁבָּתוֹ בְּשׁוּק –
אֵינוֹ מְבַטֵּל רְשׁוֹת.

Rav Nahman bar Yitzhak said: Rav Huna was not attempting to offer a broad definition of an apostate, but was rather referring to the specific issue of giving away rights or renouncing rights in a domain with regard to the *halakhot* of *eiruvim*. And as it was taught in the following *Tosefta*: An apostate Jew, if he observes his Shabbat in the marketplace, i.e., in public, he may renounce his rights in a domain like a regular Jew, but if he does not observe his Shabbat in the marketplace, he may not renounce his rights in a domain, as he is no longer considered a Jew in this regard.^h

The method of renunciation – כיצד מבטלין – One who renounces his rights in his domain says: May my rights in this domain be renounced to you, or: May my rights in this domain be acquired by you. He need not perform a formal act of acquisition (*Shulhan Arukh, Orach Hayyim 380:1*).

Sacrifices of Jewish transgressors – קרבנות מפושעי ישראל: Sacrifices are not accepted from one who is an apostate with regard to the entire Torah, to idolatry, or to Shabbat observance. If one is an apostate with regard to any other transgression, his sacrifices are accepted. However, sacrifices are not accepted for the transgression he habitually performs until he repents (*Rambam Sefer Avoda, Hilkhot Ma'aseh HaKorbanot 3:4*).

NOTES

Who are similar to animals – הדומין לבהמה: See Rashi, who explains here that their similarity to animals lies in their inability to recognize their Creator. Elsewhere, however, he explains that their similarity to animals lies in their failure to perform mitzvot.

Jewish transgressors – פושעי ישראל: This expression is referring exclusively to those who transgress intentionally and not to those who act unwittingly, as only one who acts with full intent and knowledge of his actions is referred to as a transgressor. Elsewhere, the Gemara demonstrates that in the Bible, the word *poshe'a* means one who rebels. Therefore, the phrase transgressors [*poshim*] of Israel is synonymous with apostates, with regard to either one matter or to the entire Torah (Rashi).

In order to enable them to repent – כדי שיחזרו בתשובה: As the ruling is a Torah edict, this is not necessarily the underlying reason behind the *halakha*. The Sages, however, are suggesting a reason why the verses lend themselves to such an interpretation, for a person who is an apostate with regard to one particular matter can easily repent, which is not the case for one who is an apostate with regard to the entire Torah (*Tosafot*).

An apostate and a sacrifice – מומר וקרבן: In summary, there are several *halakhot* with regard to the sacrifices of an apostate. If one is an apostate with regard to the entire Torah or to other serious transgressions, such as idolatry and, according to one opinion, Shabbat observance, then his sacrifices are not accepted. If, however, one is an apostate with regard to only one matter, he may bring sacrifices, including sin-offerings for transgressions committed unwittingly, with the exception of the transgression that he commits willfully.

מפני שאמר: ישראל נוטל רשות ונותן רשות, ובגוי עד שישכיר. כיצד? אומר לו: רשותי קנויה לך, רשותי מבוטלת לך – קנה, ואין צריך לזכות.

רב אשי אמר: האי תנא הוא, דחמירא עליה שבת בעבודה זרה,

בדתניא "מכס" – ולא בולכס, פרט לומר. "מכס" – בכס חלקתי, ולא באומות.

"מן הבהמה" – להביא בני אדם הדומין לבהמה. מכאן אמרו: מקבלין קרבנות מפושעי ישראל כדי שיחזרו בתשובה, חוץ מן המומר והמנסך וזו המחיל שבתות בפריסיא.

הא גופא קשיא: אמרת "מכס" ולא בולכס – להוציא את המומר, והדר תני: מקבלין קרבנות מפושעי ישראל! הא לא קשיא, רישא – במומר לכל התורה כולה, מציעתא – במומר לדבר אחד.

אימא סיפא: חוץ מן המומר והמנסך וזו. האי מומר היכי דמי? אי מומר לכל התורה – היינו רישא! אי לדבר אחד – קשיא מציעתא!

אלא לאו הכי קאמר: חוץ מן המומר לנסך ולחלל שבתות בפריסיא. אלמא: עבודה זרה ושבת בי הדרי מנהו. שמע מינה.

This distinction is significant due to the fact that the Sages said: A Jew may receive rights and give away rights in a domain through a mere statement of renunciation, but with regard to a gentile it is not so, as he may not transfer his rights to others or renounce them in a domain unless he actually rents it out. How so? A Jew may say to his fellow: May my rights in this domain be acquired by you, or May my rights in this domain be renounced to you, and his fellow thereby acquires those rights, and it is not necessary that he take possession of it through a formal mode of acquisition.^h

Rav Ashi said: Rav Huna's statement that a Jew who desecrates Shabbat in public is an apostate is indeed a general statement, as he is no longer considered a Jew in any sense. In accordance with the opinion of which *tanna* did he make that statement? It is in accordance with the opinion of this *tanna*, for whom Shabbat is as severe as idolatry, and therefore one who desecrates Shabbat is treated like an idol worshipper.

