
MAIMONIDES' ATTITUDE TO THE TALMUDIC TERM 'EIKA DE-AMREI' AS REFLECTED IN HIS HALAKHIC RULINGS ASSOCIATED WITH TRACTATE ERUVIN OF THE TALMUD BAVLI

Uri Zur*

Ariel University, Kiryat Hamada 3, Ariel, 40700, Israel

(Received 26 November 2023, revised 21 December 2023)

Abstract

The article relates to Maimonides' attitude to the Aramaic term 'eika de-amrei' (= ED, i.e. there are others who say) when attempting to reach a halakhic ruling associated with the Talmud. It examines the impact of this term on Maimonides as reflected in his halakhic rulings emanating from Tractate Eruvin of the Talmud Bavli. The purpose is to explore whether Maimonides ruled consistently in accordance with the first statement or with the second statement preceded by the term ED, or whether his ruling was inconsistent in this regard. An endeavour is made to follow Maimonides' approach regarding the term ED when ruling, as evident from sugyot in Tractate Eruvin. Naturally, his approach in this tractate is also valid for sugyot in other tractates of the Talmud Bavli.

Keywords: Bavli, Eruvin, eika de-amrei

1. Introduction

The term *eika de-amrei* (ED) appears frequently in the Talmud Bavli. This article aims to examine Maimonides' attitude to this term when arriving at halakhic rulings associated with Tractate Eruvin in the Talmud Bavli. The meaning of the term is 'there are others who say', and it refers to a second statement in addition to one that preceded it in the sugya.

At times, some commentators use the words לישנא קמא (*lishna kama*, i.e. the first statement) and לישנא בתרא (*lishna batra*, i.e. the second/last statement), where the latter is added via the term ED.

In the literature on the Talmudic rules, the meaning of this term is explained concisely based on the Talmud, as follows: "Where the first statement is brought by the Talmud anonymously and the latter statement via the phrase *eika de-amrei*" [1]. Elsewhere it is added that "We do not find [a second statement, preceded by the term] *eika de-amrei* that contradicts the first

*E-mail: uriz@ariel.ac.il, phone: +972-54-3394717

[statement]” [2]. Some scholars, however, do not agree and contend, on the contrary, that the term *ED* indicates “the opposite of that said” in the first statement [3].

Other scholars explained the meaning of the term *ED* as “the proposal of a second statement whose content differs from that of the first” [4] or “an expression that initiates another tradition within the words of an amora or another gemara on a certain topic” [5]. Usually, the term *ED* appears anonymously without noting the name or identity of the speaker/s [6].

In Tractate Eruvin the term *ED* may also precede a second statement presenting different types of alternate phrasings, such as alternate versions in the words of the amoraim (Eruvin 6b, 8a, 18a, 53b), alternate versions regarding the names of amoraim (Eruvin 10a, 73b), alternate wordings (Eruvin 24a, 29a((x2)), 53a) [7-9], or matters that have no effect on the halakhic ruling (Eruvin 58a) or that have no consequences for the halakhic ruling (Eruvin 92a), etc., which we will not address here because Maimonides did not rule in their context. (We shall also not address a mishna where Maimonides had before him a different version than all the other versions (Eruvin 98b-99a)).

We shall primarily analyse whether Maimonides related to the term *ED* consistently in his halakhic rulings. Namely, how did he rule when the Talmudic sugya included the term *ED*? Did he rule consistently according to the first statement (*lishna kama*) or according to the second statement in the sugya, preceded by the term *ED*? Or did he rule as he saw fit in light of the logic underlying the sugya, according to either the first or the second *ED*-linked statement and not consistently one way or another? First, we will present the meaning of the term *ED* as evident from the literature on the rules of the Talmud.

2. The term ‘eika de-amrei’ in the literature on the rules of the Talmud

The term *ED* has different indications, as evident in the literature on the Talmud’s rules [10], and these have implications for how halakhic rulings are reached.

