

English Abstract*

Sugya 1: "Pair by pair" and "two by two" (Eruvin 95b-96a)

The first *mishnah* in our chapter teaches: "One who finds *tefillin* [in the field on *Shabbat*] – brings them in [to town] pair [=zug] [by] pair. Rabban Gamliel says: Two [by] two." At first blush, there is no difference in meaning between "pair [by] pair" and "two [by] two." Indeed, J.N. Epstein argued that this tannaitic disagreement was only about style. The first *tanna* used rabbinic language: "pair [by] pair" – as the word *zug* is not used in the sense of "pair" in Scripture, while Rabban Gamliel used scriptural language: "two [by] two," as in *Genesis 7:9*.

According to this explanation, the two *tannaim* agreed that the *tefillin* that were found should be brought in one pair at a time, worn one on the arm and one on the head. Yet both in the *Yerushalmi* and in our *sugya* Rabban Gamliel's expression was explained as "two on the head and two on the arm" (quoting the *Yerushalmi*).

The *sugya* can be divided into three parts: a) an explanation of the reason underlying the first *tanna*'s view; b) an explanation of Rabban Gamliel's reasoning; c) a statement of the point in dispute between the *tannaim*.

A comparison of our *sugya* to the parallel *sugya* in the *Yerushalmi* reveals considerable similarity between the two. It shows that the principal and primary explanation of the dispute between the first *tanna* and Rabban Gamliel – attributed in our *sugya* to Rava (A)[3] – is this: both *tannaim* agreed that the fundamental reason it is permitted to save the *tefillin* is that they are worn rather than carried, but they disagreed as to what constitutes wearing *tefillin*. In our *sugya* this explanation received, out of rhetorical and pedagogical considerations, a typical *Bavli* development – the original explanation was settled on only after a comparison to different tannaitic sources and a series of questions and answers.

According to Rava's explanation, that the permission to bring the *tefillin* in from the field is based on their being worn, the statement attributed in our *sugya* to R. Shmuel b. R. Yitzhak, "There is room on the head to place two *tefillin*" (B)[2], suffices to explain Rabban Gamliel's position: "two [by] two." It is apparent from a comparison to the Palestinian *sugya* that this was the original, basic explanation of our *mishnah*. This explanation was preceded by "Shall we say...?," a marker for a rhetorical proposal held in doubt that will subsequently be rejected. Indeed, the redactor of the *gemara* rejected this reasonable proposal, and was not satisfied until he raised no fewer than four stylized, sophisticated alternatives that explain and reinforce this rejection. These alternatives are based not only on abstract principles that are characteristic of the thinking patterns found primarily in the anonymous *gemara*, but also on a far-fetched proposal, according to which there is a *tanna* who holds – as if such a thing were possible – that "*Shabbat* is a time [for performing the *mitzva*] of *tefillin*" (C)[2][A]. The Talmudic redactors challenged this last "If you wish I can say" alternative, and concluded finally: "The clearest [explanation] is as we taught in the beginning" (C)[3]. This all seems to be a rhetorical argument, which is supposed to bring the learner to feel that all the rebuttal arguments have failed, so that the original basic explanation is the one and only one remaining possibility.

* Translated by David Mescheloff

Sugya 2: “Who is the tanna who held that *Shabbat* is a time [for] *tefillin*?” (96a-96b)

In this *sugya* the Talmudic authors tried to clarify who was the *tanna* who held that “*Shabbat* is a time [for performing the *mitzva*] of *tefillin*.” Three tannaitic sources are proposed and rejected. Finally a fourth explanation is accepted, according to which R. Meir and R. Yehuda, who disagreed in the *baraita* that is parallel to our *mishnah*, were the ones who held that “*Shabbat* is a time of *tefillin*.” (D)[1]. The entire discussion, about whether “*Shabbat* is a time of *tefillin*,” appears to focus on an idea that belonged solely to the Talmudic redactors, and its purpose is to teach us assorted *halakhot*, “to make the Torah great and mighty.” L. Ginzburg has already argued “that we have not even a shadow of a proof, neither from the *Mishnah* nor from a *baraita*, that anyone would say that *Shabbat* and *Yom Tov* are times for *tefillin*.” It is reasonable to say, then, that the discussion concerning “*Shabbat* is a time of *tefillin*” in our *sugya* was only a framework created for the purpose of presenting the *baraita* that is parallel to our *mishnah*.

Sugya 3: New *tefillin* and old *tefillin* (96b-97a)

In our *mishnah*, apparently following the *halakhah* in the *Tosefta*, the *tanna* qualified the general rule that obliges one to save *tefillin* as follows: “When do we say that? For old ones, but for new ones – he is not obligated.” Two approaches to distinguishing old *tefillin* from new ones are presented in our *sugya*. These two approaches, one of R. Hisda and Abaye and the other of Rava, are embedded in the two parts of the *sugya*, which seem like two separate *sugyot*. Rava’s line of reasoning, according to which our *tanna* was concerned that new *tefillin* might be amulets, and so should not be saved in any case, is embedded in the first part of the *sugya* (A). The line of reasoning of R. Hisda and Abaye, which is embedded in the second part of the *sugya*, is based on an assertion by the father of R. Shmuel b. R. Yitzhak, a second generation Babylonian *amora*: “These are ‘old’ [*tefillin*]: any that have straps in them and that are tied; these are ‘new’: any that have straps and that are not tied” (B)[6]; since by this definition the leather straps of new *tefillin* are not tied to the *tefillin* boxes, and since tying (even a bow) is prohibited on *Shabbat*, these *tefillin* cannot be saved on *Shabbat*. Our *sugya* appears to be composed of two different sources, and combining them into one seems to have caused certain difficulties, as is explained in the commentary.

Sugya 4: “One who buys *tefillin* from one who is not an expert” (97a)

The preceding *sugya* included a discussion of the status of *tekhelet* threads and of *tefillin* whose presumptions of being ritually fit were in doubt. In this *sugya* a closely related subject was examined – the law concerning *tefillin* that were purchased from one who is not an expert – through an investigation into three different lines of reasoning, as they are expressed in *baraitot*. Two fundamental assumptions underlie the first section of the *sugya*: the explicit assumption states that “we require until he becomes expert in both the hand and the head *tefillin*,” and the implied assumption is that three boxes that he made must be examined. The textual branches differ as to which assumption is examined critically in section [2]. It is also difficult to determine which of the fundamental assumptions in section [1] come up for discussion in section [3] of the *sugya*, and it is possible that the lack of clarity in this section, too, results from the variant readings.

Sugya 5: “If he found them in sets (*tsevatim*) or in bundles (*kerikhot*)” (97a)

The expression in the *mishnah*, “if he found them in sets (*tsevatim*) or in bundles (*kerikhot*),” implies that “*tsevatim*” and “*kerikhot*” are not the same thing, but rather that each term refers to different situations of the *tefillin*. The word “*tsevatim*” apparently referred originally to what a harvester grasps (“*tsovet*”) in one of his hands before gathering the stalks into large sheaves, while a “*kerikha*” is a collection of stalks that are bound (“*kerukhim*”) together. Yet R. Yehuda the *amora* equated the two terms: “‘*tsevatim*’ and *kerikhot*’ are one and the same.” Nevertheless, the Talmudic redactor interpreted R. Yehuda’s statement as if it contained a distinction between the terms: “‘*tsevatim*’ – in sets (paired); ‘*kerikhot*’ – many bundled together”. In our case, the Talmudic redactor apparently presented the simple explanation of the terms “*tsevatim*” and “*kerikhot*,” applying these agricultural expressions to *tefillin*, for the term “*tsevat*” denotes what can be grasped at one time, that is one pair of *tefillin* (head and hand), so that “*tsevatim*” are several pairs tied together, while “*kerikhot*” are many *tefillin* boxes (not necessarily pairs) that have been gathered into one bundle.

Sugya 6: “He should wait by them until dark and bring them in [after *Shabbat*]” (97a)

This *sugya* brings the qualification by R. Yehuda, father of R. Yitzhak, to our *mishnah*’s statement, “he should wait by them until dark and bring them in [after *Shabbat*].” R. Yehuda permitted/required bringing in the sets or bundles of *tefillin* in certain circumstances.

Sugya 7: “And in [a time of] danger he covers them and goes [away]” (97a-97b)

Various edicts were issued against the Jewish religion during the reign of the Roman emperor Hadrian, including a decree against the wearing of *tefillin*. The *halakhah* in our *mishnah* permitted one who found *tefillin* on *Shabbat* to cover them and walk away, on account of this danger. This ruling was compared in our *sugya* to the *baraita* that stated: “He walks with them, [stopping] each time [after] less than four cubits” (A)[1]. The authors of the *sugya* brought an explanation by Rabbah (this appears to be the correct reading) that resolved the contradiction between these two sources: “here [the ruling is] in [case of] danger of Gentiles, here [the ruling is] in [case of] danger of highwaymen” (A)[2]. At the end of the *sugya* (C)[5], they compared two halakhic solutions, the one mentioned in the *baraita*: “he walks with them, [stopping] each time [after] less than four cubits,” and the one mentioned in our *mishnah*, “he gives them to his friend, and his friend [gives them] to his friend [and so on].”

Sugya 8: “So, too, with his child” (97b)

Our *sugya* seeks to explain two brief matters mentioned in our *mishnah*: “R. Shimon says: ‘he gives them to his friend, and his friend [gives them] to his friend [and so on] until he reaches the outermost courtyard [of the town]. So, too, with his child, he gives him to his friend, and his friend [gives him] to his friend [and so on], even if they are a hundred.’” First the Talmudic redactors ask, “‘his child!’ – what does he want [out] there [= how did he get there, what is he doing there]?” (A), and they explain that our *mishnah* is dealing with a certain health risk. To the question “and what [does it teach by saying] even if they are a hundred?,” the Talmud responds: “that even though the [many] hands [through which he is passed] are difficult for him [= not good for his health], even so this is preferable” (B) This is consistent with the line of reasoning that

sees “he gives them to his friend and his friend [gives them] to his friend” as a halakhic solution that is preferable to “he walks with them, [stopping] each time [after] less than four cubits.”

Sugya 9: “A man may give a jar” (97b)

Even though it applied in a time of danger, the Sages disagreed vehemently with R. Yehuda’s permitting passing an object beyond the *Shabbat* boundary by means of a chain of friends. According to their view, there are no grounds for permitting taking an animal or utensils beyond a place that their owner is allowed to go. The *amoraim* sought to restrict R. Yehuda’s innovation, which is inconsistent with the usual laws of *Shabbat* boundaries. In the *Yerushalmi* and in the first section of our Babylonian *sugya*, R. Shimon b. Lakish’s restrictive explanation of R. Yehuda’s permission is brought, in the name of Had Sava, whose real name was Levi Sokhia: “When he empties them from jar to jar” (A). That is, R. Yehuda permitted transferring only the contents of the jar through a chain of friends, and not the jar itself. Thus Levi Sokhia limited R. Yehuda’s innovation, and succeeded somewhat in reducing the difficulty in his approach. Four more explanations of R. Yehuda’s line of reasoning were added to this one in our *sugya*: by Rabbah (this appears to be the correct reading) (B), by R. Yosef (C), by Abaye (D) and by R. Ashi (E). An analysis of the course of the *sugya* raises the possibility that the statements ascribed to Rabbah and R. Yosef served merely as building blocks for a calculated rhetorical structure whose purpose was to present Abaye’s explanation.

Sugya 10: “If he was reading a scroll on the threshold” (97b-98a)

Our *mishnah* begins with a case in which a person is on the threshold of a house, reading a book of Scripture in a scroll, when one end of the scroll rolls out of his hand into the public domain (or into a private domain). A threshold has the halakhic status of a *karmelit* – according to Torah law it is neither a public domain nor a private domain; yet it is forbidden by rabbinic law to transfer things between a *karmelit* and the other domains on *Shabbat*. Since the scroll was still in the reader’s hand, all agree that he may roll the scroll back up into the *karmelit*. This is the simplest explanation of the *mishnah*. Nevertheless, the possibility is raised in our *sugya* that a threshold should be considered a private domain, and that the *halakhah* in the beginning of the *mishnah* accords specifically with R. Shimon’s view (A), that no rabbinical prohibition overrides the respect due to Scripture. This possibility is raised in the framework of a rhetorical question whose aim is to open the discussion. Three solutions are brought in succession by R. Yehuda (B), Rabbah (this appears to be the correct reading) (C), and Abaye (D). Later (E) the Talmudic redactor lets his imagination run free with various questions, in order to insert into the discussion amoraic statements that were said in other places, until he builds a bridge to the statement of R. Abba at the end of the *sugya*, which is apparently an original part of the ancient *sugya* on our *mishnah*.

