

**עַד כָּאֵן לֹא שָׁנִיתָ** – This raises the question: Doesn't Reish Lakish's question apply to this *halakha* as well? If so, this is not an answer but an additional difficulty. Evidently, even Reish Lakish would agree that divergent behavior in different places does not constitute the formation of factions. Rabbi Yoḥanan is attempting to say that different legal rulings for villages, towns, and cities stem from the disparate customs in these places (Rosh).

## HALAKHA

**עֲשִׂיתָ מְלֶאכֶה בְּעֶרֶב פֶּסַח** – Performing labor on Passover eve – In a place where it is customary to perform labor on Passover eve, the residents may do so, and in a place where this is not the custom, they may not perform labor (Rambam *Sefer Zemanim, Hilkhot Yom Tov* 8:18; *Shulḥan Arukh, Oraḥ Ḥayyim* 468:3).

אָמַר לִיה: עַד כָּאֵן לֹא שָׁנִיתָ מְקוֹם שְׁנֵהֲגוּ לַעֲשׂוֹת מְלֶאכֶה בְּעֶרֶב פֶּסַחִים עַד חֲצוֹת – עוֹשִׂין, מְקוֹם שְׁנֵהֲגוּ שְׁלֹא לַעֲשׂוֹת – אֵין עוֹשִׂין?

After this incidental discussion, the Gemara returns to the basic question raised by Reish Lakish: Why doesn't the reading of the Scroll of Esther in different places at different times violate the prohibition against breaking into factions? Rabbi Yoḥanan said to him: **Have you not taught until now:**<sup>N</sup> **In a place where the people were accustomed to perform labor on Passover eve<sup>H</sup> until midday, one may do so on that day; in a place where the people were accustomed not to perform labor, one may not do so?** This shows that different places can have different customs without violating the prohibition against dividing into factions.

אָמַר לִיה: אָמִינָא לָךְ אָנָּא אִיסוּרָא. דְּאָמַר רַב שְׁמֵן בַּר אַבְבָּא אָמַר רַבִּי יוֹחָנָן: "לְקַיִּים אֶת יְמֵי הַפּוּרִים בְּזִמְנֵיהֶם," וְזִמְנֵים הִרְבֵּה תִיקְנוּ לְהֵם חֲכָמִים, וְאַתָּה אֲמַרְתָּ לִי מִנְהַגָּא!

Reish Lakish said to Rabbi Yoḥanan: **I speak to you of a prohibition**, as residents of villages are prohibited from reading the Megilla with a blessing on the fifteenth of Adar, **as Rav Shemen bar Abba said that Rabbi Yoḥanan said:** The verse **"to confirm these days of Purim in their appointed times"** (Esther 9:31) teaches that **the Sages instituted many times for their reading**, and it is prohibited to deviate from these dates. **And you speak to me about a custom** that does not involve a prohibition. How can a prohibition be established in a manner that involves the formation of factions among the people?

וְהֵתֵם לָאוּ אִיסוּרָא הָוִיא? וְהֵתֵנָּן: (בְּלֵילָה) בֵּית שְׁמַאי אוֹסְרִין וּבֵית הַלֵּל מְתִירִין!

Rabbi Yoḥanan replied: **And in that case there**, on Passover eve, is **there no prohibition** involved? **But didn't we learn** in a mishna: **On the night before the fourteenth of Nisan, Beit Shammai prohibit the performance of work and Beit Hillel permit it.** Evidently, there is indeed a prohibition involved, and yet some perform work while others do not, which splits the people into factions.

אָמַר לִיה: הֵתֵם הָרוּאָה אוֹמַר מְלֶאכֶה הוּא דְלִית לִיה. וְהָא בֵּית שְׁמַאי מְתִירִין וְהַצְּרוֹת לְאַחֵים, וּבֵית הַלֵּל אוֹסְרִים!

Reish Lakish said to him: In that case **there**, the different factions are not noticeable, as **one who sees another idle says: It is because he has no labor** to perform. Therefore, refraining from work does not have the appearance of breaking off into factions. Rabbi Yoḥanan raises a difficulty: **But Beit Shammai permit rival wives to the brothers, and Beit Hillel prohibit this practice.** This is an example of a clear prohibition, and yet two different traditions were followed.

## Perek I

## Daf 14 Amud a

מִי סְבֵרְתָּ עָשׂוּ בֵּית שְׁמַאי כְּדַבְּרֵיהֶם? לֹא עָשׂוּ בֵּית שְׁמַאי כְּדַבְּרֵיהֶם. וְרַבִּי יוֹחָנָן אָמַר: עָשׂוּ וְעָשׂוּ, וּבְפִלּוּגָתָא [דְּרַב וְשְׁמוּאֵל], דְּרַב אוֹמַר: לֹא עָשׂוּ בֵּית שְׁמַאי כְּדַבְּרֵיהֶם, וְשְׁמוּאֵל אָמַר: עָשׂוּ וְעָשׂוּ.

Reish Lakish said to him: **Do you hold that Beit Shammai actually acted in accordance with their own statement?** **Beit Shammai did not** in fact act in accordance with their own statement,<sup>N</sup> as the dispute was merely theoretical. **And Rabbi Yoḥanan said:** Beit Shammai certainly did act<sup>N</sup> in accordance with their opinion. The Gemara comments: **And this is also reflected in the dispute between Rav and Shmuel, as Rav says: Beit Shammai did not act in accordance with their own statement, and Shmuel said: They certainly did act in that manner.**

אֵימַת? אֵילִימָא קוֹדֵם בַּת קוֹל – מֵאֵי טַעְמָא דְּמֵאן דְּאָמַר לֹא עָשׂוּ? וְאָלָא לְאַחַר בַּת קוֹל – מֵאֵי טַעְמָא דְּמֵאן דְּאָמַר עָשׂוּ?

The Gemara inquires: **When** does this question apply? **If we say** that it is referring to the period **prior to the Divine Voice** that declared that the *halakha* is in accordance with the opinion of Beit Hillel, then **what is the rationale of the one who said that Beit Shammai did not act** in accordance with their opinion? **But rather**, if one would say it is referring to **after the Divine Voice**, **what is the reason for the one who said that they did act** in accordance with their opinion? After all, the Divine Voice established that the *halakha* is in accordance with the opinion of Beit Hillel.