The first indication of the term *ED* is that the halakha should always follow the statement indicated by the term *ED* in the sugya [11-14]. The second indication is the opposite of the first, whereby the halakha should follow the first statement (*lishna kama*) preceding statement in the term *ED* in the sugya, because “Rav Ashi arranged the majority and primary statements first and placed the minority and secondary statements under the term *ED*” [11, 14, 15]. The third indication determines that in the case of a ruling based on the words of the Torah the stricter opinion should be adopted, while when the ruling is based on a rabbinical decree the lenient opinion should be followed [11, 14, 15]. The fourth indication clarifies that in the case of a ruling based on the words of the Torah the stricter opinion should be followed and when the ruling is based on a rabbinical decree, the last strict [sage] should be followed [13, 14]. The fifth indication determines that whenever the term *ED* is present, the strict opinion or sage should be followed [13]. The sixth indication is that whenever the sugya

analyzes one of the statements, the first statement in the sugya (*lishna kama*) or the second statement (*lishna batra*) preceded by the term *ED*, the halakha should follow the first or second statement (preceded by the term *ED*) that guides the analysis of the sugya [13]. The seventh indication determines that in financial matters and in matters of prohibitions for the purpose of reaching a stricter approach, the ruling should follow the *ED*-linked statement [13].

Some contend that the phrase *ED* and the phrase *ei bait eima* (= if you wish I will say) are one and the same [16].

We shall now examine those sugyot in Tractate Eruvin that encompass the term *ED* and address halakhic issues, and we shall present Maimonides' approach to the second *ED*-linked statement, as evident from his halakhic rulings. In addition, we shall investigate whether he ruled in accordance with one of the previously mentioned seven indications or utilized another indication of his own.

3. Results and discussion

3.1. Sugyot in Tractate Eruvin that utilize the term *ED*

3.1.1. Sugya on the topic of extending *dyumdin* (Eruvin 19b (1))

Abaye enquired of Rabbah: What is the ruling according to R. Meir where one extended the corner-piece (= *dyumdin*) [so that the excess of their width was] equal to the required width of the single boards? The other replied: You have learnt this 'Provided one increases the strips of wood', [which means,] does it not, that one extends [the width of] the corner-pieces? No, [it might mean] that one provides more single boards. If so, instead of 'Provided one increases the strips' [should not the reading] have been, [until] 'Provided one increases the number of the strips'? Read: 'Provided one increases the number of strips'.

There are others who read [*ED*]: The other replied: You have learnt it 'Provided one increases the strips' [which means,] does it not, that one must provide more single boards? No, that one extends [the width of] the corner-pieces. By deduction also one arrives at the same conclusion, since it was stated 'Provided one increases the strips'. This is decisive [Epstein edition].

3.1.2. Explanation of the two statements and of Maimonides' ruling

Abaye questions Rabbah and asks about the ruling, according to R. Meir, on the issue of extending the *dyumdin* (two boards that are attached to each other at an angle, where one faces one way and the other another, forming a corner-piece). Can a strip (= a board one cubit wide and 10 cubits long) be added to each of the two *dyumdin* surrounding a well, such that if the space between these two *dyumdin* is twelve cubits, including the width of each of the two *dyumdin*, it would be enough to extend each of the two *dyumdin* by a width of one cubit, whereby the space between the two *dyumdin* would be reduced to ten cubits - which is the permitted space between the *dyumdin* according to R. Meir? All

this, instead of adding a single strip (= board) one cubit wide and ten cubits long within the existing twelve-cubit space between the two *dyumdin*.

According to the first statement, Rabbah answered that single strips (= boards) should be added in the space between the two *dyumdin*, because extending the *dyumdin* by adding two (one cubit wide) strips to each of the two *dyumdin* surrounding a well is not considered an addition of single strips (boards) for the purpose of reducing the space (to ten cubits) - which is the permitted space between *dyumdin* according to R. Meir.

The second statement, preceded by the term *ED*, states that the existing *dyumdin* can be extended by adding two one-cubit wide strips (= boards) to each of the two *dyumdin*, which obviates the need to add single boards within the space between the *dyumdin* to reduce the interim space to ten cubits - the distance permitted according to R. Meir.