Sugya 11: “He must turn it over on the writing” (98a)

In case rolling up the scroll is forbidden, our *mishnah* permits turning it over on the writing. Turning it over is intended, apparently, to prevent disrespect toward Scripture, as is explained in the *Yerushalmi*. A *baraita* is quoted in our *sugya* that prefers covering the scroll to turning it over. The Talmudic redactors explained the difference between the two sources: “There it is possible [to turn it over], here it is not possible, and if he does not turn it over there is more disrespect.”

Sugya 12: "If he was reading on the edge of the roof" (98a-98b)

Our *sugya* deals with the second part of our *mishnah*, in which the *tannaim* discuss the case of a person who was reading a scroll at the edge of a roof (that is, in a private domain) on *Shabbat*, and from whose hand one end of the scroll rolled into the public domain. The opening question of our *sugya*, "but it did not come to rest [in the public domain]" (A), could create the impression that the *sugya*'s principal interest is in explaining the position of the first *tanna*, who forbade rolling the scroll back up "from when it reaches ten *tefahim*" and ruled that one should turn the scroll over on the writing. However, it appears more reasonable to propose that our *sugya* was composed by the Talmudic editors from the end to the beginning, as it were, and that its principal concern was the last statement in the *sugya*: "we require a coming to rest on something" (F), which is an explanation both of R. Yehuda's line of reasoning and of the first *tanna*'s ruling in our *mishnah*.

Sugya 13: "A ledge in front of the window" (98b)

The fourth *mishnah*, which teaches "a ledge that is in front of a window – we put [things] on it and take from it on *Shabbat*," permits taking things out of a private domain and putting them down on a ledge that is in front of the window, and taking things from such a ledge and putting them down in a private domain. However, they qualified the *mishnah*'s permission in different ways in both the *Bavli* and the *Yerushalmi*. In our *sugya* in the *Bavli* a qualification is presented to the effect that the *mishnah*'s permission is not valid when there are two ledges (A)[3]. The prohibition against using two ledges is understood in light of the statement in the *sugya* in the *Yerushalmi*: "for two domains cannot use one domain," except that the reason for the prohibition, which applies specifically to the upper ledge and in particular opposite the sides of the window, is not clear. The difference between the two ledges in the *baraita* is given in our *sugya* in the name of Abaye (B)[2]. His statement carries an echo of the perception presented in the *Yerushalmi*, but the perceptions of the two Talmuds do not match perfectly.

Sugya 14: "A man may stand within a private domain and move [something] about in the public domain" (98b-99a)

Our *sugya* describes how R. Hanania b. Shelemia taught Hiyya b. Rav: "A person may not stand in a private domain and move [something] about in a public domain" (A)[1], and how Rav corrected him: "You abandon the [view of the] sages and act according to [the view of] R. Meir?" (A)[2]. In our *sugya* the Talmudic editors added another explanation to this interesting dialogue (B). J.N. Epstein accepted the anonymous Talmudic explanation of R. Hanania's deed. According to this explanation, R. Hanania's version of the law was based on his line of reasoning, which relied on an analysis of the *mishnayot* in our chapter. D. Halivni, on the other hand, holds that Rav's criticism, "You abandon the [view of the] sages and act according to [the view of] R. Meir?," testifies to the fact that R. Hanania was not proposing a variant reading of the *mishnah*, but rather was saying that the *halakhah* follows R. Meir, in opposition to the *mishnah*.

Sugya 15: "Provided that he does not take it out [motsi]" (99a)

Our *sugya* is about the qualification made in our *mishnah*: "provided that he does not take it out [motsi] beyond four cubits," which relates to the permissibility of standing "within a private domain and moving [something] about in the public

domain." Two traditions are quoted in our *sugya* that discuss the connection between our *mishnah* and the statement of Rava, "One who takes [something] out [from a private domain to a public domain or vice versa] by way of above himself – is culpable (A, B). The possibility is raised in the commentary that the original *sugya* did not focus on the relationship between our *mishnah* and Rava's statement. At first the discussion focused on the stringency of the prohibition in the *mishnah* (provided that he does not take it out"), and only in the second stage was a secondary discussion added, whose purpose was to compare our *mishnah* to Rava's law.

***Sugya* 16: "One may not stand within a private domain and urinate in the public domain" (99a)**

The statement attributed to R. Yosef in section (A) of the *sugya* serves as the basis for the discussion in section (B), where our *mishnah* is examined from the perspective of the laws of transferring from one *Shabbat* domain to another. It appears that the words attributed to R. Yosef, "if he urinated and [if he] spat [into the public domain while standing in a private domain, then] he is liable to bring a sin-offering [for having performed a Torah-prohibited *melakha* on *Shabbat*]," which open the *sugya*, were created by the Talmudic editors, inspired by his statements in other sources, for just this purpose – so they could serve as an opening for the clarification of our *mishnah* from the perspective of the laws of transferring from one *Shabbat* domain to another. The discussion itself, which appears in section (B), is based on the perception expressed in the *sugya* of *Shabbat* 4a-5a, that in order for one to be culpable for violating the prohibition of transferring from domain to domain, the removal of the object from the initial domain and the laying of the object in the final domain must take place on an area of at least four (by four) *tefahim*. In this context in our *sugya* they used the theory that "his thought [thinking of a smaller area as significant as a base for removal or for laying down] makes it into a [halakhically significant] place," an idea whose roots can be found in tannaitic statements. The *mishnah* in *Shabbat* 10, 1 teaches: "One who stores something as seed, as a sample, or as a means of healing – if he took it out [from a private domain to a public domain] on *Shabbat* – he is culpable, however little the quantity; but any [other] person becomes culpable thereby only if [he took out] the [forbidden] quantity thereof." This *halakhah* states that, even though precise formal quantities have been defined in the context of the laws of transferring from domain to domain, nevertheless if a quantity transferred from domain to domain is significant to a given person, then he is culpable for transferring it even if it is a very small quantity. Finally, it should be noted that Rava's style of coping in section (C) in our *sugya* resembles his style in several other places in the *Bavli*.

***Sugya* 17: "R. Yehuda says, Even one whose spittle is loose in his mouth" (99a)**

In the last part of our *mishnah* we learn, "And, similarly, he may not spit," and, afterwards, "R. Yehuda says, 'Even after he detached his spittle in his mouth he may not walk four cubits [in the public domain] until he spits.'" However, the parallel *halakhah* in the *Tosefta* preserved a more complete version of this *halakhah*: "One who has phlegm in the public domain and anyone who has spittle come loose in his mouth may not walk four cubits until he spits." The omission of the matter of phlegm in our *mishnah* is the basis of the *sugyot* on our *mishnah* both in the *Bavli* and in the *Yerushalmi*. In spite of the difference between our Babylonian *sugya* and its Palestinian parallel, the analysis of our Babylonian *sugya* hints that something of the explanation

by the Palestinian *amoraim* reached Babylonia, and that the difference between the Talmuds can be attributed, in this case, to literary phenomena that were common in Babylonia, that brought about substantial changes in the transmission of the Palestinian content.

***Sugya* 18: “One may not stand in the public domain and drink [from] within a private domain” (99a-99b)**

The statement of the opening of our *mishnah*, “One may not stand in a private domain and drink [from] within the public domain, [or] in the public domain and drink [from] within a private domain, unless he brings his head and most of his body into the place [from which] he is drinking,” is explained in our Babylonian *sugya* as stemming from a decree lest one come to bring the water into the domain in which he is standing. The *Bavli*’s approach to this matter arises from R. Yosef’s explanation, according to which the law in our *mishnah* is a unanimous opinion (A). This explanation corresponds to the *Bavli*’s general approach of reducing disputes to a minimum, and is based on the perception that our *mishnah*’s prohibition is due to a decree of rabbinic origin. This Babylonian approach finds expression also in Rava’s statement in our *sugya*: “It is itself a decree [= prohibition of rabbinic origin]” (B). This position is different from the *Yerushalmi*’s perception, according to which transferring water within the body from one domain to another is like transferring water from domain to domain through a pipe, and is forbidden at least as a “*shevut*” prohibition, that is, as a Torah prohibition for which one is not liable to bring a sin-offering.

In section (B) of our *sugya* the Talmud deals with the question, “What of a *karmelit*?,” that is, “What is [the law about] his standing in a *karmelit* and drinking [from] within a public domain or a private domain” (Rashi). However, the character of the discussion raises the logical possibility that what we have here is not a discussion of the law of drinking while standing in a *karmelit*, but rather an attempt to advance the perception mentioned in Section (C) of our *sugya*, according to which the phrase “and so [also] with a wine-press” – which appears in our *mishnah* between the opening statement and the closing statement – concerns laws of tithes.

***Sugya* 19: “One may catch [water in mid-air] from a roof gutter pipe [if the water was] less than ten *tefahim* [from the ground]” (99b)**

Our *sugya* deals with the last section of the sixth *mishnah*: “One [standing in the public domain] may catch [water in mid-air] from a roof gutter pipe [and drink, if the water was] less than ten *tefahim* [from the ground, so that it is in the public domain, like the drinker; one may catch water] from a pipe [a water spout that juts out some distance from the roof, so that it is in the public domain] in any fashion [even collecting it in a vessel], and drink.” The Talmudic redactor opened the discussion with an inference: “‘Catch’ – yes; [but] collect’ [water where it leaves the roof gutter pipe, with his mouth or a vessel] – no.” Afterwards he asked “What is the reason?,” answering with R. Nachman’s statement: “Here [in our *mishnah*] we are dealing with a roof gutter pipe that is closer to the roof than three [*tefahim*], for whatever is less than three [*tefahim*] close to the roof is like the roof [and has the status of a private domain].” The Talmudic author concluded by quoting three *baraitot* that support this inference [1, 2, 3].

Various difficulties arise from these formulations. It appears that they stem from the literary-rhetorical nature of the discussion established by the Talmudic redactors. The presentation of the halakhic difference between “catching” and “collecting” is not

based on the initial inference, but rather on the *baraitot* brought in the *sugya*. From them they learned: “He stands... and may catch... provided that he does not collect...”; “He may not stand... and collect... but he may catch...,” and inspired by these they stated “‘Catch’ – yes; ‘collect’ – no.” The redactors of the *sugya* sought to bring the tannaitic parallels to our *mishnah* in order to paint a more complete picture of the *halakhah* concerning catching water. These sources were poured into a sophisticated literary mold containing an inference and a question, and, as it were, a tannaitic proof of the line of reasoning of R. Nachman that is mentioned in our *sugya*.

Sugya 20: “Why do I need a surrounding bank of ten [tefahim high]?” (99b)

The seventh *mishnah* teaches: “[If] a cistern [was] in the public domain, and its surrounding bank was more than ten [tefahim] high – they may draw [water] out of it on *Shabbat* from a window that is above it. Our *sugya* asks, “Why do I need a surrounding bank of ten [tefahim]?” in other words, it is difficult to understand the requirement that the bank be higher than ten *tefahim*, for it should be sufficient that the cistern itself, or the cistern together with its bank, should be that high, that is, ten *tefahim* from the bottom of the cistern. A tradition is quoted in the name of R. Huna to the effect that this requirement stems from the fact that the cistern referred to in the *mishnah* is four *tefahim* distant from the wall that has the window the *mishnah* is speaking about, so that the space between the wall and the cistern is considered a public domain. When the people in the window draw water from the cistern, the bucket will pass above the public domain within ten *tefahim* of the ground [the public domain is considered as extending from the ground up to a height of ten *tefahim*], so that the one who draws the water transfers it from one private domain to another via a public domain. However, if the cistern has a surrounding bank ten *tefahim* high, then even if the water passes horizontally above the area between the wall and the cistern, yet it will be more than ten *tefahim* above the ground level of the public domain, which is not considered a public domain, but rather a *m'kom p'tur* [a place whose rule is that one who transfers to it from a different type of domain, or from it to a different type of domain, is not guilty of violating the *Shabbat* prohibition of transferring between different types of domain]. Another approach that does not argue that the window is near the cistern, and that is based, apparently, on the approach of the *Yerushalmi*, is attributed in our *sugya* to R. Yochanan. According to this approach, no requirement was ever presented in our *mishnah* to the effect that the bank alone must be more than ten *tefahim* high.