## NOTES

**Beit Shammai did not act in accordance with their statement** – לֹא עָשׂוּ בֵּית שְׁמַאי כְּדַבְּרֵיהֶם – The suggestion is that Beit Shammai demanded that the rival wives perform *halitza*, which prevented them from coming into conflict with the opinion of Beit Hillel (Ritva). Many early and later commentaries discuss the possibility that Beit Shammai followed their own opinion only with regard to stringent rulings, not leniencies. The same question applies in general to other disputes between Beit Shammai and Beit Hillel.

**They certainly did act [asu ve'asu]** – עָשׂוּ וְעָשׂוּ: Although this kind of emphatic language by doubling the word is common, in this case some commentaries explain that the repetition of the word *asu* means: They themselves did so and also instructed others to do the same (Rashba).

**You shall not cut yourselves** – לא תתגודדו: It is prohibited to maintain two courts in one city if one follows one custom and the other a different custom (Rambam). This ruling is apparently in accordance with the opinion of Abaye. The commentaries on the Rambam question why he accepts the opinion of Abaye against that of Rava, which contradicts both the principle that the halakha is generally ruled in accordance with the opinion of Rava in his disputes with Abaye and the flow of the talmudic discussion here. Some suggest that the halakha is in accordance with the opinion of Rava against Abaye only when their dispute concerns their own statements, not when they are explaining other opinions, as is the case here (*Kesef Mishne*). Others resolve the difficulty by changing the wording of the Rambam's ruling so that he actually rules in accordance with the opinion of Rava. In other words, only if some members of the same court issued a different ruling than their colleagues would this be a violation of the prohibition: Do not become numerous factions. However, these commentaries are uncertain about this claim (see *Lehem Mishne*).

Both the Rif and the Rosh rule in accordance with the opinion of Rava that the prohibition applies only when a single court is divided in its rulings. The Rema states that there should not be two different customs in the same city, which is apparently in accordance with the ruling of the Rambam (Rambam *Sefer HaMadda, Hilkhot Avoda Zara* 12:14; *Shulhan Arukh, Orah Hayyim* 493:3, and in the comment of Rema).

אי בעית אימא קודם בת קול, ואי בעית אימא לאחר בת קול. אי בעית אימא קודם בת קול: וכגון דבית הלל רובא, למאן דאמר לא עשו דהא בית הלל רובא.

ומאן דאמר עשו – כי אזלינן בתר רובא היכא דכי הדדי ננהו, הכא – בית שמאי מחדדי טפי.

ואי בעית אימא לאחר בת קול: מאן דאמר לא עשו – דהא נפקא בת קול, ומאן דאמר עשו – רבי יהושע היא, דאמר: אין משגיחין בבית קול.

ומאן דאמר עשו, קרינן כאן "לא תתגודדו" – לא תעשו אגודות אגודות! אמר אביי: כי אמרינן "לא תתגודדו" – כגון שתי בתי דינים בעיר אחת, הללו מורים בדברי בית שמאי והללו מורים בדברי בית הלל. אבל שתי בתי דינים בשתי עירות – לית לן בה.

אמר ליה רבא: והא בית שמאי ובית הלל בשתי בתי דינים בעיר אחת דמינן אלא אמר רבא: כי אמרינן "לא תתגודדו" – כגון בית דין בעיר אחת, פלג מורין בדברי בית שמאי ופלג מורין בדברי בית הלל. אבל שתי בתי דינים בעיר אחת – לית לן בה.

The Gemara answers: Neither of these options poses a difficulty. If you wish, say that it is referring to the period prior to the Divine Voice, and if you wish, say instead that it is after the Divine Voice. The Gemara elaborates: If you wish, say it is prior to the Divine Voice, and it is referring to the period when Beit Hillel formed the majority of the Sages. Therefore, according to the one who said that Beit Shammai did not act in accordance with their opinion, the reason is that Beit Hillel was the majority, and the halakha is in accordance with the majority.

And the one who said that they did act in accordance with their opinion maintains that when do we follow the majority? It is in a case where the disputing parties are equal in wisdom to one another. Here, however, Beit Shammai are sharper than Beit Hillel, and therefore they acted in accordance with their own opinion despite the fact that they were in the minority.

And if you wish, say instead that it was after the Divine Voice. The one who said that Beit Shammai did not act in accordance with their opinion would say that this was due to the pronouncement of the Divine Voice. And the one who said that they did do so, this is in accordance with the opinion of Rabbi Yehoshua, who said, with regard to the Divine Voice that emerged and proclaimed that the halakha is in accordance with the opinion of Rabbi Eliezer in the case of the oven of akhnai (*Bava Metzia* 59b), that one disregards a Heavenly Voice. Just as he disregarded the Divine Voice in his dispute with Rabbi Eliezer, so too, one disregards the Divine Voice that proclaimed that the halakha is in accordance with the opinion of Beit Hillel.

And yet the question remains: According to the one who said that Beit Shammai acted in accordance with their opinion, we should read here: "You shall not cut yourselves" (Deuteronomy 14:1),<sup>H</sup> which is interpreted to mean: Do not become numerous factions. Abaye said: When we say that the prohibition: "You shall not cut yourselves" applies, we are referring to a case where two courts are located in one city, and these rule in accordance with the statement of Beit Shammai and those rule in accordance with the statement of Beit Hillel. However, with regard to two courts<sup>N</sup> located in two different cities, we have no problem with it.

Rava said to him: But the dispute between Beit Shammai and Beit Hillel is considered like a case of two courts<sup>N</sup> in one city, as these two schools of thought were found everywhere, not in any specific place. Rather, Rava said: When we say that the prohibition: "You shall not cut yourselves"<sup>N</sup> applies, we are referring to a case where there is a court in one city, a section of which rules in accordance with the statement of Beit Shammai and another section rules in accordance with the statement of Beit Hillel. However, with regard to two courts located in one city, we have no problem with it.

NOTES

However, two courts, etc. – אביל שתי בתי דינים וכו' – The early commentaries discuss the apparent conflict between Abaye's statement and the custom of villagers to read the Scroll of Esther on various dates in Adar. The problem is that even when these villagers would go to the city they would read in accordance with the custom of their own place. Some answer that the villagers did not, in fact, read in the cities at all, but only in their own locales (*Tosafot; Rav Avraham Av Bet Din*).