Maimonides ruled in accordance with the first statement: "It is permissible to separate [the walls] from the well as far as one desires, provided that one adds single strips on every side, so that there will never be more than thirteen and one third cubits between each two strips" [17]. Maimonides' ruling (that follows Rabbah's words as brought in the first statement) resembles that of a previous *posek* (= decisor): "בפסין ומותר להרחיק כל שהוא ובלבד שירבה" (= "it is permitted to increase the distance by any amount, provided that he increases the strips") [18].

The commentators too understand that Maimonides ruled in accordance with the first statement, and one of them wrote: "And this is not the approach of Maimonides, as he [=Maimonides] wrote... provided that one adds single strips on every side... this is a strict approach, and single [strips] are compatible with the approach of Maimonides" [19]. Another commentator too contends that Maimonides ruled in accordance with the first statement [20].

Commentators who preceded Maimonides interpreted similar to Maimonides' ruling: "And we concluded, following the first statement, that they are not considered *dyumdin*". Namely, the corner-pieces surrounding the well should not be extended, rather single strips (= boards) should be added on each side, in the space between the *dyumdin* [21]. Notably, other commentators do not agree with Maimonides [22].

The phrase "וּבִלְבַד שִׁירְבָה בַּפְּסִין" (= "provided that one adds single strips") exists also in the Mishna (Eruvin 2:1) and in the Tosefta [23, 24].

The scholars indicate that the phrase "שִׁירְבָה בַּפְּסִים" (= "that one adds single strips") (as vowelized in the MS Kaufmann version) means that one increase the number of boards [25-30]. Despite the scholars' sweeping support of this meaning, it is notable that, grammatically, this does not mean that Abaye's question was inappropriate or unnecessary, as in Hebrew this phrase can have a double meaning, as evident from the two statements.

3.1.3. *Sugya on the topic of a fence of reeds (Eruvin 19b (2))*

Abaye enquired of Rabbah: Is a fence of reeds [growing on the two sides of the corner of a well enclosure] [in which the distance between] any two reeds was less than three handbreadths regarded as a valid corner-piece or not? The

other replied: You have learnt this 'if there was present a tree or a wall or a fence of [growing] reeds it may be treated as a corner-piece'. Does not [this refer to a fence in which the distance between] any two reeds was less than three handbreadths? No, [it may refer to] a hedge of reeds [all growing from the same stem]. If so, is it not exactly [of the same nature as] a tree [mentioned in the baraita]? What then [would you suggest? That it referred to a fence in which the distance between] any two reeds was less than three handbreadths? Is not this [one could well retort] exactly [of the same nature as] a wall? What then could you reply? [That there are] two kinds of wall? [Well then] in this case also [one might reply that there are] two kinds of tree.

There are [others] who say [ED] that he [Abaye] enquired concerning a hedge of reeds [all growing from the same stem]. What [he asked, is the ruling in respect of] a hedge of reeds? The other replied: You have learnt this 'if there was present a tree or a wall or a fence of [growing] reeds it may be treated as a corner-piece'. Does not this refer to a hedge of reeds? No, [it may refer to a fence in which the distance between] any two reeds was less than three handbreadths. If so, is it not exactly [of the same nature as] a wall? What then [would you suggest? That it refers to] a hedge of reeds? Is not this exactly [of the same nature as] a tree [mentioned in the baraita]? What then could you say in reply that there are two kinds of tree? [Well then] in this case also [one might submit that there are] two kinds of wall... [Epstein edition].

3.1.4. Explanation of the two statements and of Maimonides' ruling

Once again, Abaye questions Rabbah and inquires about the law in the case of a fence of reeds arranged as a *dyumad* (namely, as a corner-piece), where each reed is within three handbreadths (one handbreadth equals about 10 cm) from the adjacent reed; whether it is considered a *dyumad* or not.