Sugya 21: “A waste heap in the public domain ten tefahim high” (99b)

Our *mishnah* states: “[If] waste heaps [were] in the public domain, higher than ten *tefahim*, they may pour water into it on *Shabbat* from a window that is above it.” It is reasonable that this *halakhah* is based on the permissibility of throwing something from one private domain to another private domain through the air space that is more than ten *tefahim* above the ground of the public domain, which is a *m'kom p'tur*. In our *sugya* it is stated that it is permitted to throw into a waste heap on *Shabbat* specifically if the waste heap belongs to the public, but one may not throw on *Shabbat* into a waste heap that belongs to an individual, out of concern that its height may become diminished and throwing into it from a private domain becomes forbidden. The source of this statement, so it appears, is in difficulties that arose in the parallel *sugya* in the first chapter of *Eruvin* (8a). There they sought to show “that we distinguish between an open area that belongs to the public and an open area that belongs to an

individual,” and they brought proof from a certain event with R. Yehuda HaNassi, and R. Yitzhak’s interpretation of it. They commented on that from our *mishnah*, which shows that we do not fear lest some of the waste may be removed, and answered: “So we see: a waste heap that belongs to the public is different from a waste heap of an individual, [thus] here, too, an open space that belongs to the public is different from an open space that belongs to an individual.” Thus, to solve a difficulty in that *sugya* they explained our *mishnah* as if it related specifically to a waste heap belonging to the public. I surmise that the statement in our *sugya* was said in consequence of the *sugya* at the beginning of our tractate.

Sugya 22: “A tree that overshadows the ground” (99b-100a)

The eighth *mishnah* in our chapter teaches: “If the foliage of a tree that overshadows the ground is not more than three *tefahim* above the ground – they may move [things] about beneath it. Our *sugya* mentions the restriction of a fifth generation *amora*, R. Huna b. R. Yehoshua: “They may not move [things] about within it beyond the area [in which one sows] two *sa’ah* [of grain].” It seems reasonable that the source of this restriction is the Land of Israel, as appears in the *sugya* in the *Yerushalmi*. A study of parallel *sugyot* leads to the reasonable conclusion that the origin of the reason given in our *sugya*, “since it is a dwelling whose use is for [open] air, and in any dwelling whose use is for [open] air they may move things about only within an area [in which one sows] two *sa’ah* [of grain],” is of the anonymous Talmudic redactors, and not R. Huna b. R. Yehoshua.

Sugya 23/a: “The roots of a tree” – Part A (100a)

The origin of the *halakhah* in our *mishnah*, “[If] its roots are three *tefahim* above the ground – he may not sit on them,” appears to be in an ancient *halakhah*, like the one that appears in the *Tosefta* and in the second part of our *sugya* (23/b): “The roots of a tree that are three *tefahim* higher than the ground, or that have a hollow [space of] three *tefahim* under them, even though they are level with the ground on one side – he may not step on them and pass over them from one place to another, and may not sit on them, and may not lean on them, for one may not go up a tree and one may not hang on a tree and one may not lean on a tree. He may not go up a tree while it is yet day in order that it become dark and he sit there all that day.” This reason, “for one may not go up a tree” etc., which is the reason for the prohibition against sitting on the roots, according to the *Tosefta*, is mentioned in a number of sources in tannaitic literature. From these sources one can conclude that the prohibition against going up a tree is a *shevut* prohibition, that is, an ancient prohibition defined in tannaitic *halakhot* as a Torah prohibition for which one is not liable to *karet* (excision) or a sin-offering, and which is different from the *melakhot* that are prohibited on *Shabbat*.

According to the *halakhah* that is summarized succinctly in the *mishnah*, it is forbidden to sit specifically on roots that are three *tefahim* high. Rava and R. Sheshet disagreed in case the roots came from a height of above three *tefahim* down to within three *tefahim* from the ground [1]. The Talmudic redactors used learned explanations to explain the reasons for the positions of the *amoraim*. They included in our *sugya* an additional special case in which the roots grew “like a *m’shunita*” [2]; the *rishonim* disagreed as to the correct interpretation of this term. The Talmudic redactors described various other types of spreading of roots, similar to a *m’shunita*. At the end of the *sugya* Abaye’s date palm is discussed; It grew inside some structure, rose high and exited through the building’s roof. Abaye wanted to use (on *Shabbat*) that part of

the palm that emerged, at least up to a height of three *tefahim* from the floor of the roof. He brought the matter before R. Yosef, who permitted it. The Talmudic redactors added a legal analysis of this halakhic ruling [3].

***Sugya* 23/b: “The roots of a tree” – Part B (100a-100b)**

In the commentary on the first part of the *sugya* (23/a) it was conjectured that a *halakhah* similar to the *baraita* brought in our *sugya* (B) served the redactor of the *mishnah* when he formulated our *mishnah*: “[If] its roots are three *tefahim* above the ground – he may not sit on them.” The first part of the *sugya* (A), which includes an introductory question, serves as a literary device whose ultimate aim is to quote the *baraita* (B). However, in the third part of the *sugya* (C) two additions are proposed, each a sort of gloss to the *baraita* that appears in the second part of the *sugya* (C)[2]. Each of the glosses has two opposite versions quoted by means of the terms “one taught” and “the other taught.” The Talmudic redactors discuss these versions extensively and seek to compromise between them (C)[2]<1, 2>.

***Sugya* 24: “It is forbidden for one to walk on plants on *Shabbat*” (100b)**

In the previous *sugya* the *mishnah* was discussed that prohibited sitting on roots that are three *tefahim* above the ground. By association, the Talmudic redactors inserted here the homiletic interpretation of a verse in Proverbs: “one is prohibited from walking on plants on *Shabbat*, as it is written: “Also, that the soul be without knowledge is not good; and he that hastens with his feet sins,” (Proverbs 19:2) (A). At first blush, this interpretation implies that the prohibition against walking on plants on *Shabbat* is derived from the words “and he that hastens with his feet sins.” However, from a study of the Palestinian parallel to this interpretation it appears more reasonable to say that the original interpretation did not link the “feet” in the verse to the walking in the interpretation, but rather brought a number of general examples of choosing a bad path, including choosing to walk on *Shabbat* on a path that has plants and thorns. This interpretation reached Babylonia, where they changed it – intentionally or as a result of creative passing on of the tradition – by converting it to a matter of walking – by foot – on plants on *Shabbat*.

In the second section of the *sugya* (B), the existence of two opposing traditions is reported, concerning the prohibition against walking on plants and weeds on *Shabbat*. Different approaches to this subject exist also in parallel sources. In section (C) of the *sugya* attempts appear to harmonize the two approaches by proposing various distinctions. The large number of distinctions that appear in the section is exceptional even for the *Bavli*. This multiplicity of distinctions appears to hint at a special effort on the part of the Talmudic redactors, who sought to strengthen the validity of the secondary, more lenient tradition. The final chronological stage of the *sugya*, which completely contradicts the perception that forbade walking on plants on *Shabbat* (D), is from the school of the *geonim*. The reasoning according to which walking on plants is a type of “thing that he doesn’t do intentionally” and so is permitted on *Shabbat* is a Babylonian line of reasoning, and it is highly doubtful whether it would have convinced those among the Palestinian sages who were strict about it.

***Sugya* 25: “It is forbidden for one to force his wife concerning a matter of *mitzva*” (100b)**

Having mentioned the prohibition against sitting on roots on *Shabbat* in *Sugya* 23/b, “the roots of a tree” (100a-100b), in *Sugya* 24 they mentioned the homiletic

interpretation of a verse in Proverbs, which dealt with the prohibition against walking on plants on *Shabbat*. That verse concludes with the words “and he that hastens with his feet sins,” so they felt the need to complete our *sugya* with the additional homiletic interpretation of Rami b. Abba (this seems to be the correct reading), which related to the first part of the verse, “Also, that the soul be without knowledge is not good.” Following up on the second homily of Rami b. Abba and homilies parallel to it, our *sugya* focuses on the prohibition against coercion in intimate relations. The first part of the *sugya* (A) is formulated from a negative perspective, emphasizing the prohibition against a man’s coercing his wife to have intimate relations with him. The second part (B) is formulated from a positive perspective, praising a husband’s duty to stimulate his wife’s desire and to court her before having intimate relations.

The *sugya* opens with a *halakhah* attributed to Rami b. Abba in the name of R. Assi: “It is forbidden for one to force his wife concerning a matter of *mitzva* (= a euphemism for sexual relations), for it is said ‘and he that hastens with his feet sins’” (A)[1]. It appears that the homiletic interpretation brought in our *sugya* relates specifically to the first part of the verse, “Also, that the soul be without knowledge is not good,” which hints at coercion and a lack of consent, with the words “without knowledge (also: mind, will, consent).”

While the moral dimension of the prohibition against coercion is emphasized in section (A)[1], in section (A)[2] the “medical” consequences of violating this prohibition are presented. The matter under discussion seems to be not one of punishment alone, but an ancient scientific perception, that held that children who were the product of illicit relations would be immoral or suffer from various ailments. This scientific perception is connected to a medical belief that was widespread in the ancient world, according to which the actions of a couple during intimate relations have an influence on the fetus. It may be that, according to the perception of R. Yehoshua b. Levi, the birth of “improper children” was a consequence of this “medical” principle; a woman’s watching a man behaving badly and immorally while becoming pregnant causes her to give birth to children with spiritual afflictions.

The Talmudic redactors join a third source to the above, which also derives the prohibition against coercion in intimate relations hermeneutically from the same verse (A)[3]. The innovation in this source, compared to the earlier sources in the *sugya*, consists merely of the addition it produces from the second part of the verse (“and he that hastens his feet – sins”): “This [applies to] one who has intercourse and [then] repeats [it].” The sin of one who has intercourse and then repeats it is in his troubling his wife without her agreement. This was the understanding of the Talmudic redactor, as is implied by the response in section (A)[4]. In this section Rava’s statement is brought: “One who wants to have male children should have intercourse and repeat it,” which has a parallel in *Nidda* 31a-31b in an entire section devoted to medical advice that is supposed to affect the determination of the fetus’ sex. The perception of these *amoraim* was based on a medical approach that found expression in the writings of Galen, a contemporary of the second-century *tannaim*.

The second part (B) of the *sugya* opens with the tradition in the name of R. Yonatan that was transmitted by R. Shmuel b. Nahmani: “Any woman who asks for ‘a matter of *mitzva*’ from her husband will have children the likes of which did not exist even in the generation of Moses.” Yet an analysis of the amoraic statements and the *midrashim* brought in this part shows that those that were stated at the end of the section were specifically the object of the discussion. These amoraic statements and *midrashim* deal

with the moral duty to conciliate one's mate before having intimate relations. What we have here is a sort of literary plot whose climax is embedded in its conclusion. One can see literary exposition in the first links (B)[1, 2], presentation of a problem in link (B)[3] followed by a turning point (B)[4-6] leading up to the point of the story in the last section of the *sugya* (B)[7]. Each paragraph functions on two planes; on the lower plane it has a local function, while on the higher plane it has a function that can be seen clearly only from above, while looking at the overall course that appears in part (B). It is appropriate, then, to describe the *sugya* from its end to its beginning.

Section (B)[7] contains a statement by R. Yohanan: "If the Torah had not been given to Israel, we [would have] learned modesty from the cat and [to refrain from] robbery from the ant, [to refrain from] incest from the dove, and considerate behavior in intimate relations from the rooster, which appeases and [only] afterwards has intercourse." The Talmudic redactor saw this statement as the goal of section (B), and he developed the section with it in mind. Looked at from an overall perspective, section (B)[6] should be seen as a literary link leading up to the statement in section (B)[7], by mentioning the statement of R. Hiyya, at the end of which it is said: "This refers to the rooster, which appeases and [only] afterwards has intercourse," while from a detailed perspective section (B)[6] should be seen as an attempt to explain the point of dispute between the two traditions that were brought in sections (B)[4, 5]. On this plane, R. Hiyya's statement is testimony to a different, opposing anthropological perception, which the Talmudic redactor attributed to the author of the tradition that appears in section (B)[4].

