The Gemara poses a question: But do we adopt the respective stringencies of two authorities who disagree on a series of issues? Wasn’t it taught in a baraita: The halakha is always in accordance with the opinion of Beit Shammai, but one who wishes to act in accordance with the opinion of Beit Hillel may do so. If he wishes to adopt both the leniencies of Beit Shammai and also the stringencies of Beit Hillel, he is a wicked person. And if he wishes to adopt both the stringencies of Beit Shammai and also the stringencies of Beit Hillel, with regard to him the verse states: “The fool walks in darkness” (Ecclesiastes 11:4). Rather, he should act either in accordance with Beit Shammai, following both their leniencies and their stringencies, or in accordance with Beit Hillel, following both their leniencies and their stringencies.

The Gemara first raises a problem concerning the wording of the baraita: The baraita is itself difficult to understand, because it contains an internal contradiction between its clauses: You first said that the halakha is always in accordance with the opinion of Beit Hillel, and then you reversed that and said that one who wishes to act in accordance with the view of Beit Shammai may do so.

The Gemara answers: This is not difficult. Here, the baraita’s statement that a person may act as he wishes was made before the Divine Voice emerged and announced that the halakha is always in accordance with Beit Hillel; and here, the statement that the halakha is always in accordance with Beit Hillel was made after the Divine Voice issued this ruling.

And if you wish, say a different answer: Both this statement and that statement were made after the Divine Voice announced that the halakha is in accordance with Beit Hillel,

and the latter statement is in accordance with the opinion of Rabbi Yehoshua, who does not pay attention to a Divine Voice that attempts to intervene in matters of halakha, for according to him, the dispute between Beit Shammai and Beit Hillel has not yet been decided.

The Gemara suggests yet another resolution: And if you wish, say instead that this is what the baraita is saying: Wherever you find two tanna’im or two amoraim who disagree with each other in the manner of the disputes between Beit Shammai and Beit Hillel, one should not act either in accordance with the leniency of the one Master and in accordance with the leniency of the other Master, nor should one act in accordance with the stringency of the one Master and in accordance with the stringency of the other Master. Rather, one should act in accordance with both the leniencies and the stringencies of both Masters.

All of this is suggested to explain the wording of the baraita. In any case, it is difficult to explain the law with regard to the alleyway in Neharde’a, concerning which they simultaneously adopted the stringencies of both Rav and Shmuel.

Rav Nahman bar Yitzhak said: In fact, they acted entirely in accordance with the opinion of Rav, and the reason that they required doors and did not rely on the opening in the form of a doorway alone is due to that which Rav Huna said that Rav said: This is the halakha; however, a public ruling is not issued to that effect ab initio. Although Rav maintains that an opening in the form of a doorway is sufficient in an open alleyway, a public ruling is not issued to that effect; rather, the ruling is stringent, in accordance with Hananya’s position, and requires doors.
HALAKHA

An incomplete spine with regard to impurity – מָה הַרְפֵּאָה הַגָּלָא? If the spine of a corpse is missing one vertebra, or if a skull is missing a piece the size of a large coin (sela), they no longer impart ritual impurity via a tent. Rather, they impart impurity like ordinary bones, in accordance with the opinion of Beit Hillel (Rambam Sefer Torah, Hilkhot Tumat Met 2:8).

An incomplete spine in a sick animal (terefi) – מָה הַרְפֵּאָה הַגָּלָא? If the spine of a large animal is missing one vertebra while the rest of the spinal cord is intact, or if its skull is missing a piece the size of a large coin (sela), the animal is considered a sick animal (terefi) and is unfit to eat (Shulhan Arukh, Yoreh De’ah 302:4).