Others suggest that the question refers to those who would read on the fourteenth or fifteenth of Adar, as in these cases the people who do not read in accordance with the tradition of a specific place are in violation of a prohibition, as stated in the Megilla itself. With regard to the villagers, however, all agree that they are simply following a custom, and therefore this does not present a difficulty to the opinion of Abaye (*Rashba*).

But the dispute between Beit Shammai... is... like two courts – והא בית שמאי... בשתי בתי דינים: Some commentaries are puzzled

by this language, as Beit Shammai and Beit Hillel are in fact two courts in one city, not merely comparable to this model (*Ritva*). The answer given is that the question does not refer to the students of later generations but to the original Sages Shammai and Hillel themselves: How could they have allowed their schools to split up into two courts?

Rather, Rava said... you shall not cut yourselves – אלא אמר רבא... לא תתגודדו: Some commentaries explain that Rava does not disagree with Abaye's opinion concerning the prohibition: "You shall not cut yourselves." Rather, he differentiates between a case where one court holds that acting against their opinion entails the transgression of a prohibition, and a case where the dispute involves a custom alone. In his opinion, disputes over customs violate the prohibition against factions only if they occur within a single court, not between two different courts (*Meromei Sadeh*). This resolves the difficulty in the ruling of the Rambam.

Prohibited labor that can be performed on Shabbat eve – מְלָאכָה שְׂאֵפֶשֶׁר לַעֲשׂוֹתָהּ מֵעֶרֶב שַׁבָּת: Any prohibited labor in preparation for a mitzva that could have been performed on the eve of Shabbat may not be performed on Shabbat. This is true even if refraining from performing such labor on Shabbat leads to the neglect of a mitzva, in accordance with the opinion of Rabbi Akiva (Rambam *Sefer Ahava*, *Hilkhot Mila* 2:7; *Shulhan Arukh*, *Orah Hayyim* 331:6 and *Yoreh De'a* 266:2).

NOTES

**Due to the severity of Shabbat – מִשּׁוּם חוּמְרָא דְשַׁבָּת:** Some commentaries explain that the reason for the prohibition against breaking into factions is due to the concern that people might come to disrespect prohibitions if they observe divergent customs in different places. Consequently, as Shabbat is so severe, it stands to reason that the *halakha* should be more stringent in this case, to prevent people from taking it lightly (see *Sukkat David*). The early commentaries discuss whether this difficulty was raised specifically with regard to the opinion of Abaye or whether it is a general question that applies to all opinions.

**He would move an oil lamp – הָיָה מְטַלְטֵל שְׂרָגָא:** Some commentaries explain that this was an old oil lamp that had not been lit and was therefore *muktzeh* due to repugnance (Rabbi Yehuda bar Natan; *Tosafot*).

**Rabbi Abbahu, how could he act – רַבִּי אַבְהוּ הֵיכִי עָבִיד:** Some commentaries explain that if one person is permitted to adjust his custom from place to place, it should be likewise be permitted for many people to act in accordance with different customs in the same place (*Tosefot HaRosh*).

**But there was a servant – וְהָאִיכָא שְׂמַעָא:** Some commentaries note that if the servant were to carry the object in Rabbi Yoḥanan's locale, it would also be a mark of disrespect to him (*Otzar HaShitot*). Many early commentaries do not accept this explanation. Instead, they claim that the servant would infer from Rabbi Abbahu's behavior that it is permitted to act in accordance with different customs in different places, which would be an erroneous understanding of the prohibition against breaking into factions (Rabbi Yehuda bar Natan; *Tosafot Yeshanim*). Others maintain, based on Rashi's explanation, that the servant might think that Rabbi Abbahu was of the same opinion as Rabbi Yoḥanan and simply acted more leniently in the presence of Rabbi Yehoshua ben Levi (Rashba).

LANGUAGE

**Lamp [sheraga] – שְׂרָגָא:** This word was borrowed from Iranian into several Aramaic dialects. In Modern Persian, the form of the word is *chirāgh*, meaning lamp or candelabrum.

תָּא שְׁמַע: בְּמִקְוֹמוֹ שֶׁל רַבִּי אֱלִיעֶזֶר הָיוּ בּוֹרְתִים עֵצִים לַעֲשׂוֹת פְּחָמִים בְּשַׁבָּת, לַעֲשׂוֹת בְּרוֹל. בְּמִקְוֹמוֹ שֶׁל רַבִּי יוֹסֵי הִגְלִילִי הָיוּ אוֹכְלִים בֶּשֶׂר עוֹף בְּחֵלֶב.

The Gemara cites other relevant sources. **Come and hear: In the locale of Rabbi Eliezer, where his ruling was followed, they would cut down trees on Shabbat to prepare charcoal from them to fashion iron tools with which to circumcise a child on Shabbat.** In Rabbi Eliezer's opinion, not only does the mitzva of circumcision override Shabbat, but also any action required for the preparation of the tools necessary for the circumcision likewise overrides Shabbat. The *baraita* adds: **In the locale of Rabbi Yosei HaGelili they would eat poultry meat in milk,** as Rabbi Yosei HaGelili held that the prohibition of meat in milk does not include poultry.

בְּמִקְוֹמוֹ שֶׁל רַבִּי אֱלִיעֶזֶר אֵין, בְּמִקְוֹמוֹ שֶׁל רַבִּי עֲקִיבָא – לֹא. דִּתְנִינָא, כֻּלְּלֵי אָמַר רַבִּי עֲקִיבָא: כָּל מְלָאכָה שְׂאֵפֶשֶׁר לַעֲשׂוֹתָהּ מֵעֶרֶב שַׁבָּת – אֵין דּוֹחָה אֶת הַשַּׁבָּת.

The Gemara infers: **In the locale of Rabbi Eliezer, yes, they would act in this manner, whereas in the locale of Rabbi Akiva, for instance, no, they would not do so, as it is taught in a baraita that a principle was stated by Rabbi Akiva: Any prohibited labor that can be performed on Shabbat eve<sup>h</sup> does not override Shabbat even if it involves a mitzva.** A mitzva whose proper time is on Shabbat overrides Shabbat only if its performance was impossible earlier, e.g., the act of circumcision itself, which cannot be performed earlier.