The insertion of sections (B)[4,5], each of which presents a tradition about three more curses with which Eve was cursed, makes it possible to bring section (B)[6]. These two links, each of which proposes three different curses with which Eve was cursed, were inserted as an answer to the question in section (B)[3]: "These [curses listed in the *baraita*] are [only] seven!" This question by the Talmudic redactor is a direct outgrowth of the intentional formulation of the *midrash* brought in section (B)[2]: "Eve was cursed ten curses," while only seven curses were mentioned in it. With full intention, the Talmudic redactor sought to create a contradiction between the beginning of the *midrash* and its conclusion, so that he could ask "These are seven!" and ultimately bring sections (B)[4-7], as described above. Section (B)[2], which contains a *midrash* that deals with the curses with which Eve was cursed, and which caused indirectly that the subject of Eve's curses be mentioned, and from which the discussion unfolded towards the other sections in part (B), is then the reason for mentioning section (B)[1], which deals with a subject that is not connected directly to the *sugya*, "Any woman who asks for a matter of *mitzva*' from her husband."

***Sugya* 26: The door in the rear court and the briers in the breach" (101a)**

Our *sugya* centers around the end of the eighth *mishnah*: "They may not close gaps in a rear court with a door,¹ or a breach with briers² or with [reed] matting, unless they hang higher than the ground." One can surmise that our *mishnah*, which required that the doors be higher than the ground, was taught according to the approach that is opposed to R. Shimon's approach, and which is attributed in *Mishnah Beitza* (2:9) to R. Yehuda: "All utensils may not be dragged." Since the normal use of the improvised doors described in our *mishnah* causes the cutting of a groove in the ground, at least

1 Translator's note: some translate/explain this as "portable shutters"; thus through all that follows.

2 Translator's note: some translate/explain this as "thorn bushes"; or "bundles of thorns".

when the doors are not higher than the ground, our *mishnah* prohibited opening them on *Shabbat*. Other tannaitic sources discussing the use of doors on *Shabbat* contain an additional requirement, which was brought up, so it seems reasonable to say, in order to avoid the prohibition of *muktseh*, which states that one may not move an object about that was not prepared for use during the day (before *Shabbat*). These sources require that mats be “tied and hanging” by a “hinge” or by some other means, for only then is it evident that they are intended for stopping up some gap.

The first and principal part of our *sugya* (A) is dedicated to a confrontation between two traditions: one requires that the doors be higher than the ground in order to prevent cutting grooves in the ground; the second requires that the doors be “tied and hanging” so as to prevent moving about an item that is *muktseh*. Our *sugya* blunted the tension between the contradictory tannaitic traditions with the help of a principle that was presented already in the parallel Palestinian *sugya*. The view that the *baraita* does not contradict the *mishnah*’s requirement that the doors must be higher than the ground because it is dealing with doors that have a hinge, or that had a hinge, is attributed to Abaye and Rava (A)[1-2]. Doors that had a hinge – and it goes without saying that this is true of doors that have a hinge – do not cut grooves in the ground so much, and it is also evident that they are intended for closing the open space.

As said above, Section [1] of part (A) has the conflict between our *mishnah* that required “higher than the ground” and the *baraita* that required only “tied and hung.” These two tannaitic sources represent different halakhic perceptions: our *mishnah* is taught in accordance with R. Yehuda’s approach to dragging and the Sages’ view in *Mishnah Shabbat* 17:7, whereas the *baraita* is taught according to R. Shimon’s approach to dragging and R. Eliezer’s view in the above-mentioned *mishnah* in *Shabbat*. But, in general, the *amoraim* sought to reduce the number of disputes by suggesting in various ways that the different rulings of different authorities were due to special circumstances that obtained in the cases they dealt with, and they did this in our matter as well.

The view that the *baraita* does not contradict the *mishnah*’s requirement that the doors must be higher than the ground because it is dealing with doors that have a hinge, or that had a hinge, is attributed to Abaye and Rava (A)[1-2]. Doors that had a hinge – and it goes without saying that this is true of doors that have a hinge – do not cut grooves in the ground so much, and it is also evident that they are intended for closing the open space. *Acharonim* have already pointed to the similar confrontation and resolution in the parallel *sugya* in the *Yerushalmi*.

In section [2] of part (A) they respond (“*meitevei*” – a response of refutation) to the above statements of *amoraim* from a source in which both halakhic requirements are expressed, “tied and hanging” / “hinge” and “higher than the ground”: “A door that is dragged [on the ground], matting that is dragged and a *kankan*³ that is dragged that have a hinge and that are tied and are hanging, and that are higher than the ground even [if only] one hair-breadth – one may close with it; and if they are not one hair-breadth higher than the ground then one may not close with it.” According to the explanations of Abaye and Rava in section [1], the existence of a hinge is a substitute for “higher than the ground,” but the *baraita* in section [2] proves that the requirement

3 Translator’s note: Rashi: a plow, handle, here explained in light of Roman sources as a barrier or a divider made of interlaced materials.

of “higher than the ground” cannot be filled by meeting the requirement of “a hinge” / “tied and hanging.” The answer, that the *baraita* should read “when they have a hinge or that they are higher than the ground” [2], is attributed to Abaye, while the answer, that the *baraita* should read “that had a hinge or that they are higher than the ground” [2], is attributed to Rava. According to both, this means that the *vav* in the *baraita* is disjunctive (“or”), not conjunctive.

In section [3] of part (A) the Talmudic redactors inserted another *baraita* that parallels the first part of the *halakhah* that appears in the *Tosefta*. This *baraita* appears to belong to the laws of *muktseh* or of the forbidden *melakha* category of “building” on *Shabbat*, and it emphasizes that it is not sufficient for one to have prepared and designated branches of thorns or bundles of thorns to close a gap in the courtyard, but rather he must also tie them and hang them. It seems reasonable to suggest that the Talmudic redactors inserted this *baraita* into our *sugya* in order to strengthen the *sugya*’s central argument, according to which it is not necessary to meet the explicit requirement of the *mishnah* that they be specifically “higher than the ground,” and that it suffices for the doors to be “tied and hung” (with a “hinge” or by some other means). Finally, the Talmudic redactors inserted another *baraita* in section [4] of part (A) so as to complete the discussion, without seeking any substantial innovation.

Part (B) of the *sugya* deals with matters of building on *Shabbat* and *Yom Tov*. According to the explanation we presented above, that the *sugya* should be interpreted in terms of the prohibition against cutting a groove in the ground on *Shabbat*, one may inquire as to the connection of part (B) to this *sugya*. R. Hananel, who explained the *sugya* in terms of cutting a groove, wrote about this as follows: “And since he mentioned here [the subject of] supporting a door, it draws [in its wake] these [subjects] as well, which are forbidden on account of [the prohibition of] building on *Shabbat*.” That is to say, since part (A) concludes with the matter of supporting a door, therefore it is appropriate to discuss other matters of building in the continuation of the *sugya*.

A tradition is transmitted in the name of R. Yehuda in this part, that it is permissible to arrange “that bonfire” on *Yom Tov* specifically from the top down, that is, while doing it in a clearly unusual way that attests to the fact that the one arranging the wood had no intention of building something, but only of burning a fire, which is permitted on *Yom Tov*. The Talmudic redactors added to this amoraic statement four more setting up activities which also should be done in an unusual way, from the top down: piling up eggs, setting a pot in place, arranging a bed and piling up barrels. *Rishonim* disagreed as to the precise details in explaining each of these activities, but the principle adopted by them all is similar: one should change the way in which one sets these things up and puts them in place so that it will not appear as if the person setting them up is erecting a structure on *Yom Tov*.

Inspired by the word “briers” (חרקין) in the *mishnah*, the Talmudic editors inserted into part (C) of our *sugya* two aggadic homilies that deal with the fragment of the verse in Micah (7:4), “The best of them [is] as a brier; [the most] upright [is worse] than a thorn hedge.” This fragment is part of the prophet’s lament over the evil deeds of the people of Judea.

Sugya 27: “One may not stand within a private domain and open [a door] in the public domain” (101a-101b)

The first part of the ninth *mishnah* teaches: “One may not stand within a private domain and open [a door] in the public domain, [or stand] within the public domain and open [a door] in a private domain, unless they made him a partition ten *tefahim* high – [so] the words of R. Meir.” This ruling is based, apparently, on R. Meir’s halakhic view that prohibits not only transferring from one domain to another, but even standing in one domain while performing some action in a different domain. The real-life situation the *mishnah* described, of a person standing in the public domain and opening in a private domain, is well-known to scholars who study the *realia* of the period of the *mishnah*. Locks in the Roman period were not set into the thickness of a door but rather were attached to one of its sides, generally the interior side. In order to enable closing and opening the bolt from the outside, they made a hole in the door through which one could put his hand from the public domain to the interior side of the door, as in the verse “My lover thrust his hand through the hole,” and insert the key into the lock.

However, in the second part of the *mishnah* we learn, in response, as it were, to the dispute in the first part: “They said [to him]: It happened in the poulterers’ market that was in Jerusalem that they used to shut [their shops] and leave the key in a window above the door. R. Yose says: It was the wool-dealers’ market.” The problem is that the event mentioned by the sages, which deals with shutting a shop in the market, cannot serve as a meaningful argument against R. Meir’s position. R. Meir spoke of standing in one domain and opening in a different domain, while the second part of the *mishnah* speaks of locking the lock of a store in the market, which was probably connected to the exterior side of the door, for surely not every door had a hole. When the seller sits inside his door is open, and when he leaves he closes the door from the outside and takes the key with him. It appears, then, that the end of the *mishnah* is not related to the dispute in the beginning of the *mishnah*, but rather to some other dispute between R. Meir and the sages. The decision of the redactor of the *Mishnah* to attach the argument that related originally to the event described in the *Tosefta* (7:1 [pp. 126-127]) to the dispute between the sages and R. Meir concerning standing in one domain and opening in a different domain created the impression as if the sages’ argument were relevant also against R. Meir’s position in our *mishnah*. This assumption served as the basis of the difficulty that concerned the *amoraim* mentioned in our *sugya*.

Thus one should begin the discussion of our *sugya* with Rava’s statement: “The final part of the *mishnah* comes to [teach about] the gates of a garden” (A)[3], which appears to be the first of four stages that one can identify in the history of the development of the *sugya*. Rava’s statement is essentially an attempt to deal with the discrepancy between the two parts of the *mishnah*. Rava sought to see the final part of the *mishnah* as a continuation of the discussion that appears in the “garden gates” *baraita*, and thus to reduce the difficulty that arises between the two parts of the *mishnah*.

A second stage in the development of the *sugya* took place as a result of a different understanding of Rava’s statement. Later scholars, among the Talmudic redactors, understood the intent of Rava’s statement, “The final part of the *mishnah* comes to [teach about] the gates of a garden,” to have been to link the final part of our *mishnah* specifically to the beginning of the “garden gates” *baraita*, and not to its end, as I have

proposed. Two far-reaching changes were made in the *sugya* as a result of this understanding: a. they added an explanation anchoring the understanding according to which Rava was relating to the beginning of the “garden gates” *baraita*; b. they changed the formulation of the *baraita* so that it could provide an explicit support to R. Meir’s prohibition against a person’s opening a lock in a private domain while standing in a *karmelit* (A)[3]. This change is reflected in all of the direct textual witnesses of the *sugya* except for MS Munich, and they state: “garden openings... [if they] have [no gatehouses] neither here nor there: they are prohibited here and there... [so] the words of R. Meir.”

Inserting the question “And the sages – R. Meir spoke of a public domain and they answered him [with a proof from an actual event that happened in] a *karmelit*?!” (A)[1] should be attributed, so it seems, to the third stage of the redaction of the *sugya*, after the fashion of the Talmudic redactors to formulate questions for ancient statements that had already been set into the *sugya*. After all, the *mishnah* itself does not even hint of a *karmelit*, so where did the Talmudic redactor pick up such an idea if not from the already edited and prepared response of Rava?

The difficulty in understanding the Talmud’s question, bringing up “*karmelit*” when the *mishnah* made no mention of it at all, motivated the addition of a fourth layer to the *sugya*, in the form of the explanation “that Rabbah b. Bar Hanna said in the name of R. Yohanan: Jerusalem – if its gates had not been locked at night they would have been culpable for [carrying in it] on account of [its being] a public domain” (A)[1]. The artificiality of this explanation stands out: could one have entertained the thought that the status of Jerusalem would be that of a *karmelit* and not that of a public domain? To the contrary, before the destruction of Jerusalem it was one of the largest and most glorious cities in the Land of Israel, and it must surely have been a classic example of a public domain! Not only does it not make sense to say that Jerusalem was a *karmelit* from the perspective of historic reality, but from a halakhic perspective, as well, it would be difficult to understand this.

