אֵיתִיבֵיהּ: אֶחָד מִבְּנֵי חָצֵר שֶׁמֵּת, וְהִנִּיחַ רְשׁוּתוֹ לְאֶחָד מִן הַשּׁוּק, מִבְּעוֹד יוֹם – אוֹסֵר, מִשֶּׁחֲשֵׁיכָה – אֵינוֹ אוֹסֵר.

Rava **raised a** further **objection to** the opinion of Rav Naḥman from a different *baraita*: If **a resident of a courtyard died**[H] **and left his domain,** the use of his house, **to one from the marketplace,** i.e., a non-resident of the courtyard, the following distinction applies: If he died **while it was still day,** i.e., before Shabbat, the one from the marketplace renders carrying **prohibited,** for it is assumed that he received his portion before the onset of Shabbat and should have joined in an *eiruv* with the others. Since he failed to establish an *eiruv* with the other residents of the courtyard, he renders carrying prohibited in the entire courtyard. If, however, he died **after nightfall, he does not** render carrying **prohibited,** for so long as it was permitted to carry for part of Shabbat it remains permitted for the entirety of Shabbat.

וְאֶחָד מִן הַשּׁוּק שֶׁמֵּת וְהִנִּיחַ רְשׁוּתוֹ לְאֶחָד מִבְּנֵי חָצֵר, מִבְּעוֹד יוֹם – אֵינוֹ אוֹסֵר, מִשֶּׁחֲשֵׁיכָה – אוֹסֵר.

And alternatively, if **one from the marketplace** who owned a residence in the courtyard but did not dwell there **died and left his domain to a resident of the courtyard** who does live there and usually joins in an *eiruv* with his neighbors, the following distinction applies: If the person from the marketplace died **while it was still day,** i.e., before Shabbat, the courtyard resident **does not** render carrying **prohibited,** as when he establishes his *eiruv* it includes his new residence as well. If, however, the person from the marketplace died **after nightfall** without having established an *eiruv*, the deceased renders carrying **prohibited.** As this residence was prohibited at the beginning of Shabbat, it can no longer be permitted on that Shabbat.[H]

אַמַּאי אוֹסֵר? נִבְטֵיל! מַאי "אוֹסֵר" נַמִי דְּקָתָנֵי – עַד שֶׁיְּבַטֵּל.

Rava's question is based on the first case discussed in the *baraita*: According to Rav Naḥman, **why does** the heir render carrying **prohibited** in this case? **Let him renounce** his rights in the courtyard to the other residents, as Rav Naḥman maintains that an heir may renounce rights. Rav Naḥman replied: **What is** the meaning of the word **prohibits that** the *baraita* **teaches** here? It means he renders carrying prohibited **until he renounces** his rights, i.e., although there is no way of rectifying the situation by means of an *eiruv*, it can be corrected by way of renunciation.

תָּא שְׁמַע: יִשְׂרָאֵל וְגֵר שֶׁרוּיִין בִּמְגוּרָה אַחַת, וּמֵת גֵּר מִבְּעוֹד יוֹם,

Come and **hear** a different proof challenging Rav Naḥman's opinion, from the following *baraita*: If **a Jew and a convert were living in a single residency**[N] comprised of several rooms, **and the convert died** childless **while it was still day,** such a convert has no heirs, and therefore the first to take possession of his property acquires it.

Perek **VI**
Daf **71** Amud **a**

אַף עַל פִּי שֶׁהֶחֱזִיק יִשְׂרָאֵל אַחֵר בִּנְכָסָיו – אוֹסֵר. מִשֶּׁחֲשֵׁיכָה, אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק יִשְׂרָאֵל אַחֵר – אֵינוֹ אוֹסֵר.

In such a case, **even though a different Jew took possession of** the convert's **property,** the one who acquires it renders carrying **prohibited.** If, however, he died **after nightfall, even though a different Jew did not take possession of** his property, **it,** i.e., carrying, **is not prohibited,** for carrying had already been permitted on that Shabbat.

הָא גּוּפָא קַשְׁיָא! אָמְרַתְּ "מִבְּעוֹד יוֹם אַף עַל פִּי שֶׁהֶחֱזִיק", וְלָא מִיבַּעְיָא כִּי לָא הֶחֱזִיק?! אַדְּרַבָּה, כִּי לָא הֶחֱזִיק לָא אָסַר!

The Gemara raises a difficulty: The *baraita* **itself is difficult. You** first **said:** If the convert died **while it was still day, even though a different Jew took possession of** his property, the latter renders carrying prohibited, which implies that **it is not necessary** to say so **where** another Jew **did not take possession of** the property, for in such a case it is certainly prohibited. But this is incorrect. **On the contrary,** in a case **where** a different person **did not take possession of** the property, **it is** certainly **not prohibited,** for in such a case the convert's property is ownerless and there is nobody to render carrying in the courtyard prohibited.

אָמַר רַב פַּפָּא: אֵימָא, "אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק". וְהָא "אַף עַל פִּי שֶׁהֶחֱזִיק" קָתָנֵי!