וְהֵאֵי מַאי תְּיִוְבַתָּא? מִקְוֹמוֹת מְקוּמוֹת שְׂאֵינִי! וְדִקְאֵרִי לָהּ מַאי קְאָרִי לָהּ?

The Gemara asks: **And what is this refutation?** As stated above, **it is different** when dealing with numerous places, and the *baraita* explicitly states that this practice was followed in Rabbi Eliezer's locale. Consequently, there is no violation of the prohibition against splitting into factions. The Gemara asks: **He who asked it, why did he ask it, i.e., what is the basis for the question in the first place?** It is obvious that the *baraita* is referring to a specific place.

סְלֵקָא דַּעְתְּךָ אֲמִינָא: מִשּׁוּם חוּמְרָא דְשַׁבָּת בְּמִקְוֹם אֶחָד דְּמִי – קָא מְשַׁמְעָ לִי.

The Gemara answers: **It might enter your mind to say that due to the severity of Shabbat,<sup>n</sup> it, i.e., the world, is considered like a single locale.** In other words, one might have thought that the permission to tolerate diverse customs in different places applies only to other prohibitions, whereas the prohibition of Shabbat is so severe that it is unacceptable to allow different customs, as this might lead people to disrespect Shabbat. Therefore, the *baraita* teaches us that even in the case of Shabbat there can be different customs in various locales.

תָּא שְׁמַע, דְּרַבִּי אַבְהוּ, כִּי אִיקְלַע לְאַתְרֵיהּ דְּרַבִּי יְהוֹשֻׁעַ בֶּן לִוִּי הָיָה מְטַלְטֵל שְׂרָגָא, וְכִי אִיקְלַע לְאַתְרֵיהּ דְּרַבִּי יוֹחָנָן – לֹא הָיָה מְטַלְטֵל שְׂרָגָא.

The Gemara cites another relevant case involving Shabbat: **Come and hear that Rabbi Abbahu, when he happened to come to the place of Rabbi Yehoshua ben Levi, would move an oil lamp [sheraga]<sup>nl</sup> after the flame that had been lit for that Shabbat had burned out, as Rabbi Yehoshua accepted the ruling that it is permitted to carry items of this sort that had been set aside. But when he happened to come to the place of Rabbi Yoḥanan, who prohibited carrying items of this kind that had been set aside on Shabbat, he would not move an oil lamp.** This indicates that divergent customs are followed in different places.

וְהֵאֵי, מַאי קוֹשְׁיָא? וְלֹא אֲמַרִּינָן מְקוּמוֹת שְׂאֵינִי? אֲנִן הֵכִי קְאָמַרִּינָן: רַבִּי אַבְהוּ, הֵיכִי עָבִיד הֵכָא הֵכִי וְהֵיכִי עָבִיד הֵכָא הֵכִי?

Again, the Gemara asks: **And what is this difficulty? Didn't we say that it is different when dealing with numerous places?** The Gemara explains that **this is what we are saying:** With regard to Rabbi Abbahu himself, **how could he act<sup>n</sup> in this manner here and how could he act in that manner there?**

רַבִּי אַבְהוּ כְּרַבִּי יְהוֹשֻׁעַ בֶּן לִוִּי סְבִירָא לֵיהּ, וְכִי מְקַלַּע לְאַתְרֵיהּ דְּרַבִּי יוֹחָנָן – לֹא הָיָה מְטַלְטֵל, מִשּׁוּם כְּבוֹדוֹ דְּרַבִּי יוֹחָנָן. וְהֵאִיכָא שְׂמַעָא! דְּמוֹדַע לֵיהּ לְשַׁמְעָא.

The Gemara answers: **Rabbi Abbahu holds in accordance with the opinion of Rabbi Yehoshua ben Levi that it is permitted to carry this item. And when he happened to come to the place of Rabbi Yoḥanan he would not carry it, in deference to Rabbi Yoḥanan,** so as not to act contrary to his ruling in the place where he was the authority. The Gemara asks: **But there was a servant<sup>n</sup>** accompanying Rabbi Abbahu who would see him carrying these types of articles that had been set aside. Wasn't Rabbi Abbahu concerned that the servant might carry them in Rabbi Yoḥanan's locale? The Gemara explains **that he would inform the servant and explain to him the reason for his change in behavior.**

Who is a *mamzer* – איזהו ממזר: A child born of a forbidden union that entails either a court-imposed death penalty or *karet*, excluding a union with a menstruating woman, is a *mamzer*. This ruling is in accordance with the mishna in tractate *Kiddushin* and the conclusion of several discussions in the Gemara (*Shulhan Arukh, Even HaEzer* 4:13).

BACKGROUND

*Mamzer* – ממזר: A *mamzer* is a child born from an adulterous relationship, i.e., relations between a married woman and a man other than her husband, or an incestuous relationship, i.e., relations between relatives who are prohibited from marrying by Torah law where the participants in this relationship are subject to *karet*, apart from the offspring of a menstruating woman. The offspring of an unmarried couple who are permitted to marry is not a *mamzer*. A *mamzer* is halakhically considered his father's son in all respects. A male *mamzer* may marry only a *mamzeret*, i.e., a female *mamzer*, or a convert. The offspring of that union is a *mamzer* as well.

תא שָׁמְעוּ: אִף עַל פִּי שְׂאֵלוֹ אוֹסְרִים וְאֵלּוֹ מְתִירִים, לֹא נִמְנָעוּ בֵּית שַׁמַּי מִלְּיָשָׂא נָשִׁים מִבֵּית הִלֵּל, וְלֹא בֵּית הִלֵּל מִבֵּית שַׁמַּי. אִי אִמְרַת בְּשִׁלְמָא לֹא עָשׂוּ, מִשּׁוּם הֲכִי לֹא נִמְנָעוּ. אֵלֶּא אִי אִמְרַת עָשׂוּ – אִמְאִי לֹא נִמְנָעוּ?

בְּשִׁלְמָא בֵּית שַׁמַּי מִבֵּית הִלֵּל לֹא נִמְנָעוּ – דְּבַנֵּי חֲתִיבֵי לְאוּן וּנְהוּ.

אֵלֶּא בֵּית הִלֵּל מִבֵּית שַׁמַּי – אִמְאִי לֹא נִמְנָעוּ? בְּנֵי חֲתִיבֵי כְּרִיתוֹת מִמְזוּרִים וּנְהוּ!