In terms of the structure of the *sugya*, one may consider the *baraita* at its center (B) to be not only the underpinning necessary for understanding the last part of our *mishnah*, but rather also a fruitful source for the discussion that appears in the third part (C) of the *sugya*. The *baraita* was mentioned by Rava, a fourth generation *amora* (A)[3], while the explanation of the dispute between R. Meir and the sages that it contains, which parallels the explanation in the *sugya* in the *Yerushalmi*, was supplied by Rava’s classic disputant, Abaye (C)[2]. In the fourth part of the *sugya* (D) one reads the view of R. Bibi b. Abaye, of the fifth generation, which completes the discussion with a summary drawn as a conclusion from the *baraita* and the *sugya*.

Sugya 28: “A bolt with a clostra on its end” (101b-102a)

Our *mishnah* teaches of the dispute between R. Elazar and R. Yose concerning “a bolt with a *clostra* on its end.” R. Elazar prohibited the use of such a bolt for shutting the door on *Shabbat*, and R. Yose permitted it. “A bolt with a *clostra* on its end” was, apparently, a bolt that had a mechanism attached that aided in locking the bolt: a ring, a strap, a nail or a chain. There are two different approaches among *rishonim* to explaining the halakhic principle underlying R. Elazar’s prohibition of shutting the door on *Shabbat* with a bolt that had a *clostra* on its end. Some explained that the bolt was not permitted because of the general prohibition against moving around on *Shabbat* an item that was not a utensil. Other commentators hold that shutting the

door with a beam that was sometimes used in building has the appearance of an act of building.

The Talmudic *sugya* constitutes a novel interpretation of R. Elazar's position. The Talmud's statement, that R. Elazar would also permit using the bolt if it was fastened to a cord (rope) in such a way that by holding the cord one also held the bolt, is not supported by the plain meaning of the *mishnah*, which ruled without qualification that R. Elazar held that one may not use on *Shabbat* any bolt that has a *clostra* at its end. It would appear that here, too, we have an instance of the Talmudic redactors attempting to restrict a tannaitic dispute by adding halakhic considerations that do not appear explicitly in the tannaitic sources.

Two different possible ways to describe the halakhic basis for this statement by the Talmudic redactors are mentioned in the commentaries on the *sugya*. The first approach, whose strongest exponent is Rashi, holds that this basis is to be found in the next *sugya*, from which they concluded that even R. Elazar would agree that a bolt with a *clostra* at its end may be used, on condition that it be tied, and "tied" = "it can be held by the cord to which it is tied". The second approach, whose strongest exponents are *Rid* and *Ritva*, held that the restriction of the dispute is not based on what is stated in the next *sugya*, but rather on criteria that appear to be used in the dispute between R. Yose and R. Elazar itself. The Talmudic redactors held that an additional adjustment to the bolt with a *clostra* at its end strengthens the impression that the bolt is a utensil intended for use in shutting the door, so that even R. Elazar would permit its use.

***Sugya* 29: "A bolt that is dragged" (102a)**

Our *mishnah* contains the first in a series of six *halakhot* formulated in a pattern that is unique to our chapter, in which the law in the "*medina*"⁴ is compared to the law in the Temple. The general formulas "there are no *shevut* [prohibitions in effect] in the Temple," and "*shevut* that they permitted in the Temple" were crystallized during the Talmudic period on the basis of these *halakhot*. It seems reasonable to surmise that each of these *halakhot* was formulated *ab initio* independently of the above-mentioned rigid pattern, and it is the redactor of the *Mishnah* who collected the various sources and formulated them anew in this literary pattern. A *halakhah* concerning the use of a bolt that is not formulated in this pattern appears in the *Tosefta*, and it might be the ancient source from which the redactor of the *Mishnah* took the *halakhah* that is in our *mishnah*: "a (dragged) bolt, if it was tied and hanging – they may open [with it] and shut [with it]; and if not – they may not open and shut with it. R. Yehuda says: tied, even if it is not hanging."

In section [1] of the *sugya* the *baraita* is quoted, "What is the dragged bolt with which he may shut in the Temple but not in the *medina*?" This *baraita* also appears, with minor changes, in the *Tosefta*. Its purpose appears to be to explain the shortened term used in the *mishnah*, "a dragged bolt."

In section [2] Rav Yehuda's statement in the name of Shmuel is brought, that the *halakhah* follows R. Yehuda in the matter of the dragged bolt. The *Yerushalmi* tells of the question that R. Yose put to R. Yirmiya, "How do we do the deed?," that is, how should one behave in practice concerning the dispute of the *tannaim* in the *mishnah*? R.

4 Translator's note: in this context, *medina* means "an [other] legal jurisdiction"; *rishonim* disagreed as to whether it means outside of Jerusalem, or outside of the Temple precincts, even in Jerusalem.

Yose had doubts about this *halakhah* in particular, since he did not know how to decide which was the unattributed tannaitic view in this dispute that one should follow in practice. R. Yirmiya resolved R. Yose's doubt with another statement by R. Yohanan: "Hilfyi pulled me and showed me [the bolt] of Rabbi's house, tied even though it was not hanging," and from this he concluded "We do as R. Yehuda." It may be that this ruling reached Babylonia, and the ruling in our *sugya* in the name of Shmuel was based on it.

It is possible that the restriction Rava placed on this ruling, "and that is [on condition] that it is tied to the door" [2], originated in the Palestinian tradition that appears in the above *sugya* in the *Yerushalmi*. In our *sugya* they tried to challenge Rava's statement, that the bolt must be tied specifically to the door, based on the story of an event in which R. Tavla happened to be in Mahuza and saw a person hang the bolt on the "door beam" and not the door. The "door beam" is a beam or a bar placed along the width of several planks, joining them and reinforcing them so they constitute one door, or even a horizontal beam whose purpose is to strengthen a wooden board that serves as a door. It was possible to hang various items on such bars, such as meat, and even that bolt, as told in our *sugya*.

The Talmudic redactors answered the question that arose from that event by arguing "that [case] was [one in which] it [= the bolt] could be taken by the cord to which it was tied" [2]. It seems that this event with R. Tavla was a perfect example of the desired way of tying, but the Talmudic redactors sought a rhetorical tactic that would make possible integrating the story into our *sugya*. They added "Is it so?" before telling the story of the event, and even added "that [case] was [one in which] it [= the bolt] could be taken by the cord to which it was tied" afterwards to explain the artificial disagreement between this story and the *halakhah* according to which one should tie the bolt to the door. It is reasonable to surmise that the basis for the answer "it could be taken by its cord" was taken from the event with R. Avia that is brought later [2], where the requirement that the bolt be tied tightly found expression.

Our *sugya* also tells of R. Zeira, who asked R. Yosef what the law was concerning *nikmaz* (the precise meaning of which was not made clear), and received the answer "have you not heard that which was taught [in a *baraita*]...?" [3]. The halakhic principle that arises from this source is clear. According to the first *tanna*, when a certain closing device comes completely out of its place one may not use it on *Shabbat*, but in the case of *nikmaz* it is permitted, whereas according to R. Yehuda's view, one should be stringent even with *nikmaz*. Abaye's explanation of the reasoning of the *baraita* is brought in our *sugya*: "And what is the reason? Since it has the appearance of building" [3]. It seems reasonable to state that this reason is relevant specifically to the bolt of the *nikmaz*, but that the reason in the case of other bolts is the prohibition of *muktseh*.

Several more stories were added to our *sugya*. One was about R. Nachumi b. Zekharia, who asked his teacher Abaye what the law is regarding a bolt for which a handle was made, and he answered, "Do you mean a *bukhna*?" that is, "Did you say a pestle?" He seems to have meant, "Is there a question here?" The law regarding a bolt with a handle is the same as the law regarding a pestle, which it is allowed to move about on *Shabbat* [4]. Another story concerned the door of R. Pedat's house, which they used to lock with the help of a heavy beam. According to the story, the beam was so heavy that ten people were needed to lift it and place it against the door [5]. It seems reasonable to accept what *Raavad* wrote, that the reading that

implies that ten people were required for lifting the beam is an exaggeration, for using such a beam in a private person's home is clearly not at all practical. R. Pedat permitted using the beam on *Shabbat*, saying that "it has the status of a utensil," and the prohibition against moving it about does not apply even if it is left in place all day. Another story brought in our *sugya* deals with a very large mortar that was in the home of the wealthy *amora*, Mar Shmuel, that could hold an *ardaba*, an especially large quantity, about 140 kg.

***Sugya* 30: "Good sayings" (102a-102b)**

Our *sugya* opens with R. Assi's ruling, explained in light of the following line of reasoning: "it is adding to a [pre-existing] temporary tent,⁵ and [therefore] it is all right" (A). Adding to a tent bears a certain similarity to building, and it is reasonable to surmise that the Talmudic redactors inserted this section because of the association with the reasoning brought in the previous *sugya*: "that it appears like building." The other parts of the *sugya* (B-D), which deal with closely related matters – curtains, canopies and broad-brimmed hats – were imported to our *sugya* from the *sugya* in *Shabbat* 138a. Thus we will describe the various parts of the *sugya* briefly.

In part (A) they tell how Rami b. Yechezkel sent to R. Amram a request that he repeat the traditions he had transmitted on a different occasion in the name of R. Assi on the matter of "*kifi d'arva*," whose exact nature we don't know. R. Amram told him that R. Assi had stated that in certain cases it was permissible to cover "*kifi d'arva*" on *Shabbat*. An analysis of parallel sources indicates that the explanatory phrase "it is adding to a temporary tent and it is all right" was not said by R. Assi, but was added by the Talmudic redactors.

It is reasonable to suggest that the story of the event told in part (B) is a recasting of the story that appears in the parallel *sugya* in Tractate *Shabbat*: "R. Yosef said: I saw the canopies of R. Huna's house stretched out at night and dismantled and laid down in the morning." If, indeed, "the canopies of the house of R. Huna" are like R. Huna's sheep pens, in which his rams stayed, then it seems that our *sugya* proposes a sort of interpretation and expansion of the sight R. Yosef saw, in accordance with appropriate halakhic criteria: "it is adding to a temporary tent and it is all right."

From the two statements by R. Hiyya in part (C) we learn that there is a qualification to the general prohibition against pitching tents on *Shabbat*. A curtain is not a tent, "but rather it is used as a door" (Rashi), so why should it be forbidden to stretch it out and to take it apart on *Shabbat*? The same is true of a bride-groom's bridal bed, which has no roof and is not like a tent, so that opening and closing it should be forbidden. Four qualifications of R. Hiyya's permission about the bridal bed appear in our *sugya*. Only the first is attributed to R. Sheshet b. R. Idi (C)[2], and probably those whose task it was to recall and quote precisely the Talmudic statements distinguished between the first qualification and the other three, which are based on the first and expand on it. Since many qualifications in the *Bavli* that are introduced by the words "And we don't say [this rule unless...]" are Geonic additions to the Talmud, it is possible that here, too, at least the last three qualifications are Geonic Talmudic additions.

5 Translator's note: in this context a 'tent' means any horizontal cover over some area that makes the area under the cover habitable; the creation of such a 'tent' is subsumed under the prohibition of 'building' on *Shabbat*.

Another example of what might be considered a tent is presented in part (D) in the statement of R. Sheshet b. R. Idi. *Sayana* is a sort of hat with a wide rim that makes shade. This is the source of the idea that such a hat may be thought to resemble a tent, which one may not pitch on *Shabbat*. However, it seems that R. Sheshet b. R. Idi considered it to be permissible to wear such a hat under any circumstance. The Talmudic redactors sought to restrict his ruling according to the principle demonstrated in our *sugya*, according to which a tent is defined by the existence of a cover that is at least one *tefah* wide. This qualification was styled in the form of an answer to a question that challenged R. Sheshet b. R. Idi's ruling.

***Sugya* 31: "They may return the hinge pin" (102b)**

Our *sugya* deals with the *mishnah's* permission to return the "lower hinge" in the Temple but not in the *medina*, and includes a Babylonian *baraita*. This *baraita* draws upon two halakhic sources, the parallel *halakhah* in the *Tosefta* and the *mishnah* itself, and adds to them in its Babylonian fashion.