Rav Pappa said: Say that the *baraita* should read as follows: **Even though** a different Jew **did not take possession of** it. The Gemara raises a difficulty: How can it be corrected in this manner? **But doesn't it teach: Even though he took possession of** it?

HALAKHA

If a resident of a courtyard died – אֶחָד מִבְּנֵי חָצֵר שֶׁמֵּת: With regard to one of the residents of a courtyard who died before he could establish an *eiruv*, and he left his portion to someone who was not a resident of the courtyard, the following distinctions apply: If he died before Shabbat and his heir arrived on Shabbat, the heir renders carrying prohibited. However, if he died on Shabbat after having established an *eiruv*, the heir may not impose any restrictions on the residents. If he had not established an *eiruv*, the heir imposes restrictions only when he arrives (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 371:4).

One who inherited part of a courtyard – יוֹרֵשׁ חֵלֶק בְּחָצֵר: In the case of a person who owned a residence in a courtyard but did not dwell there, and who left his property to a resident of that courtyard, the *halakha* is as follows: If he died before Shabbat, the heir does not render carrying prohibited, for the *eiruv* that he established before Shabbat includes the portion he has inherited as well. However, if the person died after nightfall, then the heir does render carrying prohibited, because his *eiruv* is ineffective in such a case (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 371:3).

NOTES

A Jew and a convert…in a single residency – יִשְׂרָאֵל וְגֵר...בִּמְגוּרָה אַחַת: The early commentaries point out that this case clearly refers to a legal acquisition of ownership [*ḥazaka*] rather than an inheritance (see Ritva). According to the Ra'avad, who maintains that an heir has rights because it is considered as though the deceased renounced his rights in his favor before Shabbat, one who acquires property that was ownerless is similarly like one who acquires from a person who renounced his rights to others.

NOTES

After nightfall…it does not render it prohibited – מִשֶּׁחֲשֵׁיכָה...אֵינוֹ אוֹסֵר: The Ritva explains that even if the convert died without previously establishing an *eiruv*, carrying is not prohibited, as his death is considered a general renunciation of his rights in the domain.

The reason of Beit Hillel – טַעַם בֵּית הִלֵּל: Some commentaries point out that Ulla's explanation in this context disagrees with Rabbi Yoḥanan's opinion with regard to an heir, and maintains that even according to Beit Hillel, an heir may not renounce his rights in a domain. He states that Beit Hillel's reason for permitting the renunciation of rights is that the owner's intentions have been clarified retroactively, and this is not possible in the case of an heir (Rashash).

Turn toward the high-quality ones – כַּלֵּךְ אֵצֶל יָפוֹת: Just as one who says, Turn toward the high-quality ones, reveals his intention of giving from the very best quality produce, so too, one who renounces his rights indicates that he did not mean to prevent the residents of the courtyard from carrying, but, on the contrary, he wished to completely renounce his rights in the courtyard in their favor (*Me'iri*).

HALAKHA

A different Jew and a convert – יִשְׂרָאֵל וְגֵר: With regard to the case of a convert and a different Jew who shared a courtyard and established an *eiruv* together, the following distinction applies: If the convert died before Shabbat and a different Jew took possession of his property, even after nightfall, that Jew renders carrying in the courtyard prohibited. However, if the convert passed away on Shabbat, carrying is not prohibited, as it had previously been permitted for part of Shabbat (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 371:5).

הָכִי קָאָמַר: אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק מִבְּעוֹד יוֹם אֶלָּא מִשֶּׁחֲשֵׁיכָה, כֵּיוָן דַּהֲוָה לֵיהּ לְהַחֲזִיק מִבְּעוֹד יוֹם – אוֹסֵר. מִשֶּׁחֲשֵׁיכָה, אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק יִשְׂרָאֵל אַחֵר – אֵינוֹ אוֹסֵר.

The Gemara answers: **This is** what the *baraita* **is saying:** If the convert died while it was still day, then **even though** a different Jew **did not take possession of** the property **while it was still day but** only **after nightfall, since he had** the possibility **of taking possession** of it **while it was still day,** the person who acquires it renders carrying **prohibited.** If, however, the convert died **after nightfall, even though a different Jew did not take possession of** his property, **it does not render** it **prohibited**[N] to carry.

״אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק יִשְׂרָאֵל אַחֵר״ וְלָא מִיבַּעְיָא כִּי הֶחֱזִיק?! אַדְּרַבָּה, כִּי הֶחֱזִיק אָסַר!