According to the first statement, Rabbah answered Abaye based on a baraita that they had learned ('if there was present a tree or a wall or a fence of [growing] reeds it may be treated as a corner-piece'), whereby a fence of reeds is indeed considered a *dyumad*.

According to the second statement preceded by ED, Abaye did not ask about the fence of reeds but rather about another topic, a hedge of reeds all growing from the same stem. Is it considered a *dyumad* or not?

Rabbah answered Abaye according to a baraita they had learned, that a hedge of reeds growing from the same stem is indeed considered a *dyumad*.

But according to the baraita mentioned above, it can be said that a fence of reeds is a fence where the space between the reeds is less than three handbreadths, but it cannot be proven from the baraita that a hedge of reeds growing from the same stem can be considered a *dyumad*.

Maimonides ruled in accordance with the first statement: "When five reeds are erected with less than three [handbreadths] between each pair of them... If there are six handbreadths on one side and six handbreadths on the other side, they are considered to be two walls positioned at a corner" [17]. Another *posek* contends that Maimonides ruled according to the first statement:

”ופשט ליה רבה דנדון משום דיומד... קיימא לן כפשיטותיה דרבה” (= “Rabbah answered [Abaye] that a fence made of reeds is considered a *dyumad*... and Rabbah’s answer [in the first statement] is agreed and accepted”) [31]. Thus, also some of the commentators justify Maimonides’ ruling ”והדין איתו” (= “and his ruling follows the law”) that is based on the first statement “עיקר לישנא קמא” (= “the first statement is the primary one”) and as Rabbah solved Abaye’s question in the first statement [32].

3.1.5. *Sugya on the topic of giving a cow water, where the cow is standing in the public domain and drinks from a vessel held by a person in the private domain (Eruvin 20b)*

In the case of a human being it has been laid down that it is necessary for his head and the greater part of his body [to be in the domain from which he drinks], is it necessary in the case of a cow also [where it stands in a public domain and its keeper in a private domain] that its head and the greater part of its body [shall be in the domain from which it drinks] or not? Wherever [the keeper] holds the vessel [from which the cow drinks] and does not hold the animal there can be no question that it is necessary for its head and the greater part of its body to be within [the private domain]. The question only arises where he holds the vessel and also the animal. The other replied: You have learnt it Provided a cow can be within [the enclosure with] its head and the greater part of its body when drinking. [This refers,] does it not, to a case where the [the keeper] holds both the cow and the vessel? No, [it may refer to one] who holds the vessel but not the cow...

Some there are who say [ED]: In the case of a human being it had definitely been laid that it was enough if his head and the greater part of his body [were in the domain from which he drinks], is it enough, however, in the case of a cow that its head and the greater part of its body [should be in the domain from which it drinks] or not? Wherever [the keeper] holds the vessel and also the cow there can be no question that it is enough for its head and the greater part of its body to be [within the private domain]. The question only arises where he holds the vessel but not the cow. Now what is the ruling? The other replied: You have learnt it Provided a cow can be within [the enclosure with] its head and the greater part of its body when drinking. [This refers,] does it not, to a case where [the keeper] holds the vessel but not the cow? No, [it may refer to one] who holds both the vessel and the cow... [Epstein edition].

3.1.6. *Explanation of the two statements and of Maimonides’ ruling*

According to the first statement, it is permitted to give a cow (or any animal) a drink from a vessel held in one’s hand, whether the person is holding the cow or not. If the person is not holding the cow, however, the cow can be given a drink from a vessel only if its head and the greater part of its body are inside, namely, between the strips of the well. But according to this statement it is uncertain, according to the mishna (Eruvin 82a), whether the cow’s head and

the greater part of its body must be inside even when the person is holding the cow.

According to the second statement preceded by *ED*, it is clear that even if the person is holding the cow, its head and the greater part of its body must be inside.

