An object that can be moved...renders it prohibited – Rav. An object that can be moved, Rav Meir maintains, that an empty residence is like any residence occupied by people and renders it prohibited for other residents to use the courtyard. In the Jerusalem Talmud, however, Rav Meir reasoning is explained that there is always a chance that one might return to his home. Indeed, even a Jew in a different city can establish an eiruv and come home on Shabbat.

HALAKHA

Rabbi Shimon's opinion, as Rav ruled in accordance with him in the Gemara. As for a gentile, if he went to a place from which he can return home on Shabbat, he imposes restrictions; he does not impose restrictions if he is more than a day's travel away from his home (Rambam). Rabbi Yosei's opinion is accepted as the halakha, as the halakha is ruled in his favor in disputes with Rabbi Yehuda. Additionally, he is supported by Rabbi Meir's opinion (Maggid Mishne). Some commentators teach that even a gentile who left for a nearby place does not render it prohibited for other residents to carry. This ruling is in accordance with Rabbi Yehuda, as the halakha is in accordance with the lenient opinion in the halakhot of eiruv (Rosh; Mordekhai; Sefer Mitzvot Gedolah; Rema; Shulhan Arukh, Orah Hayyim 371:3). One who leaves his house – In explanation of this story, the Gemara comments: Rabbi Yehuda HaNasi would honor the wealthy, and Rabbi Akiva would likewise honor the wealthy, in accordance with Rava bar Mari's interpretation of the verse: “May he be enthroned before God forever; appoint mercy and truth, that they may preserve him” (Psalms 61:8). When may he be enthroned before God forever? When he appoints [man] mercy and truth that they may preserve him. Rava bar Mari explains the word man as referring to portions of food and interprets the verse as follows: If one provides food to others, he deserves to be honored before God, to be shown honor and respect. Consequently, it is proper to honor the wealthy who bestow such kindnesses.

Make way even more for one who possesses two hundred maneh. Rabbi Yishmael, son of Rabbi Yosei, said before him: My teacher, Bonyas, father of this one, has a thousand ships out at sea and, corresponding to them, a thousand towns on land. He should be granted pride of place due to his exorbitant wealth. Rabbi Yehuda HaNasi said to him: When you reach his father, tell him: Do not send him to me in these garments. Dress him in accordance with his wealth and status, so that he will be honored accordingly.

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Rabba bar Hanan said: What is considered a right of usage? For example, if the homeowner stores the pin of a plough in his tenant’s quarters. The tenant is prohibited to remove this pin from his residence due to its being set aside from use [muktze], and the homeowner therefore enjoys a fixed right of usage there.

Rav Nahman said: A Sage of the school of Shmuel taught the following baraita: If the homeowner stores an object that can be moved on Shabbat with his tenant, the tenant’s residence renders the other residence prohibited [if he neglected to join the eiruv]. This is not considered a right of usage. If the object being stored is one that cannot be moved on Shabbat, the tenant’s residence does not render it prohibited for them to use the courtyard.

The Gemara adds: So too, it was taught in a baraita that if the tenant has untithed produce that may not be moved on Shabbat; or if he has humps of glass or iron; or anything else that may not be moved on Shabbat that the homeowner deposited with him, the tenant does not render it prohibited for the other residents to use the courtyard.

MISHNA

One who leaves his house, which is located in a shared courtyard, and goes to spend Shabbat in a different town, whether he is a gentile or a Jew, he renders it prohibited for the other residents to use the courtyard as though he were still at home; this is the statement of Rabbi Meir. Rabbi Yehuda says: He does not render it prohibited for them, as he left behind him an empty residence.

Rabbi Yosei says: A gentle renders it prohibited but a Jew does not render it prohibited, as it is not the manner of a Jew to come home on Shabbat. A Jew will not return home, therefore his empty residence does not render it prohibited. By contrast, a gentile might return over the course of Shabbat. Therefore, he is not considered to have fully uprooted himself from his house, and he renders it prohibited.