The Gemara now considers the next clause of the *baraita*, which states: If the convert died after nightfall, **even though a different Jew did not take possession of** his property, carrying is not prohibited. This implies that **it is not necessary** to say so **where** another Jew **did take possession of** the property, for in such a case it is certainly not prohibited. But, **on the contrary, where** a different person **takes possession of** the property, **he** renders carrying **prohibited.**

אָמַר רַב פַּפָּא: אֵימָא, ״אַף עַל פִּי שֶׁהֶחֱזִיק״. וְהָא ״אַף עַל פִּי שֶׁלֹּא הֶחֱזִיק״ קָתָנֵי! הָכִי קָאָמַר: אַף עַל פִּי שֶׁהֶחֱזִיק מִשֶּׁחֲשֵׁיכָה, כֵּיוָן דְּלָא הֲוָה לֵיהּ לְהַחֲזִיק מִבְּעוֹד יוֹם – אֵינוֹ אוֹסֵר.

Rav Pappa said: Say that the *baraita* should read as follows: **Even though** a different Jew **took possession of** it. The Gemara raises a difficulty: **But didn't** the *baraita* **teach: Even though he did not take possession of** it? The Gemara explains: **This is** what the *baraita* **is saying:** If the convert died after nightfall, **even though** a different Jew **took possession of** his property **after nightfall, since he did not have** the possibility **of taking possession** of it **while it was still day, he does not** render carrying **prohibited.**[H]

קָתָנֵי מִיהַת רֵישָׁא ״אוֹסֵר״, אַמַּאי אוֹסֵר? נִיבַטֵּל!

After explaining the *baraita*, the Gemara proceeds to clarify the issue at hand: **In any event, the first clause is teaching** that the person who acquires the convert's property **renders** carrying **prohibited;** but **why does he render** carrying **prohibited? Let him renounce** his rights in the domain like an heir. The implication then is that he does not have the option of renunciation, in contrast to the opinion of Rav Naḥman.

מַאי ״אוֹסֵר״ דְּקָתָנֵי, עַד שֶׁיְּבַטֵּל.

Rav Naḥman replied: **What is** the meaning of the word **prohibits that it teaches** here? It means he renders carrying prohibited **until he renounces** his rights, but renunciation is effective.

רַבִּי יוֹחָנָן אָמַר: מַתְנִיתִין מַנִּי בֵּית שַׁמַּאי הִיא, דְּאָמְרִי: אֵין בִּיטּוּל רְשׁוּת בְּשַׁבָּת. דִּתְנַן: מֵאֵימָתַי נוֹתְנִין רְשׁוּת? בֵּית שַׁמַּאי אוֹמְרִים: מִבְּעוֹד יוֹם. וּבֵית הִלֵּל אוֹמְרִים: מִשֶּׁתֶּחְשַׁךְ.

Rabbi Yoḥanan said: Who is the *tanna* of the problematic ***baraitot*** that imply that an heir cannot renounce rights, and from which objections were brought against Rav Naḥman? **It is Beit Shammai, who say** that **there is no renunciation of rights on Shabbat** at all, even for the owner of the property. **As we learned** in the mishna: **When may one give away rights** in a domain? **Beit Shammai say: While it is still day. And Beit Hillel say:** Even **after nightfall.**

אָמַר עוּלָּא: מַאי טַעְמָא דְּבֵית הִלֵּל – נַעֲשָׂה כְּאוֹמֵר ״כַּלֵּךְ אֵצֶל יָפוֹת״.

With regard to this dispute itself, **Ulla said: What is the reason of Beit Hillel**[N] that one may renounce rights even after nightfall? This should be considered an act of acquisition, which is prohibited on Shabbat. He explains: **It is comparable to one who says: Turn toward the high-quality ones.**[N] If a person sets aside *teruma* from another person's produce without the latter's knowledge, and when the owner finds out he says: Why did you set aside this produce? Turn toward the high-quality ones, i.e., you should have gone to find better produce to use as *teruma*, then the *teruma* that was separated is considered *teruma*, provided there was indeed quality produce in that place. The reason is that the owner has demonstrated his retroactive acquiescence to the other person's setting aside of *teruma*. Therefore, the latter is considered his agent for this purpose. The same applies to our issue. If a person intended to permit both himself and others to carry in a courtyard by means of establishing an *eiruv* but forgot to do so, by renouncing his rights after nightfall, he retroactively makes plain his desire that his domain should be mingled with that of his neighbors. What he then does on Shabbat is not a complete action, but merely a demonstration of his intentions.

אָמַר אַבָּיֵי: מֵת גּוֹי בְּשַׁבָּת מַאי ״כַּלֵּךְ אֵצֶל יָפוֹת״ אִיכָּא?

Abaye said: This explanation is unsatisfactory, as when **a gentile dies on Shabbat, what** connection **is there to** the concept: **Turn toward the high-quality ones?** When a gentile dies on Shabbat, his Jewish neighbors may renounce their rights in the courtyard to each other and thus render carrying in the courtyard permitted, even though such renunciation would have been ineffective prior to his passing. Consequently, it cannot be said that it works retroactively.

אֶלָּא, הָכָא בְּהָא קָמִיפַּלְגִי; בֵּית שַׁמַּאי סָבְרִי: בִּיטּוּל רְשׁוּת מִיקְנָא רְשׁוּתָא הוּא, וּמִיקְנָא רְשׁוּתָא בְּשַׁבָּת – אָסוּר. וּבֵית הִלֵּל סָבְרִי: אִסְתַּלּוּקֵי רְשׁוּתָא בְּעָלְמָא הוּא, וְאִסְתַּלּוּקֵי רְשׁוּתָא בְּשַׁבָּת שַׁפִּיר דָּמֵי.