וְכִי תִימָא קְסָבְרֵי בֵּית הִלֵּל דְּאִין מְזוּר מְחִיבֵי כְּרִיתוֹת – וְהָאִמְר רַבִּי אֶלְעָזָר: אִף עַל פִּי שְׂנַחְלָקוּ בֵּית שַׁמַּי וּבֵית הִלֵּל בְּצָרוֹת – מוֹדִים שְׂאִין מְזוּר אֵלֶּא מִמִּי שְׂאִיסוּרוֹ אִיסוּר עֲרוּהָ, וְעָנֹשׁ כְּרַת! אֵלֶּא לֹא שְׂמַע מִינָה – לֹא עָשׂוּ!

לֹא, לְעוֹלָם עָשׂוּ, דְּמוֹדְעֵי לְהוּ וּפְרָשֵׁי.

וְהֲכִי נִמְי מְסַתְּבָרָא, דְּקִתְנֵי סִיפָא: כָּל הַטְּהוֹרוֹת וְכָל הַטְּמְאוֹת שְׁהִי אֵלּוֹ מְטַהְרִין וְאֵלּוֹ מְטַמְּאִין – לֹא נִמְנָעוּ עוֹשִׂים טְהוֹרוֹת אֵלּוֹ עַל גְּבֵי אֵלּוֹ.

The Gemara continues to discuss the question of whether Beit Shammai followed their own rulings. **Come and hear** that which is taught in the mishna: **Although Beit Hillel prohibit and Beit Shammai permit**, and these disqualify the women and those deem them fit, **Beit Shammai did not refrain from marrying women from Beit Hillel, nor did Beit Hillel refrain from marrying women from Beit Shammai. Granted, if you say that Beit Shammai did not act** in accordance with their opinion, it is **due to that reason that they did not** have to refrain from marrying women from Beit Hillel. **However, if you say that they did act** in accordance with their opinion, **why didn't they refrain** from marrying one another?

The Gemara elaborates: **Granted, Beit Shammai did not refrain** from marrying into **Beit Hillel**, as even if Beit Shammai maintain in a certain case that a rival wife required levirate marriage or *halitza*, if she went ahead and married another man their **children are born** to a union whose partners are **liable** by a regular **prohibition**: “The wife of the dead man shall not be married outside” (Deuteronomy 25:5). Since this transgression does not entail *karet*, the children of this relationship are not *mamzerim*.

**However, why did Beit Hillel not refrain** from marrying into **Beit Shammai**? In the opinion of Beit Hillel the **children** of these rival wives who entered into levirate marriage are born of a union whose partners are **liable** to receive *karet*, as the prohibition of a brother's wife was never nullified in this case, which means that the children are *mamzerim*.<sup>14</sup> If so, how could Beit Hillel allow these marriages?

**And if you would say that Beit Hillel maintain that** the child of a union whose partners are **liable** to receive *karet* is **not a mamzer**,<sup>15</sup> as a *mamzer* is only one whose parents violated a prohibition that entails the death penalty, **didn't Rabbi Elazar say: Although Beit Shammai and Beit Hillel disagreed with regard to rival wives, they concede that a mamzer is only from a union whose prohibition is a prohibition of forbidden relations punishable by karet?** Consequently, the children of rival wives are *mamzerim* according to Beit Hillel. **Rather, isn't it correct to conclude from here that Beit Shammai did not act** in accordance with their own opinion?

The Gemara rejects this conclusion: **No; actually, Beit Shammai did act** in accordance with their opinion. As for the problem with these marriages, the answer is **that they would inform** Beit Hillel and Beit Hillel would **withdraw**<sup>16</sup> from the match. When those who acted in accordance with the opinion of Beit Hillel would come to marry women from those who followed the rulings of Beit Shammai, they would be notified that certain children were born of rival wives and that those people were considered *mamzerim* in the opinion of Beit Hillel, who therefore declared them forbidden in marriage.

The Gemara comments: **And so too, it is reasonable** that this is the case, as the mishna **teaches in the latter clause**: With regard to **all of the disputes concerning the halakhot of ritual purity and impurity, where those, Beit Hillel, rule an article ritually pure and these, Beit Shammai, rule it ritually impure, they did not refrain from handling ritually pure objects each with the other.**

NOTES

**מוֹדְעֵי** – They would inform them and they would withdraw – לְהוּ וּפְרָשֵׁי: But if Beit Shammai actually notified Beit Hillel, what is novel about this statement? The commentaries explain that Beit Hillel trusted that Beit Shammai would notify them even in a case of a slight concern, and if they were not notified they took this to mean that the person was fully qualified according to all

opinions (Ritva). The early commentaries prove from here that in instances of this kind there is no concern with regard to the testimony of those who have a personal stake in the matter, as provided that they remain faithful to their tradition they can be trusted to inform others who accept a different tradition (Meiri; *Yam shel Shlomo*).

אי אמרת בשלמא דמודעי להו – משום הכי לא נמנעו. אלא אי אמרת דלא מודעי להו, בשלמא בית שמאי מבית הלל לא נמנעו. דטמאות דבית הלל – לבית שמאי טהרות ננהו.

אלא, בית הלל מבית שמאי למה לא נמנעו? טהרות דבית שמאי לבית הלל טמאות ננהו! אלא לאו דמודעי להו – שבע מינה.

ומאי אולמיה דהך מהך? מהו דתימא: צרה – קלא אית לה, קא משמע לן.

גופא, אמר רבי אלעזר: אף על פי שנחלקו בית שמאי ובית הלל בצרות – מודים שאין ממזר אלא ממי שאיסורו איסור ערוה וענש כרת. מאן מודים? אילמא בית שמאי לבית הלל – פשיטא. בני חייבי לאוין כשרים ננהו!

אלא בית הלל לבית שמאי – היא גופא חייבי פרישות היא!

לעולם בית שמאי לבית הלל, ולאפוקי מדרבי עקיבא, דאמר: יש ממזר מחייבי לאוין, קא משמע לן דאין ממזר מחייבי לאוין.