Rabbi Shimon says: Even if the Jew left his house and went to spend Shabbat with his daughter who lived in the same town, he does not render it prohibited. Although he can return home at any time, it is assumed that he has already removed from his mind any thought of going back there and has established his Shabbat residence away from his home.
**GEMARA** Rav said: The halakha is in accordance with the opinion of Rabbi Shimon. The Gemara comments: And this is the halakha only if one went to his daughter’s house; but if he went to his son’s house, no, this is not the halakha. One cannot be sure that he will be able to stay at his son’s house, for his daughter-in-law might object to his presence and force him to return home. As people say: If a dog barks at you, enter; if a female dog barks at you, leave. In other words, the objections of a female, such as one’s daughter-in-law, who will certainly not be opposed by her husband, are more powerful than those of a male, such as one’s son-in-law.

**MISHNA** In the case of a cistern that is located between two courtyards, situated partly in each courtyard, one may not draw water from it on Shabbat, lest the residents of one courtyard draw water from the domain of the other courtyard, unless a partition ten handbreaths high was erected for it as a separation between the domains. This partition is effective whether it is below, in the water, or whether it is within the airspace of the cistern below the rim, above the surface of the water.

Rabban Shimon ben Gamliel said: This is the subject of an early dispute of tanna’im, as Beit Shammai said that the partition, which permits drawing water, must be placed below; and Beit Hillel said it should be positioned above. Rabbi Yehuda said: A partition is no better than the wall between them. A wall dividing the two courtyards passes over the cistern, therefore it is not necessary to erect an additional partition in the cistern’s airspace.

**GEMARA** Rav Huna said: When Beit Shammai said below, they meant actually below, near the water; the partition need not touch the water itself. When Beit Hillel said above, they meant actually above, higher than the water and near the rim of the cistern. And both of these are within the airspace of the cistern. And Rav Yehuda said: Below means below the water, so that part of the partition is inside the water; whereas above means above the water, in such a manner that the partition does not come into contact with the water.

Rabba bar Rav Hanan said to Abaye: With regard to that which Rav Yehuda said: Below means below the water, what is different about a case where the partition is actually below, in the airspace cistern near the water, that led Rav Yehuda to say that one may not draw water in that case? It is because he was concerned lest the water of the two courtyards become intermingled beneath the partition. In a case where the partition is located below the water, near the bottom of the cistern, as well, won’t the water of the two courtyards become intermingled above it?

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**BACKGROUND**

Above and below – לְמַטָּר מַמָּשׁ. In this image, reflecting Rav Yehuda’s new wording of the conclusion as explained by Abaye, the lower partition is submerged, although it partly protrudes above the water level. A section of the upper partition also remains underwater.

**NOTES**

Rabban Shimon ben Gamliel’s opinion – רבי שמעון בר Giámליאל: Some commentators explain that Rabban Shimon ben Gamliel accepts the ruling of the first tanna. He merely adds that this issue is the subject of a dispute between earlier tanna’im. Other authorities maintain that Rabban Shimon ben Gamliel disagrees with the first tanna, as he is of the opinion that the partition must be placed either below or above.

Actually below – לְמַטָּר מַמָּשׁ. The expression actually below does not seem to fit the context, as the partition is placed above the water, in the depths of the cistern. One explanation is that Rav Huna never heard the statement of the younger Rav Yehuda. Consequently, Rav Huna’s statement must be understood as referring to the mishna itself, in which case the phrase actually below means that it is not enough for the partition to descend slightly below the edge of the cistern, but it must actually lie below its rim (Ritva). The Meiri explains the phrase actually below literally, as he maintains that the partition must be placed right on the floor of the cistern, even if it is not visible from above at all.
A partition above a cistern – מִלְּתֵי חֲכָמִים: It is prohibited to draw water from a cistern located between two courtyards, unless a partition ten handbreadths high is constructed over it. At least a handbreadth of this partition must be submerged beneath the water, with another handbreadth protruding above the water. It does not matter whether most of it is above or below the level of the water. The הַלַּאֲכָה is in accordance with Rabbi Yehuda’s position, as his opinion is the focus of the Gemara’s analysis (Rif; Rosh; Rambam; Shulhan Arukh, Ḥayyim 376:1).