Maimonides ruled following the first statement: "...provided there is still enough space for the majority of the cow's body to be within these walls when it is drinking. Although one does not hold the head of the animal together with the vessel from which it is drinking, since there is space for the head and the majority [of its body] within, it is permitted" [17]. Another *posek* contends that Maimonides ruled according to the first statement: "וכדברי רבינו ולפום בעיא קמייא" (= "and according to the first problem [which preceded this problem in the sugya] it is clear that [the person] does not have to hold [the cow], and as stated by our *rabbenu*" [Maimonides]) [31]. However, not all the commentators agree with Maimonides' ruling [33].

3.1.7. Sugya on the topic of a person who is on the way and is overtaken by dusk before the Sabbath (Eruvin 50b-51a)

If, however, he said 'Let my Sabbath base be at its root', he may walk from the place where he stands to its root a distance of two thousand cubits, and from its root to his house another two thousand cubits. Thus he can walk four thousand cubits after dusk. Raba (/Rabbah) explained: This applies only where by running towards the root [the spot he appointed as his Sabbath base] he can reach it [before the Sabbath began]. Said Abaye to him: Was it not in fact stated, 'Was overtaken by dusk'? [The meaning is that] he was overtaken by dusk as far as his house was concerned [he could not reach his house before dusk, even by running], the root of the tree, however, he could well reach before dusk. Others say [*ED*], Raba (/Rabbah) replied: [The meaning is that] he would be overtaken by dusk if he walked slowly but by running he could well reach the root [Epstein edition].

3.1.8. Explanation of the two statements and of Maimonides' ruling

According to the mishna (Eruvin 49b), if a person says "שביתתי בעיקרו" (= "let my Sabbath base be at its root"), referring to the trunk of a certain tree, he is permitted to walk on the Sabbath two thousand cubits from his current location to the trunk of the tree and another two thousand cubits from that tree trunk to his home. Hence, after the Sabbath has begun, when dusk has already fallen, that person may walk a distance of four thousand cubits. Raba (/Rabbah) delimits the mishna and says that it applies only if the person could have run to the tree trunk and reached it before the Sabbath.

Abaye questioned Raba (/Rabbah) about the mishna's phrase "וחשכה לו" (= "overtaken by dusk") (Eruvin 49b), and from Raba (/Rabbah's) answer it can be understood that two statements were generated from his words to explain the mishna's phrase 'overtaken by dusk'.

According to the first statement, the mishna's phrase 'overtaken by dusk' means that it began to darken, to such a degree that the person would be unable to reach home before the Sabbath even if he were to run.

According to the second statement preceded by *ED*, the mishna's phrase 'overtaken by dusk' means that it began to darken to such a degree that the person would be unable to reach the 'root' of the tree, the tree trunk, before the Sabbath if he were to walk leisurely, but if he were to run he would reach it.

Maimonides ruled in accordance with the second statement preceded by *ED*: "...a person on a journey who is afraid that soon night will fall... Provided there is enough time in the day for him to reach the designated place before nightfall - if he ran with all of his strength - and there are two thousand cubits or less between him and that place at nightfall" [34]. Other *poskim* also ruled like Maimonides [35, 36]. One of the commentators interpreted that the latter *posek* [36] ruled as Raba (/Rabbah) in accordance with the second statement preceded by *ED*: "וְכַיֵּן דְּאִמְרֵי בִּשְׁם רַבָּא" (= "and like the [second statement preceded by the term *ED*] 'there are others who say', in the name of Raba") [37]. Accordingly, it may be said that Maimonides too ruled according to the second statement preceded by *ED*.

3.1.9. *Sugya on the topic of going out beyond the Sabbath limit (Eruvin 52b)*

Mishnah. He who went out beyond his Sabbath limit even only a distance of one cubit must not re-enter. R. Eliezer ruled: [If a man walked] two cubits beyond his Sabbath limit he may re-enter, [and if he walked] three cubits he may not re-enter.