תא שמע: אף על פי שנחלקו בית שמאי ובית הלל בצרות, ובאחיות,

Granted, if you say that they notified them, it is due to that reason that they did not need to refrain from using their objects. However, if you say that they did not notify them, granted, it is logical that Beit Shammai<sup>14</sup> did not refrain from handling items belonging to Beit Hillel, as ritually impure objects for Beit Hillel are ritually pure for Beit Shammai, and therefore no special care is necessary.

However, why didn't Beit Hillel refrain from touching articles that belonged to Beit Shammai? After all, ritually pure objects for Beit Shammai are ritually impure for Beit Hillel. Rather, is it not the case that Beit Shammai notified Beit Hillel that these items were ritually pure only in their own opinion, and Beit Hillel separated themselves from them? The Gemara summarizes the discussion: Conclude from here that this is the correct interpretation.

The Gemara asks: In what way is this case stronger than that case? In other words, why is the statement with regard to ritual purity and impurity more conclusive than the one that deals with marriage? Since the practice of notification was not explicitly stated in the case of ritual purity but was merely inferred logically, the same reasoning applies equally to the case of marriage. The Gemara answers: Lest you say that since it is so unusual, a marriage to a rival wife generates publicity and is so widely known that no special notification is required, therefore, the Gemara teaches us that even in this case notification is required.

Since the statement of Rabbi Elazar was mentioned, the Gemara turns to discuss the matter itself. Rabbi Elazar said: Although Beit Shammai and Beit Hillel disagreed with regard to rival wives, they concede that a mamzer is only from a union whose prohibition is a prohibition of forbidden relations punishable by karet. The Gemara asks: Who concedes to whom? If we say that Beit Shammai concede to Beit Hillel, this is obvious, since if they acted in accordance with their own opinion that rival wives who married others without halitza are liable only for violating a regular prohibition, their children are therefore fit and are not mamzerim at all.

Rather, one could say that Beit Hillel concede to Beit Shammai. But in that case she herself, the rival wife of a forbidden relative who married one of the yevamin, is liable to receive karet in the opinion of Beit Hillel, and the child is a mamzer, whereas Rabbi Elazar's statement indicates that they concede with regard to a different case.

The Gemara explains: Actually, Beit Shammai concede to Beit Hillel, and this is not a novelty with regard to their basic dispute. Instead, the statement comes to exclude the opinion of Rabbi Akiva, who said: The offspring from forbidden relations for which one is liable for violating a prohibition is a mamzer. Rabbi Elazar teaches us that Beit Shammai and Beit Hillel agree that the offspring from forbidden relations for which one is liable for violating a prohibition is not a mamzer; rather, one is a mamzer only if he is born of a union punishable by karet.

The Gemara returns to the initial question of whether or not Beit Shammai acted in accordance with their own opinion. The Gemara suggests: Come and hear: Although Beit Shammai and Beit Hillel disagreed with regard to several cases, nevertheless, they did not refrain from marrying women from each other's communities. The cases with regard to which they disagreed include rival wives, and sisters, i.e., if two sisters had been married to two brothers and simultaneously became obligated in levirate marriage, Beit Hillel prohibit both in levirate marriage, and if they violated the prohibition and married regardless, they require a divorce. By contrast, Beit Shammai permit them to remain married.

NOTES

בשלמא בית שמאי וכו' – Granted, Beit Shammai, etc. – This version of the text, which is accepted by Rashi, raises one serious difficulty. It indicates that in matters of ritual purity and impurity the opinion of Beit Hillel is invariably more stringent than that of Beit Shammai, yet it is known that this is not always the case. In fact, Beit Shammai are generally more stringent in these cases. Some commentaries explain that this comment refers to the mishnayot of tractate Eduyyot, where all of the stringencies of Beit Hillel are listed (Rivan). Similarly, others state that although Beit Shammai are usually more stringent, the mishna is referring to those cases where the opinion of Beit Hillel is the more stringent (Rashba). However, it is possible that in practice Beit Shammai were more stringent with regard to ritual purity than Beit Hillel, as stated in the Jerusalem Talmud. Due to this difficulty, many early commentaries (Tosafot; Ramban; Rashba) prefer the version of the Gemara cited by Rabbeinu Hananel, which states the exact opposite. In other words, the Gemara is saying that Beit Shammai did not act leniently in opposition to their opinion, and it is equally clear that Beit Hillel acted in accordance with their own opinion, as they were the majority, and yet each school did not refrain from handling the vessels belonging to the other, because they would notify one another.

Some point out that according to this version the Gemara's question: In what way is this case stronger than that case, is unclear, as one can reply that in the first case Beit Hillel did not refrain from marrying into Beit Shammai because Beit Shammai did not insist on acting in accordance with their own opinion, which cannot be said in the case of ritual impurity, where Beit Shammai's opinion is more stringent (see Otzar HaShitot). Indeed, some commentaries omit this question for this very reason. Some suggest that Beit Shammai acted stringently in accordance with their opinion, and yet they did not violate the prohibition against forming factions, as they did not require the vessels or items that were ritually pure in accordance with the opinion of Beit Hillel. The same reasoning applies to marriage: Since they did not necessarily have to marry these particular women, there is no proof from here with regard to forming a faction (Tosefot HaRosh). Accordingly, the question of why this proof is stronger than the other is appropriate according to Rabbeinu Hananel's version as well.

**An outdated bill of divorce – גַּט יָשָׁן:** If one wrote a bill of divorce for his wife and changed his mind and did not divorce her, and he secluded himself with her after it was written, he may not subsequently divorce her with that same bill of divorce, in accordance with the opinion of Beit Hillel (*Shulhan Arukh, Even HaEzer* 148:1).

**An uncertain married woman – סָפֵק אִשָּׁת אִישׁ:** An orphan girl married off by her mother and brothers can refuse either her betrothal or marriage, whether to a regular husband or a *yavam* in levirate marriage, and whether it is her first husband or her second, in accordance with the opinion of Beit Hillel (*Shulhan Arukh, Even HaEzer* 155:4–6).

**Who divorces his wife and she lodged with him – מְגֵרֵשׁ אֵת – אִשְׁתּוֹ וְלָנָה עָמוּ:** In the case of a man who divorced his wife and later was found by witnesses to have secluded himself with her, there is a concern that he may have retracted and engaged in sexual relations with her for the purpose of marriage. Due to this doubt, she requires a second bill of divorce, in accordance with the opinion of Beit Hillel (*Shulhan Arukh, Even HaEzer* 149:2).