Another commentator explains that the verse “May he be enthroned in the depths of the cistern” refers to wealthy people who spend Shabbat elsewhere and have no plans to return. The halakha is related to these people because their wealth must be preserved for charitable purposes. Some authorities state that if there are other residents in the home, the homeowner does not actually own these houses but merely possesses them. He merely adds that this issue is the subject of the Gemara’s analysis (Rif; Rosh; Rambam; Shulhan Arukh, Ḥayyim 376:1).

A cross beam in water – שֶׁרֵּלּוּ בַּמַּיִם. According to the Rama, the rationale for this leniency is that water generally rises more than ten handbreadths above the ground level of the place where it is found. Consequently, the halakhah of boundaries does not apply to the water itself. Other commentators explain that as it is common for houses and courtyards to be constructed over cisterns of this type, the Sages were not stringent in this regard (Rashba). Yet other commentators point out that the usual objection to suspended partitions, the concern that goats might break through, does not apply in this context. Even if the water contains fish, their breaking through from one side to the other would not be noticeable, as they are covered by the water (Meir).

The Gemara asks of Rav Yehuda: Didn’t you hear that which Rabbi Yehuda said that if there is a cross beam of four handbreadths laid across the walls of a ruin, its edges are viewed as though they descended to the ground on each side, thereby forming partitions that permit one to carry under the cross beam. And Rav Nannya said that Rabba bar Avuh said:

A cross beam of four handbreadths laid across a cistern located between two courtyards permits one to draw water from that cistern.

With this in mind, the following difficulty arises: The bucket he uses to draw the water might drift under the cross beam to the other side of the cistern and bring water from the other courtyard. The Gemara answers: The Sages have established that a bucket does not drift more than four handbreadths from the point where it was lowered, and it will therefore stay on its original side of the partition.

The Gemara raises a difficulty: Nonetheless, the water becomes intermingled under the cross beam, and consequently the bucket will bring up water from the other courtyard. Rather, it must be that the reason for the leniency is not that the cross beam actually prevents the flow of the water, but because the Sages were lenient with regard to water. They allowed a partition suspended above the water to be considered as though it blocked the flow of the water. As Rav Tavla asked of Rav: With regard to a suspended partition, does it permit carrying in a ruin? Do we say that the remnants of the walls suspended in the air are considered as though they descended to the ground and closed off the area, thereby rendering it a private domain? Rav said to him: A suspended partition of this kind permits carrying only in the case of water, as the Sages were lenient with regard to water.

The mishna teaches: Rabbi Yehuda said: There is no need for a partition in the cistern, as a partition inside a cistern is no better than the wall above it. Rabba bar Rav Ḥana said that Rabbi Yoḥanan said: Rabbi Yehuda stated this in accordance with the opinion of Rabbi Yosei, who said: A suspended partition permits carrying even on land, as it is considered as though it descended to the ground and sealed off the area. Accordingly, there is no need to erect a partition inside the airspace of a cistern.
As we learned in a mishna: One who lowers sukkot walls from above going downward, when the walls are three handbreadths higher than the ground, the sukkah is invalid, as they are not considered partitions; but if he constructed walls from below going upward, if they are ten handbreadths high the sukkah is valid, even if they do not reach the roofing.

Rabbi Yosei, however, says: Just as with regard to walls constructed from below going upward, ten handbreadths suffice, so too, in the case of walls built from above going downward, ten handbreadths are enough for it to be considered a whole wall, even if it more than three handbreadths above the ground. Similarly, Rabbi Yehuda maintains that a partition suspended above a cistern is considered as though it descended and sealed off the area.

The Gemara rejects this argument: But this is not so, for we can distinguish between the two opinions and claim that neither Rabbi Yehuda holds in accordance with Rabbi Yosei, nor does Rabbi Yosei hold in accordance with Rabbi Yehuda.

The Gemara elaborates: Rabbi Yehuda does not necessarily hold in accordance with Rabbi Yosei, as a distinction can be made between the two cases. Rabbi Yehuda stated his opinion only with regard to the joining of courtyards, which are required by rabbinic law, but in the case of a sukkah, which is required by Torah law, no, he did not say that we can rely on suspended partitions.