***Sugya* 32: "They may replace a plaster [on a wound]" (102b)**

Our *mishnah* teaches: "One may replace a plaster [on a wound] in the Temple, but not in the *medina*; [placing a plaster] initially is forbidden in both places." This is another member in the series of *mishnayot* in which the *tanna* compares the law in the *medina* to the law in the Temple (see *Sugya* 29). Our *sugya* can be divided into three parts. The *baraita* that completes the halakhic picture presented in the *mishnah* is brought in the first part (A). Two more views appear in this *baraita* that present halakhic perceptions that differ from the one that was expressed in our *mishnah*. The positions of the *amoraim* who decided against the view expressed in our *mishnah*, R. Yehuda and R. Hisda, are brought in the second part (B). The third part of the *sugya* (C) includes an exchange between Mar b. R. Ashi and his father concerning our *mishnah*.

***Sugya* 33: "They may tie a string [of a musical instrument]" (102b-103a)**

Our *mishnah* teaches: "One may tie a [broken] string [of a musical instrument] in the Temple but not in the *medina*; [putting the string in place] initially it is forbidden in both places." Our *sugya* opens with a question from the *baraita*: "A *kinor* string that was severed – he would not tie it [with a knot], but would make a bow." From various considerations it is logical that the *baraita* at the beginning of the *sugya* – that does not appear in the Palestinian sources, and that is a reflection of the *baraita* at the end of the *sugya* – was created by the redactor of the *sugya* to meet his rhetorical requirements. The redactor of our *sugya* sought to contrast our *mishnah* with a different approach, and thus to make our *mishnah* parallel to other tannaitic disputes concerning *Shabbat* laws. The redactor of the *sugya* thus created an artificial *baraita*, with the aim of opening the subject for an interesting discussion, accompanied by a comparison of our *mishnah* to the disagreement between R. Eliezer and the sages concerning the permissibility of acts of preparation for performing a *mitzva* on *Shabbat* and to the disagreement between R. Yehuda and the sages concerning "tying a bow" on *Shabbat*. Only in part (C) does the redactor of the *sugya* bring a *baraita* from which one can learn the identity of the *tanna* who disagreed with our *mishnah*. Yet an analysis of the language of the *baraita* and a comparison with its parallels in the *Tosefta* and in the *Yesushalmi* leads to the conclusion that it underwent significant editing so as to help the course of the *sugya*. Two more possible explanations of the difference between

the *mishnah*, which permitted tying a knot, and the *baraita*, that permitted tying a bow, are brought at the end of the *sugya* (C)[1, 2].

Sugya 34: "They may cut off a wen" (103a-103b)

Our *mishnah* teaches: "They may cut off a wen in the Temple, but not in the medina; if [they cut off the wen] with a utensil – it is forbidden in both places." Our *sugya* deals with a comparison of our *mishnah*, which permits cutting off a wen in the Temple to the position of the first *tanna* in *Mishnah Pesahim* (6:1): "These are the acts pertaining to the Passover offering that override *Shabbat* – ... and cutting off its wen – do not override [*Shabbat*]. R. Eliezer says: They do override [it]." It is true that, according to R. Yose b. Hanina as testified to by R. Abahu as brought in the *Yerushalmi*, R. Yose b. Hanina did not include the words "and cutting off its wen" in teaching the *mishnah* in *Pesahim* that tells of the dispute between R. Eliezer and R. Yehoshua, and, consequently, according to his version there was no problem of a discrepancy between our *mishnah* and the *mishnah* in *Pesahim*. However, it appears that this was not a wide-spread version, so that we find three or four ways in the *Yerushalmi* to harmonize the two *mishnayot*. Our *sugya* in the *Bavli* includes two of the Palestinian explanations and two more Babylonian explanations, while the parallel *sugya* in the *Bavli* in *Pesahim* 68b has only the Palestinian explanations. One of the possibilities raised by Abraham Weiss seems reasonable, that the Palestinian *sugya* found its place in *Pesahim* at a time when the Babylonian *sugya* was not yet available. However, the similarity of the expressions used in the give and take between the Palestinian *amoraim* in the two Babylonian *sugyot* should be attributed, so it seems, to the later transmitters of traditions who made the two *sugyot* identical.

Two Palestinian solutions to the contradiction between our *mishnah* and the above-mentioned *mishnah* in *Pesahim* are presented in the first part of the *sugya* (A): "This [*mishnah* refers to removal] by hand and this [*mishnah* refers to removal] with a utensil... this [*mishnah* refers to the cutting off] of a moist [wen], and this [*mishnah* refers to the cutting off] of a dry [wen]." The *Bavli* attributes these solutions to two of the students of R. Yohanan: R. Elazar and R. Yose b. R. Hanina, although it does not know to which of them to attribute each of the solutions. The positions of both Palestinian *amoraim* were analyzed casuistically in our *sugya*, as the Talmudic redactors sought to justify both amoraic proposals.

The second part of the *sugya* (B) contains R. Yosef's analysis of the context in which the prohibition against cutting off a wen appears in *Mishnah Pesahim* (6:2). Things are formulated in our *sugya* such that it appears as if R. Yosef was responding to the two Palestinian explanations, which he rejected, finally proposing his own alternative solution. However it seems reasonable that R. Yosef's comments were said originally as a response to only one of the Palestinian methods, and that it is the later arrangement of the Palestinian methods by the Talmudic redactors in a combined form – "one said... and one said..." that created the mistaken impression that R. Yosef responded to the two methods together. The redactors of the *sugya* transmitted the tradition that when Abaye, R. Yosef's student, taught his teacher's distinction, R. Safra raised difficulties twice.

Rava's resolution of the contradiction is brought in the third part of the *sugya* (C). According to this solution, our *mishnah*, which permits cutting off a wen on *Shabbat*, follows the principle laid down in R. Eliezer's position in *Mishnah Shabbat* (19:1). R. Eliezer held that an act that is necessary as preparation for performance of a *mitzva* supersede *Shabbat*, even if the act is one of the thirty-nine types of *melakha* forbidden

by Torah law on *Shabbat*; all the more so is this so if the necessary act is a *shevut* prohibition. On the other hand, Rava explained, the above-mentioned *mishnah* in *Pesahim*, that prohibits cutting off the wen, was taught in accordance with the position of those who disagree with R. Eliezer. However, Rava was of the opinion that R. Eliezer agreed, in any event, that “as much as it is possible to do the act in an unusual manner we do it in an unusual manner.”

In section (C)[1] the redactor of the *sugya* tried to prove that our *mishnah*, indeed, follows R. Eliezer’s approach. He did so by comparing our *mishnah* to the dispute between the sages and R. Eliezer in *Mishnah Shabbat* (10:6) concerning cutting nails, hair, etc. using one’s teeth. There R. Eliezer held that one who performed such an act on *Shabbat* is culpable for violating the Torah prohibition against doing *melakha* on *Shabbat*, whereas the sages prohibited it as only a *shevut*. The proof is based on an inference from the wording of the *baraita* and the *tosefta*, which implies that the permission in the *mishnah* is restricted to removal of the wen specifically by another person using his teeth. At this stage the Talmud rejected the proof by arguing that the *baraita* did not intend to state categorically that only another person is permitted to remove the wen, and, indeed, if the wen “arose on his belly” – a place from which the person can remove it by himself – then he is permitted to do so. This objection raised by the Talmud is quite reasonable, especially in light of the formulation of the *baraita* in the *Tosefta*, as is described in the body of the commentary.

Section (C)[2] is a separate unit, whose aim is to prove from our *mishnah* R. Elazar’s statement of commentary to *Mishnah Shabbat* (10:6), “The dispute concerns [an act performed] with the hand, whereas [if it was done] with a utensil – all agree he is culpable” (*Shabbat* 94b). This fact and, as well, the telegraphic language of the section create the impression that this piece was added at a late stage, after the *sugya* had already taken shape. The proof used in this section is based on two fundamental assumptions: on the conclusion of the Talmud in section (C)[1] that our *mishnah* follows the view of the sages and the permission of the *mishnah* relates specifically to a *shevut* prohibition and not to a *melakha* prohibition, and on the fact that the *baraita* restricted the permission, stating that one should remove the wen specifically by using teeth and not a utensil.

Thus, at least, this is how one should interpret the version of the *geniza* fragment, remnants of which can be discerned in MS Munich and in Binding Fragment 222. This was the reading of R. Zerachia Ha-Levi, author of *HaMaor*, and, according to the testimony of Raavad, this was the version R. Nissim Gaon had. It seems reasonable, as Lieberman argued, that Rashi and Tosafot also saw a version like this one, and that it is they who changed it. The correction by Rashi and Tosafot is reflected well in MS Oxford and in Binding Fragment 222. The version of Rashi and his followers consists of five small changes described in detail in the listing of alternative readings, and, together, they combine to change the substance of section (C)[2]. According to this secondary version, the aim of the section is completely different from the picture that one gets by reading the *geniza* fragment version. According to Rashi and those who followed his lead, the section is not devoted to proving R. Elazar b. Pedat’s view, but rather to proving Rava’s view, according to which our *mishnah* followed the view of R. Eliezer b. Hyrkanos.

***Sugya* 35: “A priest who was wounded in his finger” (103b-104a)**

Our *mishnah* teaches: “A priest who was wounded in his finger may wrap reed-grass around it in the Temple, but not in the *medina*. If it is to force out blood – it is

forbidden in both places.” The Babylonian *sugya* is devoted to clarifying halakhic problems dealing with the rules of Temple service that might arise as a result of wrapping the reed-grass around the priest’s finger. It is based on a comparison of the Palestinian approach, which is expressed in amoraic statements that appear also in the parallel *sugya* in the *Yerushalmi*, to the Babylonian approach, which is expressed in the words of R. Hisda. The *sugya* itself appears in two versions. In the first formulation (A)[1], the presentation of the Palestinian *amoraim* is close to that which is in the *Yerushalmi*, whereas in the second formulation (B)[1] the positions and the discussion are quite different. It seems reasonable, as has already been noted by Dunner, that in Babylonia they were familiar with the original Palestinian tradition, but that Babylonian *amoraim* adjusted the transmitted tradition in order to equate the Palestinian approach with the statements of the Babylonian *amoraim*.

***Sugya* 36: “They may scatter salt” (104a)**

The Talmudic redactors set into our *sugya* three discussions that center on our *mishnah*, which permits scattering salt on the ramp leading from the Temple courtyard floor up to the altar. In section [1] it is reported that R. Ika b. Hinena from Pashronia inferred from our *mishnah* that the permission to scatter salt applies specifically in the precincts of the Temple and not in the medina. Equipped with this assumption, Rava asked how it is possible to resolve the contradiction between our *mishnah* and another tannaitic source which stated that it is permissible to spread straw in a courtyard that had been flooded with rain water. According to his view, it seems, spreading straw in the courtyard is similar to scattering salt, and it is difficult, then, to understand why the sages permitted spreading straw while they prohibited spreading salt. Rava answered this question as follows: “Straw is different for he does not nullify it to [=leave it to become one with] the ground.”

In section [2] it is reported that R. Aha, Rava’s son, asked R. Ashi how it could be permissible to scatter salt on the ramp in the Temple, since if he leaves it to become one with the ground then “he is adding to the structure [of the Temple; which is forbidden],” while if he intends to gather it up and not leave it as part of the ground then “it constitutes an interposing substance [between the feet of the priests and the ground – while the feet of the priests are to be in direct contact with the floor of the Temple while they perform the sacrificial service]!” The concern lest spreading salt on the ramp constitutes an addition to the structure of the Temple seems artificial; therefore it seems reasonable to suggest that the question is a sort of reflection of the anonymous discussion mentioned in *Hullin* 83b, where they discuss the requirement to cover the blood of sacrifices. In the *sugya* in *Hullin*, when they discussed leaving dirt on the Temple floor, the question “he is adding to the structure” is understandable. In our *sugya*, however, in speaking of salt, the question seems rather forced. The answer “it is for walking [with] the limbs to the ramp, which is not [an integral part of the sacrificial] service,” is attributed to R. Ashi. It seems appropriate, however, to accept David Halivni’s suggestion that R. Ashi never entertained the notion that walking with the limbs to the ramp is not part of the sacrificial service, and that the answer to R. Aha’s question was formulated by the Talmudic redactors in two stages. First they stated the proposal that was to be rejected: “[it deals] with walking the limbs to the ramp, which is not [part of the sacrificial] service,” and only in the second stage, that came after the rejection, did they insert the “correct” answer: “[it deals] with walking [with] wood to the pile [on the altar], which is not a [part of the sacrificial] service.”