**Betrothal money – בְּקָרָה קִדּוּשֵׁין:** One who wishes to betroth a woman with money must give her either a *peruta* or its equivalent in the presence of witnesses, in accordance with the opinion of Beit Hillel (*Shulhan Arukh, Even HaEzer* 27:1).

בְּגֵט יָשָׁן, וּבְסָפֵק אִשָּׁת אִישׁ, וּבְמֵגֵרֵשׁ אֵת אִשְׁתּוֹ וְלָנָה עָמוּ בְּפִינְדָק.

בְּבָקָרָה וּבְשִׁוְהָ בְּסָפֵק, בְּפִרוּטָה וּבְשִׁוְהָ פִּרוּטָה –

לֹא נִמְנָעוּ בֵּית שַׁמַּי מִלְיַשָּׂא נָשִׁים מִבֵּית הֵלֵל, וְלֹא בֵּית הֵלֵל מִבֵּית שַׁמַּי, לְלַמְדָךְ שְׁחִיבָה וְרִיעוּת נוֹהֲגִים זֶה בְּזֶה, לְקַיֵּים מִדֵּה שְׁנֵאמַר "הָאֵמֶת וְהַשְּׁלוֹם אֶהְיֶה". רַבִּי שִׁמְעוֹן אָמַר: נִמְנָעוּ הֵן מִן הַיְדָאִי, וְלֹא נִמְנָעוּ מִן הַסָּפֵק.

אִי אָמַרְתָּ בְּשִׁלְמָא עָשׂוּ – מִשּׁוּם הֵכִי נִמְנָעוּ, אֶלְא אִי אָמַרְתָּ לֹא עָשׂוּ – אִמַּאי נִמְנָעוּ? וְתַסְבְּרָא, נִהִי נִמִּי דְעָשׂוּ, בְּשִׁלְמָא בֵּית הֵלֵל נִמְנָעוּ מִבֵּית שַׁמַּי, דְּחִיבֵי פְרִיתוֹת נִינְהוּ, וּמְמַזְרִים הֵם לְבֵית הֵלֵל.

אֶלְא בֵּית שַׁמַּי אִמַּאי נִמְנָעוּ מִבֵּית הֵלֵל, בְּנִי חִיבֵי לְאוּיִן נִינְהוּ, וּבְשָׂרִים נִינְהוּ! כְּדָאֵמַר רַב נַחֲמָן בְּרַי יִצְחָק: לֹא נִצְרְכָה אֶלְא לְצַרְהָ עֲצָמָה – הֵכָא נִמִּי לֹא נִצְרְכָה אֶלְא לְצַרְהָ עֲצָמָה.

Furthermore, Beit Shammai and Beit Hillel disagreed with regard to an outdated bill of divorce<sup>H</sup> that had been written but not delivered. Beit Shammai maintain that if the husband and wife continued to live together after the writing of the bill of divorce, the same bill of divorce can still be used later, whereas Beit Hillel dispute this. And they likewise disagreed with regard to an uncertain married woman,<sup>HN</sup> i.e., whether a minor who was actually married, and not merely betrothed, may perform refusal. And they also disagreed with regard to one who divorces his wife and later she lodged together with him<sup>H</sup> at an inn, as to whether or not this is sufficient grounds for assuming that they remarried.

Additionally, they disagreed with regard to the issue of betrothal by money and with the equivalent value of money, and by a *peruta* or with the equivalent value of a *peruta*.<sup>H</sup> According to Beit Shammai, the minimal amount of money effective for betrothal is a dinar or the equivalent of a dinar, whereas Beit Hillel maintain that even the less valuable *peruta* or its equivalent is sufficient.

Despite the fact that these *halakhot* entail important ramifications depending on whether or not these women were married or fit for marriage, or whether their offspring are fit for marriage, Beit Shammai did not refrain from marrying women from Beit Hillel, nor did Beit Hillel refrain from marrying women from Beit Shammai. This serves to teach you that they practiced affection and camaraderie between them, to fulfill that which is stated: “Love truth and peace” (Zechariah 8:19). Rabbi Shimon says: They did refrain in the certain cases, but they did not refrain in the uncertain<sup>N</sup> cases. In other words, Beit Hillel were not worried that any ordinary woman from Beit Shammai might be one of those of uncertain status.

The Gemara infers from the opinion of Rabbi Shimon: **Granted, if you say that Beit Shammai did act in accordance with their opinion, it is due to that reason that they refrained in the certain cases. However, if you say that they did not act in accordance with their opinion, why did they refrain from marriage?** The Gemara replies: **And how can you understand it that way, that Beit Shammai acted in accordance with their opinion? Even if they acted in accordance with their opinion, granted that Beit Hillel refrained from marrying into Beit Shammai, as those rival wives who entered into levirate marriage are liable to receive *karet* and their children are *mamzerim* according to the opinion of Beit Hillel.**

**However, why did Beit Shammai refrain from marrying the offspring of rival wives of Beit Hillel?** The parents are liable for violating a regular prohibition, and therefore their children are fit. The Gemara answers as Rav Nahman bar Yitzhak said with regard to a different matter: **This *halakha* was necessary not for the children of the rival wife, but only for the rival wife herself.<sup>N</sup> Here too, it was necessary only for the rival wife herself.** The *halakha* was not taught with regard to the children of the rival wives; rather, it is referring only to the rival wives.

NOTES

**An uncertain married woman – סָפֵק אִשָּׁת אִישׁ:** Rashi, in his first interpretation, and the Meiri explain that this is referring to a married minor who wishes to perform refusal. However, this explanation is linguistically problematic, as that case does not involve any uncertainty at all. Consequently, Rashi provides the alternative explanation that this is referring to a sick man who gave a bill of divorce to his wife and subsequently secluded himself with her. See *Tosafot*, who challenge this interpretation, and *Arukh LaNer*, who further explains Rashi’s opinion. Several early commentaries explain, following Rabbeinu Hananel, that

the phrase: An uncertain married woman, does not refer to a separate case at all. Rather, it is a heading for the ensuing cases of an outdated bill of divorce and one who divorced his wife and subsequently lodged with her at the same inn, i.e., it is indicating that both these cases involve uncertainty (see *Tosefot HaRosh* and *Ritva*).