Rather, the Gemara rejects Ulla's explanation and states that **here they disagree over the following: Beit Shammai hold** that **renunciation of a domain is** equivalent to **acquisition of a domain, and acquisition of a domain is prohibited on Shabbat. And Beit Hillel hold** that **it is merely withdrawal from a domain, and withdrawal from a domain seems well on Shabbat,** i.e., it is permitted. As such, there is no reason to prohibit renunciation as a form of acquisition, which is prohibited as a part of a decree against conducting commerce on Shabbat.

מתני׳ בַּעַל הַבַּיִת שֶׁהָיָה שׁוּתָּף לִשְׁכֵנָיו, לָזֶה בַּיַּיִן וְלָזֶה בַּיַּיִן – אֵינָן צְרִיכִין לְעָרֵב.

MISHNA If **a homeowner was in partnership with his neighbors, with this** one **in wine and with that** one **in wine,**[N] **they need not establish an *eiruv*,** for due to their authentic partnership they are considered to be one household, and no further partnership is required.

לָזֶה בַּיַּיִן וְלָזֶה בַּשֶּׁמֶן צְרִיכִין לְעָרֵב. רַבִּי שִׁמְעוֹן אוֹמֵר: אֶחָד זֶה וְאֶחָד זֶה – אֵינָן צְרִיכִין לְעָרֵב.

If, however, he was in partnership **with this** one **in wine and with that** one **in oil, they must establish an *eiruv*.** As they are not partners in the same item, they are not all considered one partnership. **Rabbi Shimon says:** In **both this** case **and that** case, i.e., even if he partners with his neighbors in different items, **they need not establish an *eiruv*.**[NH]

גמ׳ אָמַר רַב: וּבִכְלִי אֶחָד. אָמַר רָבָא: דַּיְקָא נַמִי, דְּקָתָנֵי ״לָזֶה בַּיַּיִן וְלָזֶה בַּשֶּׁמֶן – צְרִיכִין לְעָרֵב״. אִי אָמְרַתְּ בִּשְׁלָמָא רֵישָׁא בִּכְלִי אֶחָד וְסֵיפָא בִּשְׁנֵי כֵלִים – שַׁפִּיר. אֶלָּא אִי אָמְרַתְּ רֵישָׁא בִּשְׁנֵי כֵלִים וְסֵיפָא בִּשְׁנֵי כֵלִים, מַה לִּי יַיִן וְיַיִן מַה לִּי יַיִן וְשֶׁמֶן?!

GEMARA Rav said: The *halakha* that one who is in partnership in wine with both his neighbors need not establish an *eiruv* applies only if their wine is **in one vessel. Rava said:** The language of the mishna **is also precise, as it teaches:** If he was in partnership **with this one in wine and with the** other **one in oil, they must establish an *eiruv*. Granted, if you say** that **the first clause** of the mishna deals **with one vessel, and the latter clause** deals **with two vessels,** one of wine and one of oil, **it is well. But, if you say** that **the first clause** of the mishna speaks **of two vessels, and the latter clause** also speaks **of two vessels, what** difference is it **to me** if it is **wine and wine or wine and oil?** The *halakha* should be the same in both cases.

אֲמַר לֵיהּ אַבַּיֵי: יַיִן וְיַיִן – רָאוּי לְעָרֵב, יַיִן וְשֶׁמֶן – אֵין רָאוּי לְעָרֵב.

Abaye said to him: This is no proof, and the first clause can be referring to a case where the wine was in separate vessels as well. The difference is that **wine and wine is suitable for mixing** together, and therefore can be considered a single unit even if divided into two containers. **Wine and oil,** however, **are not suitable for mixing.**

״רַבִּי שִׁמְעוֹן אוֹמֵר: אֶחָד זֶה וְאֶחָד זֶה אֵין צְרִיכִין לְעָרֵב״. וַאֲפִילּוּ לָזֶה בַּיַּיִן וְלָזֶה בַּשֶּׁמֶן?! אָמַר רַבָּה: הָכָא בְּמַאי עָסְקִינַן – בְּחָצֵר שֶׁבֵּין שְׁנֵי מְבוֹאוֹת. וְרַבִּי שִׁמְעוֹן לְטַעֲמֵיהּ;

We learned in the mishna: **Rabbi Shimon says:** In **both this** case, where they are partners in wine alone, **and that** case, where the partnerships are in wine and oil, **they need not establish an *eiruv*.** The Gemara poses a question: Did he say this **even if** the partnership is **with this one in wine and with the other one in oil?** But these are not suitable for mixing. **Rabba said: With what are we dealing here?** We are dealing **with a courtyard** positioned **between two alleyways, and Rabbi Shimon** follows **his** usual line of **reasoning.**