Gemara. R. Ḥanina ruled: If a man had one foot within his Sabbath limit and his other foot without that Sabbath limit, he may not re-enter, for it is written in Scripture, *If thou turn away thy foot from the Sabbath* (Isaiah 58.13), the written form being 'thy foot' [singular *raglekha*]. But was it not taught: If a man had one foot within his Sabbath limit and his other foot without, he may re-enter? This represents the view of 'Others' [R. Meir]. For it was taught: Others maintain that a man is deemed to be where the greater part of his body is. Some there are who read [*ED*]: R. Ḥanina ruled: If a man had one foot within his Sabbath limit and his other foot without [that Sabbath limit], he may re-enter, for it is written in Scripture, *If thou turn away thy foot from the Sabbath* (Isaiah 58.13) which is read as 'thy feet' [plural *ragle-kha*]. But was it taught: He may not re-enter? He [R. Ḥanina] maintains the same view of 'Others' [R. Meir], it having been taught: A man is deemed to be where the greater part of his body is [Epstein edition].

3.1.10. *Explanation of the two statements and of Maimonides' ruling*

According to R. Hanina in the first statement, a person who is standing at the edge of the two thousand cubit Sabbath limit, with one foot inside the Sabbath limit (a two thousand cubit Sabbath limit which one may not pass on the

Sabbath and certain holy days), where the second foot crossed the boundary and left the Sabbath limit - may not re-enter the Sabbath limit.

According to R. Hanina in the second statement - this person may re-enter the Sabbath limit.

Maimonides ruled according to the second statement preceded by *ED*: "If one of a person's feet is inside the Sabbath limits and his other foot is outside the Sabbath limits, he may enter" [17, p. 122]. This was also the ruling of other *poskim* (plural) who preceded Maimonides [18, p. 30] and of later *poskim*: "מִמְרָא דְרַבִּי חֲנִינָא כְּלִישְׁנָא בְּתָרָא" (= "R. Hanina's words [should be accepted] as following the second statement" [preceded by *ED*]) [38], as well as of other commentators [39], and yet others wrote: "וְלִישְׁנָא בְּתָרָא יִכְנֹס" (= "and according to the second statement he may re-enter" [31, p. 122] and "וְכְלִישְׁנָא בְּתָרָא" (= "and as in the second statement") [37, p. 290, n. 2].

3.1.11. Sugya on the topic of measuring the depth of a glen (Eruvin 58b)

What may be the depth of a glen? [that is spanned if it is not wider than fifty cubits]. R. Joseph replied: Two thousand cubits. Abaye raised an objection against him: [If a glen was] a hundred cubits deep and fifty cubits wide one may span it, otherwise one may not. He holds the view of 'Others' [with capital O, sc. R. Meir], it having been taught: Others rule: Even though a glen was two thousand cubits deep but only fifty cubits wide one may span it. Some there are [*ED*] who read: R. Joseph replied: Even if it was deeper than two thousand cubits. In agreement with whose view is this ruling? It is neither in agreement with that of the first Tanna [who limits the depth to one hundred cubits] nor with that of the 'Others' [R. Meir who allows a depth of two thousand cubit but no more]. There [the case in dispute between the first Tanna and 'Others'] it is a case where the plumb line does not descend in a straight line [as the slopes of the glen, to a limited extent at least, can be used for walking on, its depth was restricted] but here it is one where it does descend in a straight line [the sides of the glen being absolutely unsuitable for walking, its depth, however great, is of no consequence]. Where the plumb line does not descend in a straight line how much [deviation at the bed of the glen in relation to the edge thereof] is allowed? Abimi replied: Up to four cubits, and so learned Rami b. Ezekiel: Up to four cubits [Epstein edition].

3.1.12. Explanation of the two statements and of Maimonides' ruling

The sugya addresses the issue of the appropriate depth of a glen (i.e. crevice) (that is no more than fifty cubits wide) such that it can still be spanned (i.e. the glen's width can be measured in a straight line without measuring the length of its slope. This spanning is carried out with two surveyors at the two ends of the glen, who hold a measuring rope in a straight line from one edge of the glen to the other, such that the entire length of the slope is spanned [40]).

According to the first statement, R. Joseph answered that the depth should be no more than two thousand cubits for it to be spanned.