And conversely, Rabbi Yosei does not necessarily hold in accordance with Rabbi Yehuda, as Rabbi Yosei stated his opinion only with regard to a sukkah, which is a prohibition stated in the Torah from a positive commandment.² The prohibition is not written as a negative commandment, but it can be inferred from a positive commandment. Neglect of the positive commandment of sukkah is not punishable by the court, therefore we are not stringent in this regard. But with regard to Shabbat, which is a prohibition punishable by stoning, Rabbi Yosei did not state his opinion. Consequently, Rabbi Yosei might agree that we must be very stringent with regard to all halakhot of Shabbat, even those that are rabbinic in origin.

And if you ask: ‘That incident, which occurred in Tzippori,’⁴ when they relied on suspended partitions on land for Shabbat, on whose authority was it performed? It was done not on the authority of Rabbi Yosei, but rather it was performed on the authority of Rabbi Yishmael, son of Rabbi Yosei, who maintains that a suspended partition renders it permitted to carry even if it is over land and even on Shabbat.

The incident transpired in the following manner. As when Rav Dimi came from Eretz Yisrael to Babylonia, he said: It once happened that the people forgot and did not bring a Torah scroll to the synagogue on Friday while it was still day, which meant they were left without a scroll from which to read on Shabbat. On the following day, Shabbat, they spread a sheet over the pillars positioned between the house where the scroll was kept and the synagogue, thereby forming a corridor with partitions suspended on each side. And in this manner they brought the Torah scroll to the synagogue and read from it.³

But this is not so – אַס 왜? Some commentators maintain that the Gemara’s wording indicates that this is not merely a possible rejection, as in that case it would have stated: And perhaps it is not so. Rather, this is a definitive rejection based on a tradition concerning the respective opinions of Rabbi Yehuda and Rabbi Yosei (Geben Yalakov).

Sukkah is a prohibition from a positive commandment – דְּאִיסּוּר שִׁהַר וְשַׁבָּת. This claim, which differentiates between a prohibition inferred from a positive commandment and one punishable by stoning, cannot be taken literally, especially with regard to the joining of courtyards, which is rabbinic in origin. It is unreasonable to assume that Rabbi Yosei is of the opinion that a hanging partition is invalid on Shabbat. If a hanging partition has the legal status of a partition, it must be classified as a partition in all cases. The correct conclusion is that Rabbi Yosei maintains that although a suspended partition is considered a partition according to Torah law, the Sages ruled that one should not rely on this partition for the stringent halakhah of Shabbat (Ritva).

That incident which occurred in Tzippori – שִׁבְעַת שְׁנֵי בְּצֵי׳. The Gemara teach that this incident did not take place inside a courtyard, but in the public domain or on the margins of the public domain. The Ritva and the Meiri, who cite similar explanations explicitly state that this partition was actually constructed and used to permit carrying in the public domain. See Rashi’s explanation of this incident.
HALAKHA

A temporary tent on Shabbat – אֹרֶל עֲרַאי בַּשַּׁבָּת: One may not erect even a temporary tent, ab initio, on Shabbat (Shulḥan Arukḥ, Orḥah Hayyim 315:3).

The Gemara expresses surprise at the wording of this account: Did they actually spread sheets on Shabbat? Is it permitted to do so ab initio? But doesn’t everyone agree that one may not erect a temporary tent on Shabbat ab initio?⁴ Spreading sheets over pillars is considered constructing a temporary tent.

Rather, what happened was that they found sheets spread over the pillars, which they used as partitions, and in this manner they brought the Torah scroll to the synagogue and read from it.

The Rabbi Hananya ben Akavya said: Rabbi Yehuda and Rabbi Hananya ben Akavya said the same thing. Both were very lenient with regard to the halakha of a partition over water. The ruling of Rabbi Yehuda is that which we just said, that the wall of the courtyard permits a cistern. The ruling of Rabbi Hananya ben Akavya is as we learned: Rabbi Hananya ben Akavya says: In the case of a balcony that contains four cubits by four cubits, which is suspended over water,

BALCONY

One may carve in it a hole of four by four handbreadths and draw water through it.⁵ Even if there are no actual partitions around the hole, the section surrounding the hole is considered as though it were bent downward and formed partitions ten handbreadths high on all sides. Consequently, it is permitted to draw water through the hole.