In section [3] they tell of a certain occasion when Rava taught in a sermon that it is permissible to spread straw in a courtyard that was flooded with rain water. His student, R. Papa, objected to this unqualified permission by quoting the rest of the *baraita*: “when he spreads [the straw] he may not spread it in a basket or in a box, but only from the bottom of a [broken or inverted] box.” Thus Rava had not known the entire *baraita*, but only its first part, which he knew from the question of R. Ika b. Hinena from Pashronia. After he learned of his mistake, “Rava had an *amora* stand over him and he preached: I was mistaken about the things I told you, but this is what they said...”. Having the *amora* stand by Rava was intended to assure that the corrected message would be properly absorbed by the audience, for the *amora* was able to repeat the sage’s words in a loud, clear voice.

Sugya 37: “Producing sound” (104a-104b)

We learn in our *mishnah*: “and they may draw water with a wheel on *Shabbat* from the *Golah* cistern, from the Great cistern and from the *hqr* well on *Yom Tov*.” The permission to draw water from these cisterns implies a prohibition of drawing water from other cisterns, as the Talmudic redactor inferred in our *sugya*: “in the Temple – yes; in the *medina* – no” (A)[4]. In our *sugya* the questioner suggests (A)[1] that it is prohibited to draw water from a cistern on *Shabbat* lest it produce sound. This possibility is rejected, not because the wheel doesn’t produce noise, but rather on the basis of the argument that the prohibition against drawing water is a rabbinical decree based on a different reason – “lest the person draw water for his garden or for his ruin” (A)[4]. Nevertheless, this is certainly not a historical reason, but only a rejection of the line of reasoning that forbids “producing a sound.” Furthermore, we should seek a reason that explains the prohibition of the act on account of something having to do with the act itself, rather than as a decree “lest [something else happen].” What then is prohibited about drawing water on *Shabbat*? An examination of external sources like the Book of Jubilees and the Damascus Covenant Scroll shows that there was a fundamental prohibition against drawing water on *Shabbat*. There is support for the notion that the prohibition against drawing water was perceived as an independent prohibition in several tannaitic sources, not because of *muktseh* and not because it involves transferring from one *Shabbat* domain to another (and certainly not as a decree lest one water his garden) but rather as a *melakha* on its own. Consideration of this prohibition appears in *Tosefta Eruvin*, which is discussed in the body of the commentary.

Our *sugya* contrasts two amoraic approaches to the nature of the prohibition against producing sounds on *Shabbat*. Ulla (and Abaye) represent the Palestinian perception, apparently, according to which any production of sound is prohibited, even if it is not musical, as R. Elazar says in the *Yerushalmi*: “All producers of sound are forbidden on *Shabbat*,” and, in the language of our *sugya*: “Producing a sound is forbidden” (A)[1]. It is almost certain that this prohibition is an ancient *Shabbat* prohibition. By way of contrast, Rabbah (this seems to be the correct reading) represents the Babylonian approach: “They forbade only musical sound” (A). That is, according to this view, the prohibition applies to musical tones only, and they did not prohibit all sounds. A prohibition against producing musical sounds exists in the teachings of *tannaim*. We have learned in *Mishnah Sukka* (5:1), “The *hallil* – [sometimes] five [days] and [sometimes] six’ – this is the *hallil* at the *Beit HaShoeva*, which overrides neither *Shabbat* nor *Yom Tov*.” This *mishnah* teaches that there is a prohibition against playing the *halil* on *Shabbat*. *Amoraim* did not dispute this

prohibition, and it is agreed to by the *Bavli* – that one may not produce a musical sound on *Shabbat* – and this is not on account of a rabbinical decree and concern lest it lead to some other prohibited activity, but it is an independent prohibition, that they prohibited musical sounds on *Shabbat*. However, as far as producing sound without a musical instrument, and not for the sake of music, the tannaitic sources are unclear, and here there is room for an amoraic dispute. Two *Shabbat* prohibitions run through this *sugya*: drawing water and producing sound, and the question of the relationship between them is the thread that unites the *sugya*. The point of departure of the *sugya* is not our *mishnah*, but rather a story of Ulla and Rabbah’s view that is mentioned in the story, according to which they prohibited only musical sound.

In sections (A)[1-4] various sources are presented as challenges to Rabbah’s position (in section [1] it is presented explicitly in the name of Abaye); the questioner seeks to interpret each of the sources and proposes that the prohibition of which it tells is based on the prohibition against producing sounds on *Shabbat*. The Talmud rejects these possibilities with a double statement: either each of them can be explained in a different way that has no connection to producing sound on *Shabbat* or each deals specifically with producing a musical sound. Our *mishnah*, too, is brought in the context of producing sound (A)[4], with the Talmud inferring from the prohibition against drawing water with a wheel: “What is the reason, is it not because it is producing a sound, and producing a sound is prohibited?” But Ameimar’s ruling (B) is the only part of the entire *sugya* that is not discussed in terms of the concept of producing sound. In this ruling Ameimar related directly to our *mishnah* and sought to permit the prohibition of drawing water in Mechoza. Therefore, this part appears to be a separate unit, that probably centered originally directly on our *mishnah*.

The *sugya* opens with an interesting story. When Ulla stayed in R. Menashe’s home on *Shabbat*, someone knocked on the door of the house. Ulla’s view was in accordance with the Palestinian approach that forbade producing any sound, and responded sharply. Rabbah responded to Ulla’s response, reflecting the Babylonian approach: “They forbade only musical sound.” According to the story, Ulla responded to the deed with a sharp curse: “Who is it that is violating *Shabbat*? May his body become sick!” or “May his body become sick, for he is violating *Shabbat*!”

In section (A)[1] it is reported that Abaye inferred from the language of the *baraita*, “One may bring up [wine out of a barrel] with a *diyofi* (a siphon) and one may cause water to drip out of [holes in] an *arak* for a sick person on *Shabbat*,” saying: “for a sick person – yes, for a healthy person – no.” From this he sought to conclude, against Rabbah, that it is prohibited to produce any sound – “producing a sound is prohibited.” Abaye came to challenge the approach of Rabbah, who said that only musical sounds were prohibited. Therefore he sought to suggest that the sounds produced by the *diyofi* and by the *arak* are cacophonous noises intended to awaken the sick person, and that for the sick person it is permitted but for a healthy person it is forbidden. The Talmud rejected this suggestion and explained that the *baraita* spoke of a pleasant musical sound intended to help the sick person fall asleep, and that that is the sound one is not allowed to produce for a healthy person – but to produce any non-musical sound is permissible. Indeed, we have seen that these instruments do not produce a harsh sound but rather a pleasant monotonic sound, and that they used them in the ancient world to help people fall asleep. It is clear, then, that the anonymous Talmud’s answer, “That he [the sick person] had dozed off and wanted to sleep, and it is a [pleasant] sound like cymbals” (A)[1], is not merely a rejection, but is

the plain meaning of the *baraita*. According to the *Bavli's* approach, a pleasant sound like cymbals is also prohibited on *Shabbat*, for it is included in the category of musical sounds.

A *baraita* is mentioned in section (A)[2] that forbids beating [his chest], clapping [his hands together] and dancing [making sounds with his feet] – activities that involve producing sounds – and they sought to question Rabbah's position from it, and to prove that *tannaim* forbade producing any kind of sound. The perception of the questioners, which focuses on the sound dimension of these actions, is close to the view of the Talmudic redactors of the *sugya* in *Beitza* 36b, according to which the prohibition against beating his chest and clapping his hands stems from a decree lest he fix a musical instrument. The Babylonian approach, that finds expression in the words of R. Aha b. Yaakov (A)[2] and that explains the ancient prohibition against beating his chest, dancing and clapping his hands as due to the concern lest he come to pick up a pebble [to throw at the birds he was not able to drive away by beating his chest, stomping his feet and clapping], is only a late explanation, in the *Bavli's* fashion, lest a person violate some other prohibition. But from the *tosefta*, that gives the reason "as he does on weekdays" (the *baraita* here does the same), it appears that the prohibition here is a general *shevut* prohibition, and not necessarily because of the sounds these actions produce or because of the fear that he may pick up a pebble. The actions of beating, dancing and clapping are not just simple sound-producing activities, especially when they serve to assist the watchman to protect his seeds, his gourds and his squash from birds and animals.

In section (A)[3] they challenge Rabbah's statement from a *halakhah* by Rav: "Women playing with nuts – is prohibited." While it is true that nuts do produce sounds when they hit each other while playing with them – and this sound was the basis of the Talmudic redactor's question: "What is the reason, is it not because they produce sounds?" – yet it is reasonable to assume that this is not the reason for Rav's prohibiting the women's game. As Joshua Schwartz showed in his paper on women playing with nuts, the central problem that arose in this context was the gambling. It is highly likely that the principal leisure time that Jewish women had for games was on *Shabbat*, and there is no doubt that they used this time for games. When Rav prohibited this, and perhaps they were even told that the prohibition was due to the sanctity of *Shabbat*, the possibility of betting on the nuts disappeared. In any event, according to all the direct textual witnesses of our *sugya*, the *Bavli* rejected the proof about producing sound by arguing that the laws prohibiting playing with nuts or apples were established on account of the prohibition against leveling holes in the ground [to make it smooth for rolling]. However, there is a different version in R. Hananel and in Rif, as explained in the body of the commentary.

The *halakhah* that appears in our *mishnah* concerning drawing water with a wheel from cisterns on *Shabbat* is the fourth source from which they challenge Rabbah's view and the Babylonian approach in general (A)[4]. The proof against Rabbah is based on the view according to which the prohibition against drawing water with a wheel on *Shabbat* stems from the sound that is produced when drawing with a wheel. The Talmudic redactor rejects this proof by suggesting that the prohibition stems from a concern "lest he draw [water] for his garden and for his ruin [to keep the dust down]," and not because of the sound of the drawing of the water.

Yet it would appear that this is not the original reason for the *mishnah's* prohibition against water drawing. As we noted above, an examination of external sources confirms that there was a fundamental prohibition against drawing water on *Shabbat* in the ancient period, and so it appears from the *Tosefta* parallel to our *mishnah*, which served, apparently, as the source for the redactor of our *mishnah*. In spite of the ancient prohibition against drawing water, the sages permitted drawing water in the Temple, as they permitted other *shevut* prohibitions. This was based on the permission given to the Temple pilgrims to draw water on *Yom Tov*, because it involved a vital need similar to food preparation. However, the *Bavli* is accustomed to explaining tannaitic prohibitions as decrees designed to distance one from a Biblical sin, and so the redactors did in our *sugya*, as well.

Our *sugya* concludes with a story: Ameimar permitted drawing water with a wheel in Mechoza. Apparently, it was the anonymous Talmud that added an explanation of Ameimar's permission in accordance with the Talmud's immediately preceding explanation of our *mishnah*, after it was attached to the *sugya* dealing with the production of sound: "What is the reason the sages decreed [that it should be prohibited]? Because of his garden and his ruin; here there is neither garden nor ruin," and immediately afterwards: "When he saw that people soaked flax, he prohibited [it] to them (B).

Sugya 38: "The hqr cistern" (104b)

Our *sugya*, according to the majority of *Mishnah* manuscripts, deals with the "חקר" well and not with the "הקר" well. It appears that the word "חקר" is a Hebrew form of the Jewish Aramaic word borrowed from the Greek *ἄκρα*, the Seleucid fortress in Jerusalem, mentioned in the scholion to *Megillat Ta'anit*, which was near the Temple Mount. In our lexicographic *sugya* two popular etymologies of the terms are presented that were proposed by sages, about whom there is doubt as to whether they were familiar with the Akra fortress.

Shmuel proposed the first etymology: "A cistern about which many arguments were brought and they permitted it" (A). The version that allows for this explanation seems to be flawed, for there is no root verb "חקר" in Hebrew that would allow such a reading. Shmuel must have related to the original version, "חקר", and explained it as signifying "that they examined about it", in the sense of the Biblical verse "He weighed, examined, and arranged many proverbs" (Ecclesiastes 12:9). It seems, then, that one should prefer the version preserved in a Geniza fragment and the commentary of R. Hananel: "What is the חקר cistern? A cistern about which prophets examined and permitted it...". It is reasonable that the version of Shmuel's statement with the letter *heh* resulted from an attempt to match the secondary version, "the *hkr* cistern" – with a *heh* – to the original homily of Shmuel, who said "a cistern that they examined" – with a *het*.