**Uncertain – סָפֵק:** See Rashi and Ramban, cited by Rashba and Ritva, who interpret this as referring to a woman from a family whose status is in doubt. That is, it is unclear whether or not

a forbidden rival wife was married into this family at some point in time.

**Necessary only for the rival wife herself – לֹא נִצְרְכָה אֶלְא לְצַרְהָ עֲצָמָה:** One can answer that Beit Shammai did need to avoid marrying women from Beit Hillel, as although the child of a woman requiring levirate marriage who married outside the family is not a *mamzer*, nevertheless, he is disqualified from the priesthood. The Gemara, however, preferred a more straightforward explanation (Rivan; see *Tosafot*).

And in what way are uncertain cases different from the certain, etc. – ומאי שנא מן הודאי וכו' – Some commentaries maintain that this question does not concern the matter at hand, but since the *baraita* was cited, the Gemara clarified it (*Tosafot*). Conversely, others claim that this statement is the conclusion of the first proof. If it were not proven that the entire *baraita* reflects the opinion of Rabbi Shimon and that they did not refrain from marriage in unspecified cases, one might have thought that due to the affection between the two schools Beit Shammai did not act on their opinions at all, so as not to increase the dispute. However, the statement of Rabbi Shimon clearly indicates that they did in fact act in accordance with their opinion, and that they would notify the other school when a conflict arose (*Tosefot HaRosh*; see *Sukkat David*).

The offspring will be a *mamzer*, etc. – הולד ממזר וכו' – Why does the Gemara refer only to the status of the child and not the actual prohibition involving the rival wife herself? After all, it is the marriage to this woman that entails *karet*, in the opinion of Beit Hillel, or involves the violation of a prohibition if performed by a man outside the family, according to Beit Shammai. It is likely that the Gemara preferred this formulation because although the prohibition with regard to a rival wife is transgressed at the time, the disqualification of a child from marriage bears ramifications for generations (*Rashash*).

ומאי שנא מן הודאי – דאיסורא הוא, ספק נמי איסורא הוא!

The Gemara asks further: **And in what way** are uncertain cases **different from the certain**<sup>N</sup> cases, such as forbidden rival wives? If you say **that** certain cases are undoubtedly **prohibited** in the opinion of Beit Hillel, the cases involving **uncertain** circumstances, e.g., one who divorced his wife and then stayed with her in the same inn, **are also prohibited**. Even if Beit Hillel render these cases prohibited only due to some uncertainty, the ruling is the same.

לא תימא מן הספק, אלא אימא: מן הסתם, דמודעי להו ופרשי.

The Gemara answers: **Do not say: In the uncertain** cases, i.e., that the *halakha* involved doubtful circumstances. **Rather, say: From the unspecified** case. In other words, barring clear knowledge of an uncertain betrothal within a specific family, they would take women from that family in marriage. The reason is **that** Beit Shammai **would notify** Beit Hillel of the prohibition according to their opinion, **and** they would **refrain** from the marriage. If there was no notification, this was a clear sign that no doubt was involved in this case at all.

ומאי קא משמע לן – דאזכה וריעות נהגים זה בזה – היינו רישא! הא קא משמע לן דכולהו רבי שמעון היא.

The Gemara asks: **But if so, what does this come to teach us?** Is it **that** they had **relations of affection and camaraderie between them**, i.e., that each trusted that the other side would never cause them to err with regard to something they held to be prohibited? **This is the same as the first clause** of the *baraita*. What is Rabbi Shimon adding by his statement? The Gemara answers: This comes to **teach us that the entire baraita** is the opinion of **Rabbi Shimon**. This is not a dispute between two Sages. Rather, Rabbi Shimon's opinion elucidates the earlier statement.

תא שמע, דאמר רבי יוחנן בן נורי: היאך הלכה זו רוחות בישראל? נעשה בדברי בית שמאי – הולד ממזר לדברי בית הלל, נעשה בדברי בית הלל – הולד פגום לדברי בית שמאי, בואו ונתקן להן לצרות

**S** The Gemara offers an alternative resolution: **Come and hear, as Rabbi Yoḥanan ben Nuri said: How should one act with regard to this halakha** of rival wives? In what form should it become **widespread among the Jewish people?** If we act in accordance with the statement of Beit Shammai and permit a rival wife in levirate marriage, **the offspring will be a mamzer<sup>N</sup> according to the statement of Beit Hillel**. If we act in accordance with the statement of Beit Hillel and grant full exemption to the rival wives, **the offspring will be of flawed lineage according to the opinion of Beit Shammai**, as he is the child of a woman prohibited in marriage by a regular prohibition. Although he is not a *mamzer*, his lineage is nevertheless defective. Instead, **let us enact a general decree for rival wives**

Perek I  
Daf 15 Amud a

שיהו חולצות ולא מתניבמות, לא הספיקו לגמור את הדבר עד שנטרפה השעה.

that they should perform *halitza* and not enter into levirate marriage. If they act in this manner, they will be permitted to marry others and the problem will be solved according to all opinions. **They were unable to finalize the matter** according to the proposition raised by Rabbi Yoḥanan ben Nuri **before times of trouble** arrived. Due to the outbreak of war they were unable to gather together to vote and establish an accepted halakhic ruling.

אמר ליה רבן שמעון בן גמליאל: מה נעשה להם לצרות הראשונות מעתה?

Sometime later, when they returned to discuss the issue, **Rabban Shimon ben Gamliel said to the other Sages: What shall we do with those earlier rival wives<sup>N</sup> from now onward?** Since in the meantime some rival wives had entered into levirate marriage, if we issue a collective ruling that rival wives may not do so, their children will be declared *mamzerim*. Therefore, it is better not to establish this *halakha* at all.

מה נעשה – להם לצרות הראשונות: There is also a concern for the children of flawed lineage born from these unions (see Maharsha). Some commentaries explain that it is impossible that children born from relations permitted by the ruling of the Sages at the time, as is the case here, would later be deemed of flawed lineage (*Yosef Lekah*). It is likewise stated in *Arza DeVei Rav* that provided that there is no conclusive halakhic ruling, these children cannot be considered definite *mamzerim*, as the status of a *mamzer* cannot be determined solely on the basis of a majority opinion. Rather, an established decision of the court is necessary.