As it was taught in a *baraita* with regard to the verse: "Speak to the children of Israel and say to them: When any man of you brings an offering to the Lord, you shall bring your offering of the cattle, of the herd, or of the flock" (Leviticus 1:2). The *baraita* expounds: "Of you," i.e., some of you, but not all of you may bring an offering – to the exclusion of an apostate. "Of you" additionally serves to emphasize that among you, the children of Israel, I distinguish between those who observe the Torah and are fit to bring an offering, and those who are not fit, but not among the nations, i.e., in regard to the other nations, even those who do not fulfill the precepts binding upon them may offer their sacrifices.

"Of the cattle" is expounded as follows: To include people who are similar to animalsⁿ in their disdain for the proper behavior of man, i.e., that the wicked too may offer sacrifices. From here the Sages stated: We accept voluntary sacrifices from Jewish transgressors,ⁿ in order to enable them to repent,ⁿ apart from the apostate, one who pours wine libations as part of idol worship, and one who desecrates Shabbat in public, from whom we do not accept sacrifices without their complete repentance.^h

The Gemara expresses surprise: This *baraita* itself is difficult, i.e., it contains an internal contradiction: You first said: "Of you," but not all of you, to the exclusion of an apostate; and then you taught: We accept sacrifices from Jewish transgressors. The Gemara answers: This is not difficult, as it can be explained as follows: The first clause refers to an apostate with regard to the entire Torah, whose sacrifices are not accepted, whereas the middle clause speaks of an apostate with regard to one matter alone, whose sacrifices are indeed accepted.

The Gemara raises a difficulty: If so, say an explanation of the last clause of the mishna: Apart from the apostate and one who pours wine libations to idolatry, and one who desecrates Shabbat in public. This apostate, what are the circumstances indicating his status? If it refers to an apostate with regard to the entire Torah, this is the same as the first clause. And if it refers to an apostate with regard to only one thing, the middle clause of the *baraita* is difficult, for it states that we accept sacrifices from such an apostate.

Rather, is it not true that this is what it is saying: Apart from the apostate with regard to pouring wine libations to idolatry and desecrating Shabbat in public? Although they transgress only one matter, this transgression is so serious that they are considered apostates with regard to the entire Torah. It is apparent from here that idolatry and Shabbat are equivalent, which indicates that there is a *tanna* who considers public Shabbat desecration as severe a transgression as idolatry. The Gemara concludes: Indeed, learn from this that it is so.ⁿ

מתני' אנשי חצר ששכח אחד מהן ולא עירב - ביתו אסור מלהכניס ומלהוציא לו ולהם. ושלחם מותרין לו ולהם. נתנו לו רשותן - הוא מותר בהן ואין אסורין.

MISHNA If one of the residents of a courtyard forgot and did not participate in an *eiruv*¹¹ with the other residents before Shabbat, and on Shabbat he renounced his rights in the courtyard to the other residents, **his house is prohibited both to him, who forgot to establish an *eiruv*, and to them, the other residents, to bring in objects from the courtyard to his house or to take them out from his house into the courtyard. But their houses are permitted both to him and to them, for taking objects out into the courtyard and for bringing them in. If they gave away their rights in the courtyard to him,¹² i.e., if they renounced their rights in his favor, he is permitted to carry from his house into the courtyard, but they are prohibited from doing so.**

היו שנים - אסורין זה על זה. שאחד נותן רשות ונותן רשות, שנים נותנין רשות ואין נותלין רשות.

If two residents of the courtyard forgot to establish an *eiruv*, and the others renounced their rights in the courtyard in their favor, **they prohibit one another.** In this scenario, the courtyard would belong to both of them, but each individual house remains the domain of its owner. It would therefore be prohibited for each of these residents to carry into the courtyard. **For one resident may give away and receive rights in a domain, whereas two residents may only give away rights in a domain, but they may not receive rights in a domain.** Since they did not establish an *eiruv*, it is unreasonable for the other residents of the courtyard to give away their rights in the domain, as the two who are prohibited because they did not participate in the *eiruv* render it prohibited for each other to carry.

מאימתי נותנין רשות? בית שמאי אומרים: מבעוד יום, בית הלל אומרים: משחשיכה. מי שנתן רשותו והוציא בין בשוגג בין במזיד - הרי זה אסור, דברי רבי מאיר. רבי יהודה אומר: במזיד - אסור, בשוגג - אינו אסור.