A second etymology was proposed by R. Nachman b. R. Yitzhak, who searched the entire Bible and found precisely in the middle an expression that raises a notable association with the term "*hqr*/well/cistern": "As a cistern continually pours out fresh water" (Jeremiah 6:7) (A). From this verse he learned that the "*hqr* cistern" is none other than a cistern that keeps its water fresh and that flows continuously, about which one can say "a well of living waters."

In the second part of the *sugya* (B) there appears a "*gufa*" (= "the very thing from which we quoted above") statement, in which the Talmudic redactors quote the

baraita in full. This *baraita* has a parallel in the *Tosefta* (8:22 [p. 85]), except that in our *sugya* it says also: “and it was not the prophets who permitted it to them, but they held onto their ancestors’ custom.” This fragment does not appear in the parallels in the *Tosefta* and in the *Yerushalmi*; it is certainly a supplementary explanation of the *baraita*. The purpose of this addition seems to be to restrict the permission given by our *mishnah*. It was not prophets who permitted it, but only “their ancestors’ custom” that they maintained. This perception corresponds to the tradition conveyed by the Talmudic redactors at the end of the previous *sugya*, according to which Ameimar changed his mind about the permission he gave to draw water on *Shabbat*.

Sugya 39: “A [dead] *sheretz* that was found in the Temple” (104b-105a)

Our *mishnah* also teaches of a special dispensation that applied within the confines of the Temple: “A [dead] *sheretz* that was found in the Temple [on *Shabbat*] – a priest takes it out with his belt so as not to let the impurity linger [there], [so] the words of R. Yohanan b. Baroka. And R. Yehuda says: [a priest takes it out] with wooden tongs [which, unlike a belt, do not acquire impurity], so as not to increase the impurity. From where do they take it out? From the Sanctuary and from the Porch to the Altar, the words of R. Shimon b. Nanas; and R. Akiva says: it must be removed from any place that [if a person were to enter while impure] he would be liable *karet* if he acted intentionally and a sin-offering if he acted in error, but in all other places – they cover it with a *psykter*.” It seems reasonable that this is an ancient *halakhah*, which stems from the obligation to remove impurity from the Temple and which permitted moving about *muktsseh* on *Shabbat*. *Tannaim* of various generations disagreed as to the details of the ancient *halakhah*, how and from where one is to remove the dead *sheretz*.

Our *sugya* does not deal directly with our *mishnah*. In the first part it discusses Shmuel’s unique statement: “One who brings into the Temple one who has [acquired] *sheretz* impurity is liable; [but one who brings in] a [dead] *sheretz* itself – is exempt” (A), and uses two disputes mentioned in our *sugya* to try to find a source for Shmuel’s position. In the second part (B) it discusses the orders of priority that determine who is fit to enter the Sanctuary for assorted purposes, including for the purpose of removing impurity, which is the focus of our *mishnah*. We will summarize briefly the various parts of the *sugya*.

Part (A) opens with Shmuel’s statement, which presents a unique, paradoxical halakhic position: although “One who brings into the Temple one who has [acquired] *sheretz* impurity is liable,” yet if he brought in “a [dead] *sheretz* itself – he is exempt.” In section [1] the Talmudic redactors open several attempts to find a basis for Shmuel’s position. At first they bring support from a Biblical homily attributed to R. Yose Ha-Glili: “‘Both male and female shall you send out [of the sacred camp if they are impure]’ (Numbers 5:3) – [this implies] excluding earthenware vessels,” and they say: “is it not because they [earthenware vessels] cannot be purified in a *mikve*? [and for the same reason a dead *sheretz* would not have to be removed from the sacred camp by Torah law].” In the end they reject this proposed support, since R. Yose HaGlili exempted earthenware vessels specifically because they differ from people, who “can become *av hatum’a* [halakhically able to impart impurity to others; the *sheretz* is like people in this sense, so, like people, one would be liable for bringing the *sheretz* into the Temple].”

In the second proposal (A)[2] the Talmud relates to the first subject in our *mishnah*, about which R. Yohanan b. Beroka and R. Yehuda disagreed. The Talmudic redactors sought to make Shmuel’s approach depend on that of R. Yehuda, who held that one

should take the *sheretz* out “with wooden tongs, so as not to increase the impurity.” Thus R. Yehuda ignored the consideration mentioned by R. Yohanan b. Beroka, “so as not to let the impurity linger [there],” thus suggesting that he held that one who brings in a *sheretz* is not liable. This proposal is rejected, since there is no hint in the *mishnah* that R. Yehuda disagreed with the problematic nature of letting impurity linger = letting the *sheretz* linger. In the *Yerushalmi* a *baraita* is brought immediately that continues the discussion in the *mishnah*, and it, too, supports this interpretation of R. Yehuda’s words.

In the third proposal (A)[3] the Talmud relates to the second disagreement in our *mishnah*, that between R. Akiva and R. Shimon b. Nanas. The Talmudic redactors seek to connect Shmuel’s view with the approach of R. Shimon b. Nanas, who held that the *sheretz* should be removed specifically from the Sanctuary and from the Porch, to the Altar,” that is, not from the Temple courtyard. Unfortunately, though, this proposed analogy seems impossible to understand; the dispute of the *tannaim* is restricted to the question as to the area of the Temple from which impurity must be removed, and, at first blush, there is no reason to assume that one of the *tannaim* mentioned in the *mishnah* disagrees about the very principle that it is forbidden to bring a dead *sheretz* into the Temple confines! Rashi deals with this difficulty, filling in the lacuna: “He holds that one who brings a [dead] *sheretz* into the Temple is exempt, that it does not require being sent out by Torah law, therefore it does not override a *shevut* [prohibition]. It is from the Sanctuary and the Porch that we remove it, for the honor [due to] God’s Holy Presence, for the Sages did not insist on the [observance of] their words [in circumstances such as these].”

According to Rashi, in section (A)[4] the Talmudic redactors sought to use R. Yohanan’s explanation of the dispute between R. Akiva and R. Shimon b. Nanas in our *mishnah* in order to reject the proposal made in section [3]. R. Yohanan proposed that the approaches of the *tannaim* in our *mishnah* stem from different interpretations of the same verse: “And the priests went in unto the inner part of the house of the Lord, to cleanse it, and brought out all the uncleanness that they found in the temple of the Lord into the court of the house of the Lord; and the Levites took it, to carry it out abroad to the brook Kidron” (II Chronicles 29:16). According to the Tosafists, however, section [4] is independent from the previous section. Abraham Weiss accepted this explanation and hypothesized that R. Yohanan’s statement was “apparently a separate matter.” According to him, R. Yohanan’s statement related directly to the *mishnah*. Weiss found this to be a classic example of a typical phenomenon of Talmudic editing: the material was originally separate, with each segment being a separate issue; however, since the segments were close to each other, both physically and in terms of their content, they were joined into one. It is probable, then, that this lack of clarity may have been caused by the weak connection between R. Yohanan’s statement, which may at some stage have been the original *sugya* that centered on our *mishnah*, and our Talmudic *sugya*.

Part (B) of the *sugya* opens with a *baraita* that deals with the question of who goes in “to take out the impurity”. There is a *halakhah* in the *tosefta* that is parallel to the *baraita* in our *sugya*, except that the *baraita* contains an additional qualification: “and these and these [= all those of different statuses who have been mentioned] : [if] they are pure – yes; [if] they are not pure – no” [1], that does not appear in the wording of the *halakhah* in the parallel *tosefta*: “[if] there are no pure ones – [then] impure ones enter.” This explanatory expression appears neither in the Geniza fragment nor in the

commentary of R. Hananel, which hints at the likelihood that this is an addition that found its way into the Talmudic text at a later period, for the reasons we pointed out in the body of the commentary.

In section (B)[2] R. Kahana quotes a homily whose parallel appears in the *Sifra*. The homily deals with a verse in the chapter that speaks of priests who have certain physical blemishes: "Only he shall not enter to the curtain, nor come near unto the altar, because he has a blemish; that he not profane My holy places; for I am the Lord who sanctifies them" (Leviticus 21:23). This homily makes it clear that the Torah's prohibition that forbids a priest with a blemish to enter to the curtain means only that he may not perform the sacrificial service, but he is allowed to enter the Holy of Holies in order to do repairs.

In the last section of the *sugya* (B)[3] a question is raised: "One who is impure and one who has a blemish – which of them should enter?." According to the version in the Geniza fragment and in R. Hananel's commentary, the problem is not limited to the conclusions arrived at from the second *baraita*, but is also possible according to the first *baraita*. According to R. Hiyya b. Ashi, quoting Rav, "The impure one enters," the reason being "for he is fit for the service of the public [sacrifices]. However, according to R. Elazar's approach, "the one who has a blemish enters," and the reason, according to the Talmud, is "for he is fit to eat sanctified foods."

***Sugya* 40: "Wherever they permitted [something] to you" (105a)**

Our *mishnah*, which concludes Tractate *Erubin* with a meta-halakhic statement, teaches: "R. Shimon says: Wherever the sages have permitted you [something], they have given you of [what is already] yours, for they have only permitted you [something that they had prohibited] because of *shevut*." This seems to be directed towards justifying the dispensations of *shevut* prohibitions that were taught in Tractates *Shabbat* and *Erubin*, and particularly at the end of our chapter. What this means is this: "Wherever the sages have permitted you [something]" = every *halakhah* in which the sages taught that something is permitted, "they have given you of [what is already] yours" = of that which was yours, that is, of that which was permissible *ab initio*, and it is they who forbade it [by the authority vested in them] and it is they who permitted it [by that same authority], "for they have only permitted you [something that they had prohibited] because of *shevut*" = for they permitted only *shevut* prohibitions and not Torah prohibitions. This simple explanation of the statement in the *mishnah* was accepted by *rishonim*, *acharonim*, and scholars, but the *Bavli* interpreted it differently, not in accordance with its plain meaning.

In section [1] the Talmud asks in what context R. Shimon made his statement, to what did he refer? It certainly had no connection to what was said in the first part of the *mishnah*, that deals with a dead *sheretz* that was found in the Temple. The Talmudic redactors answered that R. Shimon's statement in our *mishnah* referred to his own statement concerning the law of one "who went out beyond the *Shabbat* boundary" that we learned above in chapter 4 *mishnah* 11. R. Shimon disagreed there with the first *tanna* and with R. Elazar, and said: "Even [if he was] fifteen cubits [outside] – he may come [back] in, for the surveyors do not measure exactly, for the sake of those who err [who go beyond the *Shabbat* boundary by mistake]." What Goldberg wrote seems reasonable, that the *Bavli* explained the word "place" literally; the place that the sages permitted you is a place outside of the *Shabbat* boundary, the fifteen cubits beyond the limit, from which R. Shimon permitted returning back inside the boundary.

In section [2] the statement of the Talmudic redactors is brought, linking the continuation of R. Shimon's statement of principle in our *mishnah* - "for they have only permitted you [something that they had prohibited] because of *shevut*" - to the *baraita* that was mentioned above (*sugya* 33): "A Levite whose [musical] string was severed - may tie it. R. Shimon says: he may make a bow. R. Shimon b. Elazar says: It won't even produce a sound." Dividing R. Shimon's statement in our last *mishnah* into two is astounding, for the phrase "for they have only permitted you [something that they had prohibited] because of *shevut*" certainly refers to the earlier part of his statement in the *mishnah*! David Halivni suggested that the Talmud had a *vav* at the beginning of that phrase in its version of the *mishnah*, as appears in MS Cambridge, and interpreted it as a distinguishing *vav* - "and [R. Shimon also said, concerning his halakhic view in a different dispute] for they have only permitted you because of *shevut*." In any event, the anonymous Talmud's explanation of R. Shimon's position, "making a bow, that does not bring [one] to being liable a sin-offering, the sages did not decree [a prohibition against it]; tying, that brings [one] to being liable a sin-offering, the sages did decree [a prohibition against it]", is a novel interpretation, not necessary for understanding the position of the first *tanna* in the *mishnah* of "they tie a string."