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

As we learned in a mishna: **Rabbi Shimon said: To what is this matter comparable?** It is comparable **to** the case of **three courtyards that open into one another and** also **open into a public domain. If the two outer** courtyards each **established an *eiruv* with the middle one, it is permitted** for residents of the middle one to carry **with** the two outer ones, **and it is permitted** for residents of the two outer ones to carry **with** the middle one. **However, it is prohibited** for the residents of **the two outer** courtyards to carry **with each other,** as they did not establish an *eiruv* with each other. This teaches that the residents of one courtyard can establish an *eiruv* with a courtyard on each side, and need not choose between them. Here too, the residents of the courtyard can participate in an *eiruv* with both alleyways, one by means of wine and the other by means of oil.

אֲמַר לֵיהּ אַבַּיֵי: מִי דָּמֵי? הָתָם קָתָנֵי ״שְׁתַּיִם הַחִיצוֹנוֹת אֲסוּרוֹת״, הָכָא קָתָנֵי ״אֵין צְרִיכִין לְעָרֵב״ כְּלָל!

Abaye said to him: Are the cases really **comparable? There it teaches: It is prohibited** for the residents of **the two outer** courtyards to carry with each other, whereas **here it teaches: They need not establish an *eiruv*,** indicating that it is permitted for residents of all three domains to carry with each other.

NOTES

With this one in wine and with that one in wine – לָזֶה בַּיַּיִן וְלָזֶה בַּיַּיִן: The Rashash writes that if the homeowner maintains separate partnerships in wine with each neighbor, the three of them are not partners together at all. By stating in the Gemara that all the wine must be in a single vessel, Rav emphasizes the need for all of it to be placed in one location at least, so that theirs should be considered an actual partnership.

Rabbi Shimon's opinion – שִׁיטַת רַבִּי שִׁמְעוֹן: One explanation of Rabbi Shimon's statement is that his criteria are applicable only with regard to the *halakhot* of *eiruv*, such that the residents of a courtyard may establish one *eiruv* with one alleyway and a second *eiruv* with another alleyway. Other commentaries, however, explain that Rabbi Shimon was speaking of the criteria for general commercial partnerships as well as the *halakhot* of *eiruv* (see Rabbeinu Yehonatan).

HALAKHA

An *eiruv* between partners – עֵירוּב בֵּין שׁוּתָּפִים: One who participated in a partnership in wine with each of his neighbors need not establish an *eiruv*. Even if his partnership with one was in wine and the other one was in oil, he need not establish an *eiruv*, so long as both the wine and the oil were stored in a single vessel (*Tur*). This ruling follows the opinion of Rabbi Shimon, as the *halakha* follows the lenient opinion with regard to *eiruvin* (*Beit Yosef*). Alternatively (*Bayit Ḥadash*), even the first *tanna* would agree that he need not establish an *eiruv* in this case, as he disagreed in the case of wine and oil only because they are usually not stored in one vessel (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 386:3 in Rema).

מַאי "אֵין צְרִיכִין לְעָרֵב" – שְׁכֵנִים בַּהֲדֵי בַּעַל הַבַּיִת, אֲבָל שְׁכֵנִים בַּהֲדֵי הֲדָדֵי – צְרִיכִין לְעָרֵב.

The Gemara explains: **What is** the subject of the phrase **they need not establish an *eiruv*?** It refers to the **neighbors together with the homeowner,** i.e., the residents of the courtyards that open into each of the alleyways with the resident of the courtyard in the middle. **But** with regard to **the neighbors with each other,** i.e., if the residents of the two alleyways wish to be permitted to carry with each other, **they must establish an *eiruv*** and place it in the middle courtyard.

Perek **VI**
Daf **71** Amud **b**

HALAKHA

Oil was floating on the surface of wine – שֶׁמֶן שֶׁצָּף עַל גַּבֵּי יַיִן: If a ritually impure person who immersed during the day but retains vestigial impurity until nightfall touched oil floating on wine, the wine is not disqualified (Rambam *Sefer Tahara*, *Hilkhot Tumat Okhalin* 8:3).

BACKGROUND

One who immersed during the day – טְבוּל יוֹם: When one who became ritually impure immerses himself, a vestigial impurity remains until sunset. During this interval he renders liquids with which he comes into contact ritually impure. However, those liquids do not render other items ritually impure.

NOTES

Wine and oil – יַיִן וְשֶׁמֶן: In the Jerusalem Talmud it is explained that Rabbi Shimon's rationale is that even wine and oil can in fact be mixed together in a single utensil, as they are both used in the making of *anigron*, a type of drink.

Rabbi Eliezer ben Taddai and Rabbi Meir – רַבִּי אֱלִיעֶזֶר בֶּן תַּדַּאי וְרַבִּי מֵאִיר: In the Jerusalem Talmud, it is assumed that the opinions of Rabbi Eliezer ben Taddai and Rabbi Meir are based on the same principle. The issue discussed there is whether the guiding principle is Rabbi Meir's opinion with regard to a partnership and a joining of courtyards [*eiruv*], or Rabbi Meir's opinion that one may not establish an *eiruv* for a person without his knowledge. In the case here, the people have a commercial partnership that is not for the purpose of an *eiruv* of a courtyard or an alleyway, and therefore the partnership does not serve as an *eiruv*.