NOTES

An incomplete spine or skull – מָה הַרְפֵּאָה הַגָּלָא? A corpse imparts ritual impurity through contact, by being carried, and via a tent over a corpse. However, not all parts of a corpse impart impurity in every one of these three ways. A single bone from a dead body does not impart ritual impurity via a tent over the corpse. On the other hand, bones that constitute a significant part of a corpse, e.g., a majority of the bone count or a majority of the frame, do impart ritual impurity in this manner. As such, a spine and a skull impart ritual impurity via a tent, provided the spine and skull are whole. If they are missing a portion that would cause death in a living person, then the spine or skull no longer fulfills its function. Their importance is annihilated and therefore they do not transmit impurity via a tent.

Two tithes – מָה הַרְפֵּאָה הַגָּלָא? The Me’iri quotes the early commentaries, who ask how it is possible to be stringent based on an uncertainty and separate two tithes without creating a series of other problems, such as separating too much or too little. In the Jerusalem Talmud it is explained that Rabbi Akiva first separated the second tithe conditionally, then redeemed it and gave it to the poor. If the tithe was indeed the second tithe, then he had separated and redeemed it properly. If it was not the second tithe, then all he had accomplished was to give charity to the poor. He then took the money upon which he redeemed the second tithe to Jerusalem and used it to buy food, in accordance with the law of second tithe.

The Gemara asks: And according to the statement of Rav Adda bar Ahava that Rav said, as Rav Adda bar Ahava said that Rav said with regard to the same issue: This is the halakha and a public ruling is issued to that effect, what can be said? Why did the residents of Neharde’a adopt the stringencies of the two authorities?

Rav Sheizvi said: The principle of dictating when we do not act in accordance with the stringencies of two authorities applies only in a case where the two stringencies contradict one another. In these types of cases, following both stringencies would result in an internal contradiction.

The Gemara illustrates this principle with an example from the laws governing the spine and skull. As we learned in a mishna: The spine and the skull of a corpse that are incomplete do not impart ritual impurity! via a tent as a corpse would; rather, they impart impurity only through contact or if they are carried as individual bones. This basic law was unanimously accepted, but the details were the subject of dispute: How much is considered a deficiency in the spine for this purpose? Beit Shammai say: If it is missing two vertebrae, and Beit Hillel say: Even if it is missing only one vertebra. And similarly, they argued over the deficiency in the skull: Beit Shammai say: It must be missing piece the size of a drill hole, and Beit Hillel say: It must be missing an amount that, when removed from a living person, would cause him to die, which is a larger amount.

And Rav Yehuda said that Shmuel said: Beit Shammai and Beit Hillel argued likewise with respect to a tereifa, a kosher animal suffering from a wound or illness that will cause it to die within twelve months, and which is prohibited to be eaten even after the required ritual slaughter. Beit Shammai say that an animal is regarded as a tereifa if it is missing two vertebrae, while Beit Hillel hold that it is a tereifa if it lacks even one. In such a situation, a person must not be stringent with regard to the halakhot of tereifa in accordance with the view of Beit Hillel, and at the same time be stringent with regard to the halakhot of ritual impurity of a corpse in accordance with the view of Beit Shammai, for the two disputes relate to the same issue, and one must not act in accordance with two contradictory opinions.

Rav Sheizvi continues: However, in a case where the two stringencies do not contradict one another, we may indeed act in accordance with the stringencies of two authorities. Therefore, the stringencies adopted in the case of the alleyway in Neharde’a were legitimate, for the two stringencies related to two separate issues: Rav’s stringency was that an L-shaped alleyway is regarded like an open alleyway, and Shmuel’s stringency was that an open alleyway requires a door.