The mishna poses a general question: **When may one give away rights in a domain?** Beit Shammai say: **While it is still day, i.e., before the onset of Shabbat;** and Beit Hillel say: **Even after nightfall, when it is already Shabbat.**¹³ The mishna cites another dispute: **If one gave away his rights in his courtyard to the other residents of the courtyard, renouncing them after having forgotten to establish an *eiruv* with them the previous day, and then he carried something out from his house into the courtyard - whether unwittingly, forgetting that he had renounced his rights, or intentionally, he renders carrying prohibited for all the residents of the courtyard, for his action cancels his renunciation; this is the statement of Rabbi Meir. Rabbi Yehuda says: If he acted intentionally, he renders carrying prohibited; but if he acted unwittingly, he does not render carrying prohibited.**

גמ' ביתו הוא דאסור, הא חצירו - שריא.

GEMARA The Gemara first analyzes the language of the mishna. It states: It is prohibited to bring in objects from the courtyard to his house and to take them out from his house into the courtyard. It can be inferred from this that **it is carrying to and from his house that is prohibited, but carrying to and from his share of the courtyard is permitted to the other residents of the courtyard.**

היכי דמי? אי דבטיל - ביתו אמאי אסור? אי דלא בטיל - חצירו אמאי שריא? הלא במאי עסקינן - כגון שבטיל רשות חצירו, ולא בטיל רשות ביתו. וקא סברי רבנן: המבטיל רשות חצירו - רשות ביתו לא בטיל, דדניר איניש בבית בלא חצר.

The Gemara asks: **What are the circumstances where this ruling applies? If the resident who forgot to establish an *eiruv* renounced his rights, why is his house rendered prohibited? And if he did not renounce his rights, why is his courtyard permitted?** The Gemara explains: **With what are we dealing here?** We are dealing with a special case, **where he renounced his rights in his courtyard to the others but did not renounce his rights in his house to them. And the Rabbis hold that one who renounces his rights in his courtyard has not renounced his rights in his house, as it is common for people to reside in a house without a courtyard.**

"ושלחן מותר לו ולהן", מאי טעמא? דהוי אורח לגבייהו.

The Gemara proceeds in its analysis of the mishna: It states that carrying in and out of **their houses is permitted for him and for them.** The Gemara poses a question: **What is the reason that their houses are permitted to him?** The Gemara answers: **For he is regarded like a guest of theirs, i.e., he is subordinate to them and may carry wherever they may do so.**

שכח... forgot and did not participate in an *eiruv* - **לא עירב**: If one resident of a courtyard forgot to establish an *eiruv*, he may renounce his rights in the courtyard in favor of the other residents. If one renounced his rights without specifying which rights he is renouncing, he has only renounced his rights in the courtyard, but not those in his house. Consequently, they are all permitted to transfer objects from their houses into the courtyard, but they are prohibited from doing so from his house into the courtyard, as stated by the Rabbis. If one renounced all of his rights in their favor, they may all carry from any of the houses into the courtyard (*Shulhan Arukh, Orah Hayyim 380:1-2*).

נתנו לו רשותם - If the majority renounced their rights in the courtyard in favor of the one who did not establish an *eiruv*, he is permitted to carry from his house into the courtyard, while they are prohibited from doing so. He is also prohibited from carrying from their houses into the courtyard, unless they explicitly included their houses in the renunciation (Rema; *Shulhan Arukh, Orah Hayyim 380:4*).

מתי נותנים - When may one give away rights in a domain - **רשות**: One may renounce his rights in a domain even after nightfall, in accordance with the opinion of Beit Hillel (*Shulhan Arukh, Orah Hayyim 380:1*).

NOTES

It was not permitted – לֹא הָיָה לִיה שְׂרִיטָא – As explained in the Gemara, even if the residents of the courtyard specified that they are renouncing their rights in favor of one person on the condition that he renounce his rights to the other, this is invalid. The rationale is that since the person failed to establish an *eiruv*, it is as though he is completely absent and is living in a different place entirely, so that he has no rights in the courtyard it whatsoever.

HALAKHA

Renunciation in favor of two – בִּטּוּל לְרֵבִים – Rights in a domain may not be renounced in favor of two people who did not establish an *eiruv*, as although two may renounce their rights, they may not acquire rights. Even if the residents of the courtyard told one of the two to acquire their rights provided that he transfer them to the other person, this is ineffective (*Shulhan Arukh, Orah Hayyim 380:4*).