Abaye said to him: But perhaps that is not so, as we can distinguish between the opinions. It is possible that Rabbi Yehuda stated his opinion only there, with regard to the wall of the courtyard and the cistern, as he said that we rely on the halakhic principle of extend and lower the partition. The partition above the cistern is considered as though it descended to the bottom. But the principle of bend the partition and extend it downward, as suggested by Rabbi Hananya ben Akavya, no, he does not accept this principle.

And we can likewise say that Rabbi Hananya ben Akavya stated his opinion only there, in the case of the balcony, with regard to the Sea of Tiberias, i.e., the Sea of Galilee, since it has clearly defined banks around it, and towns and enclosures surround it on all sides. The Sea of Galilee is surrounded by clear boundaries on all sides and is therefore somewhat similar to a private domain in appearance. Consequently, even a minor adjustment is sufficient. However, with regard to other waters, no, Rabbi Hananya ben Akavya did not permit this practice.

Abaye said: And according to the statement of Rabbi Hananya ben Akavya, if the balcony was less than three handbreadths away from the wall, it is permitted to draw water from it in the following circumstances: Its length must be four cubits, and its width must be eleven handbreadths and any amount. By carving out a hole of slightly more than one handbreadth by four handbreadths on the side near the wall, alongside the other three handbreadths, one creates a hole of four handbreadths by four handbreadths. This hole is surrounded by partitions ten handbreadths high on each side. How so? The wall itself is one partition. The four-cubit length is viewed as bent down on both sides of the hole, forming two partitions of ten handbreadths; the remaining ten handbreadths of the width is seen as though it were bent down, which creates a partition on the fourth side of the balcony.

BACKGROUND

One may carve in it a hole and draw through it – אֹרֶל עֲרַאי בַּשַּׁבָּת. A balcony with a hole in its center is depicted below. In this case, the balcony itself is at least four by four cubits, with a hole in its center of four by four handbreadths. All the measurements in the diagram are in handbreadths. If the floor of the balcony is considered to be partially spread over a double row of pillars, the Sages were not stringent in this regard over cisterns of this type, the Sages were not stringent in this regard.

The synagogue and the Torah scroll – בֵּית רַכְּסֶת וְסֵ׳ֶר תּוֹרָר. As the synagogue was some distance from the towns, apparently, this was so that several towns could share a single synagogue. In order to use the synagogue when necessary.

A balcony near a wall – בֵּית רַכְּסֶת וְסֵ׳ֶר תּוֹרָר. In the image below, the balcony is positioned within three handbreadths of the wall. The balcony is four cubits long and slightly more than eleven handbreadths wide. An area of slightly more than one handbreadth deep and four handbreadths wide is cut into the balcony near the building’s wall. If the sections of the balcony were folded downward along the broken lines, they would form partitions of ten handbreadths in height on each side of the hole cut out of the floor of the balcony. Four cubits is twenty-four handbreadths, which suffices for ten handbreadths on each side, minus four handbreadths for the hole. The width of the balcony, which is slightly more than eleven handbreadths, is enough to cut slightly more than one handbreadth into the balcony and for ten handbreadths to be virtually folded so as to enclose the hole from the side parallel to the building’s wall and towns and enclosures surround it on all sides. The Sea of Galilee is surrounded by clear boundaries on all sides and is therefore somewhat similar to a private domain in appearance. Consequently, even a minor adjustment is sufficient. However, with regard to other waters, no, Rabbi Hananya ben Akavya did not permit this practice.

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NOTES:

HALAKHA: "One may not erect even a temporary tent, ab initio, on Shabbat (Shulḥan Arukḥ, Orḥah Hayyim 315:3)."

BACKGROUND: One may carve in it a hole and draw through it – אֹרֶל עֲרַאי בַּשַּׁבָּת: A balcony with a hole in its center is depicted below. In this case, the balcony itself is at least four by four cubits, with a hole in its center of four by four handbreadths. All the measurements in the diagram are in handbreadths. If the floor of the balcony is considered to be partially spread over a double row of pillars, the Sages were not stringent in this regard over cisterns of this type, the Sages were not stringent in this regard.

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