The Gemara challenges Rav Sheizvi’s assertion: Is it true that we do not act in accordance with the stringencies of two authorities in a case where the two stringencies contradict one another? Rav Mesharshiya raised an objection from a baraita: There was an incident involving Rabbi Akiva, who gathered the fruit of a citron tree on the first of the month of Shevat and applied the laws of two tithes to it. After teruma and the first tithe have been separated, an additional tithe is separated from what is left. During the first, second, fourth, and fifth years of the Sabbatical cycle, second tithe is set aside to be taken to Jerusalem and eaten there by its owner, while during the third and sixth years, poor man’s tithe is set aside to be distributed to the needy. When tithing the fruit picked on the first of Shevat, Rabbi Akiva set aside both additional tithes, second tithe and poor man’s tithe: He set aside one in accordance with the statement of Beit Shammai, who say that the new year for trees begins on the first of Shevat, and as that day belongs to the new year, a tithe must be set aside in accordance with the law of that year; and he set aside one in accordance with the statement of Beit Hillel, that the new year for trees is the fifteenth of Shevat, and any fruit picked prior to that date must be tithed in accordance with the law of the previous year. Apparently, Rabbi Akiva adopted for himself two contradictory stringencies.

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The Gemara answers: Rabbi Akiva did not act in this way in order to be stringent in accordance with both opinions, but because he was in doubt with regard to his tradition and did not know whether Beit Hillel said the New Year for trees falls before or after Shevat. If you say, it is permitted to carry in the alleyway if an opening in the form of a doorway is constructed at one end and a side post or a cross beam is placed at the other end (Rema; Rashba).

Alternatively, it refers to a case where there is a plaza (pelatya) from here, on one side of the alleyway, and a plaza from here, on the other side. One might ask: What innovative idea was Rav teaching with this statement? He already stated that an opening in the form of a doorway is sufficient to render it permitted to carry even where there is a valley (seratya) from here, on one side of the alleyway, and a main street from here, on the other side. 

The Gemara raises a question about this ruling: Now, if you say that where there is a main street from here, on one side of the alleyway, and a valley from here, on the other side, it is sufficient to construct an opening in the form of a doorway from here, on one side, and a side post or a cross beam from here, on the other side, was it necessary to state that these are sufficient if there is a valley from here, on one side of the alleyway, and a valley from here, on the other side?

The Gemara answers: This is what he intended to say: If there is a main street from here, on one side, and a valley from here, on the other side, it is considered as if there were a valley from here, on one side, and a valley from here, on the other side.

The Gemara continues: And when Rav Yosef reported this ruling, he concluded with a statement in the name of Rav Yehuda himself, without attributing it to one of Rav Yehuda’s teachers: If the alleyway terminated in a backyard, i.e., a closed-off area behind a group of houses, then even if there is a breach in the wall between the yard and the public domain beyond it, nothing is needed on this side of the alleyway, as it is considered closed.

Abaye said to Rav Yosef: This ruling of Rav Yehuda is a ruling of his teacher Shmuel, and not of his other teacher, Rav.
A difficulty in two ways — מִדְיֵד תְּאֶבֶב. There is a variant text that does not include the phrase: In two. This version of the text is more suitable to the discussion, as the Gemara doesn’t elaborate two difficulties but only one, and this is not in keeping with the style of the Gemara. Some commentators explain the version that reads in two, not as a reference to two difficulties, but to two aspects of the case that are difficult. The question is whether it is prohibited due to the fact that it is an open alleyway or due to the fact that it opens into a domain that prohibits carrying within it (Kurten Netanel).

Now that Rav Sheshet said to Rav Shmuel bar Abba – אַסְבְּרָא לְךָ, כָּאן, Rav Yirmeya said to Rav Shmuel bar Abba, but to that of Rav Yosef. Therefore, the distinction would be between a case where the breached alleyway opens into a backyard that is joined by an eiruv, and a case where the backyard is not joined by an eiruv (Ritva).

The Gemara comments: Now that Rav Sheshet said to Rav Shmuel bar Abba, Rav Yosef said to Abaye: I do not know in accordance with which of his teachers Rav Yehuda issued this ruling. All I know is that there was an incident in a shepherds’ village where an alleyway terminated in a backyard, and the matter came before Rav Yehuda for a ruling, and he did not require anything to render it permitted to carry in the alleyway. And if, as you say, it is difficult if we say that he issued his ruling in the name of Rav, let it be suggested that he issued it in the name of his other teacher, Shmuel, and then there will be no difficulty.