”נָתַנּוּ לוֹ רְשׁוּתָן – הוּא מוֹתֵר וְהֵן אֶסְרוּן.” וְנִהְיִי אֵינְהוּ לְגַבִּיהַּ בִּי אֹרְחִין! חֵד לְגַבִּי חֲמִשָּׁה – הָיָה אֹרֶחַ, חֲמִשָּׁה לְגַבִּי חֵד – לֹא הָיָה אֹרֶחַ.

We learned in the mishna: **If the other residents gave away their rights in the courtyard to him, he is permitted to carry from his house into the courtyard, but they are prohibited from doing so.** The Gemara asks: **But let them, the ones who renounced their rights in the courtyard, be regarded as guests of his,** which would enable them to carry as well. The Gemara answers: **One vis-à-vis five is considered a guest, whereas five or more vis-à-vis one are not ordinarily viewed as guests.**

שָׁמַע מִינֶהּ: מִבְּטָלִין וְחוֹזְרִין וּמִבְּטָלִין!

The Gemara attempts to draw another inference from the wording of the mishna: Shall we not learn from this, from the order of events in the mishna, that **one may renounce** his rights in favor of another when he needs it, **and then the latter may renounce** his rights in favor of the former when he needs it? For the mishna first describes a case in which the one who forgot to establish an *eiruv* renounces his rights in favor of the others, at which stage they may use the courtyard, and then afterward recounts that the other residents renounce their rights in favor of the one who forgot to establish an *eiruv*, leaving it permitted for him and prohibited for them.

הָבִי קֶאֱמֹר: נָתַנּוּ לוֹ רְשׁוּתָן מֵעִיקְרָא, הוּא מוֹתֵר וְהֵן אֶסְרוּן.

The Gemara answers: No proof can be brought from here, for **this is what the mishna is saying: If they gave away their rights in the courtyard to him at the outset, it is permitted for him and it is prohibited for them.** In other words, this is not a continuation of the previous clause, but a separate case.

הָיָה שְׁנַיִם – אֶסְרוּן זֶה עַל זֶה. פְּשִׁיטָא! לֹא צְרִיכָא דְהָדֵר חֵד מִינֵיהוּ וּבְטִיל לִיה לְחִבְרִיהַּ. מַהוּ דְתִימָא: לִישְׁתְּרִי, קָא מְשַׁמַּע לָן: דְּבִינֵן דְּבַעֲדָנָא דְּבְטִיל לֹא הָיָה לִיה שְׂרִיטָא בְּהַאי חֵצֵר.

We learned in the mishna: **If two residents of a courtyard forgot to establish an *eiruv*, and the others renounced their rights in the courtyard in their favor, they render one another prohibited from carrying.** The Gemara raises a difficulty: Isn't this obvious? What novel teaching is stated here? The Gemara answers: **No, this ruling is necessary** in a case where the others renounced their rights in the courtyard in favor of the pair, and **one of them then renounced his rights in favor of the other.** **Lest you say let it now be permitted for him to carry, the mishna teaches us that since at the time of his renunciation it was not permitted^N for him to carry in that courtyard, he may not renounce his rights either.** Therefore, his renunciation is ineffective, and they are both prohibited from carrying.^H

”שֶׁאֶחָד נֹתֵן רְשׁוּתָן.” הָא תוּ לָמָּה לִי? אִי נֹתֵן – תִּנְיָנָא, אִי נוֹטֵל – תִּנְיָנָא!

The mishna explains: **For one resident may give away and receive rights in a domain.** The Gemara poses a question: **Why do I need this further explanation?** This ruling can be deduced from the previous cases: **If the mishna wishes to teach the *halakha* with regard to giving away rights, we already learned that one person may give away his rights in a domain, and if it wishes to teach the *halakha* with regard to receiving rights, we already learned it as well, so why the repetition?**

סִיפָא אֵיצְטְרִיכָא לִיה: שְׁנַיִם נֹתְנִין רְשׁוּתָן. הָא נִמְי פְּשִׁיטָא! מַהוּ דְתִימָא:

The Gemara answers: **He needed it due to the ruling in the latter clause, which includes the novel teaching that two residents may give away rights in a domain.** The Gemara again wonders: **But this *halakha* as well, that even multiple residents may give away their rights in a domain, is obvious.** The Gemara answers: This was stated **lest you say:**

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לִיגְדֵר דִּילְמָא אֲתִי לְבַטּוּלֵי לְהוּ – קָא מְשַׁמַּע לָן.

Let us issue a decree that two residents may not give away their rights in a domain, lest people come to renounce their rights in favor of two residents as well. People might assume that just as two may give away their rights to one, so too may one give away his rights to two. The mishna therefore teaches us that we do not issue such a decree.