וְרַב יוֹסֵף אָמַר: רַבִּי שִׁמְעוֹן וְרַבָּנַן בִּפְלוּגְתָּא דְּרַבִּי יוֹחָנָן בֶּן נוּרִי וְרַבָּנַן קָא מִיפַּלְגִי; דִּתְנַן: שֶׁמֶן שֶׁצָּף עַל גַּבֵּי יַיִן, וְנָגַע טְבוּל יוֹם בַּשֶּׁמֶן – לֹא פָּסַל אֶלָּא שֶׁמֶן בִּלְבַד. וְרַבִּי יוֹחָנָן בֶּן נוּרִי אוֹמֵר: שְׁנֵיהֶן חִיבּוּרִין זֶה לָזֶה.

And Rav Yosef said: In fact we are dealing here with a single alleyway, and **Rabbi Shimon and the Rabbis disagree about the** same point of **dispute between Rabbi Yoḥanan ben Nuri and the Rabbis. As we learned** in a mishna: If *teruma* **oil was floating on the surface of wine,**[H] **and one who immersed during the day,**[B] **touched the oil, he disqualified only the oil alone.** However, he did not disqualify the wine, because it is considered separate from the oil. Only the oil is disqualified, and it does not render other items ritually impure. **And Rabbi Yoḥanan ben Nuri says: They are both connected to each other** and are considered as one, so the wine is also ritually impure.

רַבָּנַן – כְּרַבָּנַן, וְרַבִּי שִׁמְעוֹן – כְּרַבִּי יוֹחָנָן בֶּן נוּרִי.

The Gemara explains: **The** opinion of the **Rabbis** in our mishna **is in accordance with** the opinion of **the Rabbis** in the other mishna, who maintain that wine and oil are not connected and therefore cannot be used together in an *eiruv*, **and** the opinion of **Rabbi Shimon is in accordance with** the opinion of **Rabbi Yoḥanan ben Nuri,** who holds that wine and oil are connected, and may be used together in an *eiruv*.[N]

תַּנְיָא, רַבִּי אֱלִיעֶזֶר בֶּן תַּדַּאי אוֹמֵר: אֶחָד זֶה וְאֶחָד זֶה – צְרִיכִין לְעָרֵב, וַאֲפִילּוּ לָזֶה בַּיַּיִן וְלָזֶה בַּיַּיִן?!

It was taught in a *baraita*: **Rabbi Eliezer ben Taddai says:** In **both this** case, of wine and wine, **and that** case, of wine and oil, **they must establish an *eiruv*.** The Gemara expresses wonder: Did he say this **even** if the partnership is **with this one in wine and** also **with the** other **one in wine?** Why should these partnerships not be sufficient to consider the items merged?

אָמַר רַבָּה: זֶה בָּא בְּלַגִינוֹ וְשָׁפַךְ, וְזֶה בָּא בְּלַגִינוֹ וְשָׁפַךְ – כּוּלֵּי עָלְמָא לָא פְּלִיגִי דְּהָוֵי עֵירוּב.

Rabba said: If they partnered in the following manner, such that **this one came with his** wine-filled **jug and poured** its contents into a barrel, **and the** other **one came with his jug and poured** his wine into that same barrel, **everyone agrees that it is a** valid ***eiruv*,** even if they did not act specifically for that purpose.

כִּי פְּלִיגִי – כְּגוֹן שֶׁלְּקָחוּ חָבִית שֶׁל יַיִן בְּשׁוּתָּפוּת. רַבִּי אֱלִיעֶזֶר בֶּן תַּדַּאי סָבַר: אֵין בְּרֵירָה, וְרַבָּנַן סָבְרִי: יֵשׁ בְּרֵירָה.

Where they disagree is in the case **where they bought a barrel of wine in partnership. Rabbi Eliezer ben Taddai holds: There is no** principle of **retroactive clarification,** i.e., there is no halakhic assumption that the undetermined halakhic status of items can be retroactively clarified. Consequently, after the wine is consumed, it is not possible to clarify retroactively which portion of the wine belonged to each person. Therefore, they cannot each be said to own a particular part of the wine, which renders it unfit for an *eiruv*. **But the Rabbis hold that there is retroactive clarification,** and therefore they may rely on this partnership to establish an *eiruv*.

רַב יוֹסֵף אָמַר: רַבִּי אֱלִיעֶזֶר בֶּן תַּדַּאי וְרַבָּנַן בְּסוֹמְכִין עַל שִׁיתּוּף בִּמְקוֹם עֵירוּב קָמִיפַּלְגִי.