The discussion concerns an alleyway that was breached along the entire length of its back wall, where it opens into a courtyard, and the facing wall of the courtyard is breached into the public domain. The residents may carry within the alleyway. However, if it is an alleyway terminated in a backyard, it is prohibited to carry within it. If the residents join the courtyard and the alleyway with an eiruv, the two areas are considered a single domain because the residents may carry within the alleyway. However, if it is an open alleyway, it is open to a public domain on two opposite sides, and it is prohibited to carry within it. If the residents of the courtyard did not establish an eiruv with the residents of the alleyway, the residents of the courtyard are forbidden to carry within the alleyway, because the two areas are considered separate domains. Consequently, carrying in the alleyway is not prohibited on their account (Rabbi Zeruya Halevi).

There, where the residents did not establish an eiruv together – אַסְבְּרָא לְךָ, כָּאן. According to Rashi, the owners of the backyard are always considered people who established an eiruv, for the yard itself has no residents. Consequently, the backyard does not render prohibited carrying within the alleyway due to its residents. However, according to the Ran, as well as one opinion in Tosafot, the discussion refers to a backyard that has residents, and it is only permitted if the residents that use the backyard establish an eiruv with the residents of the alleyway.

HALAKHA

An alleyway that was breached into a courtyard — תְּאֶבֶב לְרַב שֶׁלֹּא עֵירְבוּ. When an alleyway is breached along the entire length of its back wall, where it opens into a courtyard, and the facing wall of the courtyard is breached into public domain, the residents of the alleyway are permitted to carry within the alleyway, so long as they established an eiruv together with the residents of the courtyard. If they failed to do so, carrying is permitted in the courtyard but prohibited in the alleyway, in accordance with the opinion of Rav, as explained by Rav Sheshet (Shulhan Arukh, Ḥoshen Ḥayyim 365:3).

For if it is a ruling of Rav, the apparent contradiction between one statement of Rav and another statement of Rav poses a difficulty in two ways. The first is with regard to the fact that this alleyway opens into the public domain on two opposite sides, and the second is based on that which Rav Yirmeya bar Abba said that Rav said: If an alleyway was breached along the entire length of its back wall, and likewise the courtyard was breached opposite it into the public domain, it is permitted to carry in the courtyard, and it is prohibited to carry in the alleyway, since this alleyway is now open on two opposite sides to the public domain. Why should this be the ruling? In this case, let it be like an alleyway that terminates in a backyard, where Rav Yehuda ruled that nothing further is needed to permit carrying.

Rav Yosef said to Abaye: I do not know in accordance with which of his teachers Rav Yehuda issued this ruling. All I know is that there was an incident in a shepherds’ village where an alleyway terminated in a backyard, and the matter came before Rav Yehuda for a ruling, and he did not require anything to render it permitted to carry in the alleyway. And if, as you say, it is difficult if we say that he issued his ruling in the name of Rav, let it be suggested that he issued it in the name of his other teacher, Shmuel, and then there will be no difficulty.

The First is with regard to the fact that this alleyway opens into the public domain. Here is referring to a case where the residents of the courtyard established an eiruv together. In that case, Rav permits carrying in the alleyway, because the alleyway now has new residents, i.e., the residents of the courtyard, who did not participate in the eiruv, and they prevent the residents of the alleyway from carrying.

Consequently, it can be said that Rav Yehuda’s statement with regard to an alleyway that terminates in a backyard is in accordance with the opinion of Rav, as the apparent contradiction between one statement of Rav and another statement of Rav also poses no difficulty. Here, where Rav Yehuda permits carrying in an alleyway that terminates in a backyard, he is referring to a case where the residents of the courtyard and the residents of the alleyway established a joint eiruv, whereas here, where Rav Yehuda permits carrying in an alleyway that was breached along the entire length of its back wall into a courtyard, he is referring to a case where the residents of the courtyard and the residents of the alleyway did not establish a joint eiruv.