Rav Yosef said that this dispute should be understood differently, as **Rabbi Eliezer ben Taddai and the Rabbis disagree about** whether one may **rely on a merging** of an alleyway **instead of an *eiruv*,** i.e., whether the merging of an alleyway to permit carrying in the alleyway, exempts the courtyards that open into the alleyway from having to establish an *eiruv* for the purpose of carrying from one courtyard to the other.

דְּמָר סָבַר: אֵין סוֹמְכִין, וּמָר סָבַר: סוֹמְכִין.

As one **Sage,** Rabbi Eliezer ben Taddai, **holds** that one **may not rely** on it in that case, as carrying in the courtyards requires specifically an *eiruv*, and the merging of alleyways is insufficient. **And** one **Sage,** i.e., the Rabbis, **maintains** that one **may rely** on and use the merging of alleyways to permit carrying between the courtyards as well.

אָמַר רַב יוֹסֵף: מְנָא אָמִינָא לַהּ – דְּאָמַר רַב יְהוּדָה, אָמַר רַב: הֲלָכָה כְּרַבִּי מֵאִיר. וְאָמַר רַב בְּרוּנָא, אָמַר רַב: הֲלָכָה כְּרַבִּי אֱלִיעֶזֶר בֶּן תַּדַּאי. מַאי טַעְמָא – לָאו מִשּׁוּם דְּחַד טַעְמָא הוּא?

Rav Yosef said: From where do I say this, that this is the subject of their dispute? **As Rav Yehuda said** that **Rav said: The *halakha* is in accordance with** the opinion of **Rabbi Meir,**[N] which will be detailed later, that one may not rely on a merging of alleyways instead of an *eiruv*. **And Rav Beruna said** that **Rav said: The *halakha* is in accordance with** the opinion of **Rabbi Eliezer ben Taddai,** that in both cases they must establish an *eiruv*. **What is the reason** he ruled in this manner? **Is it not because the rationale** for both rulings is **one** and the same?

אֲמַר לֵיהּ אַבַּיֵי: וְאִי חַד טַעְמָא, תַּרְתֵּי הִילְכָתָא לָמָּה לִי?! הָא קָא מַשְׁמַע לַן: דְּלָא עָבְדִינַן כִּתְרֵי חוּמְרֵי בְּעֵירוּבִין.

Abaye said to him: But if it is one reason, why do I need **two rulings?** On the contrary, it would be enough to rule in one case, from which we could infer the other as well. Rav Yosef replied: There is nevertheless a reason for both rulings, as **this** comes to **teach us that we do not act in accordance with two stringencies** of one *tanna* **in** matters of ***eiruv***.[N] Had Rav ruled only in accordance with Rabbi Meir, we would have known only that the *halakha* is in accordance with his opinion with regard to one specific detail of the case. He therefore ruled in accordance with two Sages: Rabbi Eliezer ben Taddai with regard to a merging of alleyways with wine, and Rabbi Meir with regard to a merging of alleyways with bread. Each is stringent with regard to a different detail of the case.

מַאי רַבִּי מֵאִיר וּמַאי רַבָּנַן? דְּתַנְיָא: מְעָרְבִין בַּחֲצֵירוֹת בְּפַת. וְאִם רָצוּ לְעָרֵב בְּיַיִן – אֵין מְעָרְבִין. מִשְׁתַּתְּפִין בַּמָּבוֹי בְּיַיִן, וְאִם רָצוּ לְהִשְׁתַּתֵּף בְּפַת – מִשְׁתַּתְּפִין.

Having mentioned Rabbi Meir, the Gemara now asks: **What** is the statement of **Rabbi Meir, and what** is the statement of **the Rabbis? As it was taught** in the following *baraita*: **One** may **establish an *eiruv* with bread between courtyards** that open to one another, **but if one wanted to establish an *eiruv* with wine, one** may **not establish an *eiruv*** in that manner.[H] **One** may **merge** the courtyards that open **into an alleyway with wine, and if one wanted to establish a merging** of alleyways **with bread, one** may **merge** the courtyards of alleyways in this manner.[H]

מְעָרְבִין בַּחֲצֵירוֹת וּמִשְׁתַּתְּפִין בַּמָּבוֹי, שֶׁלֹּא לְשַׁכַּח תּוֹרַת עֵירוּב מִן הַתִּינוֹקוֹת שֶׁיֹּאמְרוּ ״אֲבוֹתֵינוּ לֹא עֵירְבוּ״, דִּבְרֵי רַבִּי מֵאִיר. וַחֲכָמִים אוֹמְרִים: אוֹ מְעָרְבִין, אוֹ מִשְׁתַּתְּפִין.

Why **does** one **establish an *eiruv* between courtyards and** also **merge** the courtyards that open **into an alleyway?** It is so **as not to cause the** halakhic **category of *eiruv* to be forgotten by the children, as** if a merging of alleyways alone were used, the children would later **say: Our fathers never established an *eiruv*.** Therefore, an *eiruv* is established for educational purposes; this is **the statement of Rabbi Meir.**[H] **And the Rabbis say:** One may **either establish an *eiruv* or merge** alleyways.

פְּלִיגִי בָּהּ רַבִּי נַחוּמִי וְרַבָּה; חַד אָמַר: בְּפַת, דְּכוּלֵּי עָלְמָא לָא פְּלִיגִי דְּבַחֲדָא סַגִּי. כִּי פְּלִיגִי – בְּיַיִן.

Rabbi Naḥumi and Rabba disagreed about this issue. **One** of them **said:** In the case **of bread,** which may be used both for an *eiruv* and for a merging of alleyways, **everyone agrees that one,** either an *eiruv* or a merging of alleyways, **is enough. When they disagree** in the case **of wine,** which may be used only for a merging of alleyways but not for an *eiruv*, Rabbi Meir maintains that an *eiruv* is also necessary, while the Rabbis maintain that it is not required.

NOTES

In accordance with two stringencies in matters of *eiruv* – כִּתְרֵי חוּמְרֵי בְּעֵירוּבִין: Rashi explains that it was necessary for Rav to rule in accordance with two *tanna'im*, because two stringencies of a single Sage in *eiruvin* are not accepted. Consequently, he had to find a second Sage who was stringent with regard to relying on a merging of the alleyways instead of an *eiruv*. Rabbi Eliezer Meir Horowitz explains that had Rav merely ruled that the *halakha* is in accordance with the opinion of Rabbi Meir, the assumption would have been that this is true with regard to only one of the stringencies of the case but not both. Therefore, Rav had to rule in accordance with Rabbi Eliezer ben Taddai as well.

The Ra'avad explains that the principle of not adopting two stringencies means that if a stringency in *halakhot* of *eiruvin* is accepted in accordance with the opinion one *tanna*, and there is a similar opinion of another *tanna* phrased slightly differently or referring to a somewhat different case, then there is no presumption that the same *halakha* applies in both cases, unless there is an explicit tradition to that effect.

With regard to the two stringencies, the Ritva explains that Rabbi Eliezer ben Taddai is referring only to a case where the partnership between the neighbors was merely a commercial one, while Rabbi Meir is stringent even if the partnership was established unequivocally for the purpose of an *eiruv*.

HALAKHA

With what may one establish an *eiruv* between courtyards – בַּמֶּה מְעָרְבִים בַּחֲצֵרוֹת: Bread, rather than wine, is used for establishing an *eiruv*, in accordance with the opinion of Rabbi Yehuda (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 366:1).

With what may one establish a merging of alleyways – בַּמֶּה מִשְׁתַּתְּפִים: Either bread or wine may be utilized for the merging of alleyways (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 386:4).

An *eiruv* and a merging of alleyways – עֵירוּב וְשִׁיתּוּף: If a merging of alleyways was established with bread, there is no need to establish an *eiruv* for the courtyards. However, if a merging of alleyways was established with wine, an *eiruv* must also be established for the courtyards, as the *halakha* is in accordance with the opinion of Rabbi Meir, as interpreted by the first explanation of the Gemara. This ruling is either due to the ruling of the Gemara or because Rabba explicitly stated (67b) that one may rely upon this merging of alleyways (Vilna Gaon). Some commentaries say that it is permitted to rely on the merging of alleyways to permit carrying between the courtyards via the opening between them only if each courtyard had already established its own internal *eiruv* but had not established an *eiruv* between the two courtyards (Rashi). The Rema maintains that one is permitted to rely on a merging of alleyways instead of an *eiruv* even if it is established with wine. He explains that in modern times all the residents contribute wine to the merging, and therefore it is considered to be both an *eiruv* and a merging of alleyways. (*Shulḥan Arukh*, *Oraḥ Ḥayyim* 387).

Perek **VI**
Daf **72** Amud **a**

וְחַד אָמַר: בְּיַיִן, דְּכוּלֵּי עָלְמָא לָא פְּלִיגִי דְּבָעֵינַן תַּרְתֵּי, כִּי פְּלִיגִי – בְּפַת.

And one said: In the case **of wine, everyone agrees that two are required,** both a merging of alleyways and a joining of courtyards. **When they disagree** is in a case where an *eiruv* was established **with bread:** Rabbi Meir maintains that both a merging of alleyways and a joining of courtyards are required, whereas the Rabbis say that one is sufficient.

מֵיתִיבִי: וַחֲכָמִים אוֹמְרִים אוֹ מְעָרְבִין אוֹ מִשְׁתַּתְּפִין. מַאי לָאו – אוֹ מְעָרְבִין בֶּחָצֵר בְּפַת, אוֹ מִשְׁתַּתְּפִין בַּמָּבוֹי בְּיַיִן!

The Gemara **raises an objection** from the *baraita* itself. **And the Rabbis say:** One may **either establish an *eiruv* or a merging** of alleyways. **What,** does it **not** mean that one **either establishes an *eiruv* in the courtyard with bread or a merging in the alleyway with wine,** which indicates that they also disagreed in a case where a merging of alleyways was established with wine?