According to the second statement preceded by *ED*, R. Joseph said that even if the glen is deeper than two thousand cubits it can be spanned. This is true when the plumb line descends in a straight line parallel to the surveyor, meaning that the slope of the glen is perpendicular to the surveyor and therefore such a slope cannot be measured. In this outstanding case, according to R. Joseph, the glen can be spanned even if it is deeper than two thousand cubits.

Notably, there are alternate versions, both for the first statement and for the second statement preceded by *ED* in the talmudic text. In addition, there are alternate wordings also in the words of commentators such as R. Hananel [41] and those of *poskim* such as Rif [18, p. 17a; 36, p. 288b; 39, p. 228; 42; 43]. In addition, we do not know for certain the wording utilized by Maimonides [31, p. 122; 44].

The scholars too contend that, according to the content of the second statement preceded by *ED*, “the question and answer brought in the name of an amora on the first statement do not exist and ‘never truly existed’” [8, p. 536] or the “content-based” relationship between the two statements is that one contradicts the other and the first statement cannot exist together with the second one [45].

Some of the scholars concluded that there is a missing element both in the first statement and in the second statement preceded by *ED*, as well as supplements added by others who were not the disputants themselves (Abaye and R. Joseph). These scholars contend that “it appears to some degree that the first statement is the primary one” [27, p. 156-157].

In light of all the above, this may affect the halakhic ruling.

In any case, Maimonides ruled: “When [the measurers] reach a glen that is fifty cubits wide... so that it can be spanned..., this should be done, provided it is less than four thousand cubits deep.... When does the above apply? When a plumb line descends directly... If, however, the plumb line does not descend directly, one should not span, unless the glen is two thousand [cubits] or less in depth.” [17, p. 125]

On one hand, in light of the alternate versions of the sugya and the uncertainty regarding the version that Maimonides had before him, it is hard to know for certain how Maimonides ruled, namely, if his ruling followed the first statement or the second statement preceded by *ED* - this is unclear.

On the other hand, contrarily, some commentators contend that Maimonides ruled both according to the first statement [46] - when the plumb line does not descend in a straight line [38, p. 223-225; 43; 47] - and according to the second statement preceded by *ED* [46] - when the plumb line does descend in a straight line [31, p. 125-126; 38, p. 223-225; 43; 47]. Notably, the scholars are in favour of the first statement [27, p. 157].

3.1.13. Sugya on providing an ‘erub for half a city, either half its length or half its breadth (*Eruvin* 59b)

The master said, ‘No ‘erub, furthermore, may be provided for a half of it’ [a public domain]. R. Papa explained: This was said only [in the case where the

division was] longitudinal [along the public domain] but if it was crosswise [it cut the town into two halves across the middle of the public domain] an 'erub may be provided for each half separately. In agreement with whose view has this [R. Papa ruling] been laid down? It is contrary to that of R. Akiba ... It [R. Papa ruling] may be said to be in agreement even with the view of R. Akiba

Some there are [ED] who read: R. Papa explained: It must not be assumed [that only where the division was] longitudinal may no 'erub be prepared but that where it was crosswise an 'erub may be prepared. The fact is that even where the division was crosswise no 'erub may be prepared. In agreement with whose view is this laid down? Is it only in agreement with that of R. Akiba? It may be said to be in agreement even with the view of the Rabbis ... [Epstein edition].

3.1.14. Explanation of the two statements and of Maimonides' ruling

According to the first statement, R. Papa limits the words of the baraita “אין מערבין עיר לחצאין” (= “no 'erub may be provided for half of a town”) (Eruvin 59a) and he contends that no 'erub can be prepared (in two *shitufei mevo'ot*) when their boundary passes along the street, dividing the town lengthwise. (An 'erub is a means of enabling freer movement on the Sabbath than that restricted by the halakha, by depositing food in a certain place and thus setting the centre of one's abode there. The concept of *shitufei mevo'ot* constitutes a halakhic regulation aimed at permitting one to transfer objects from a common courtyard to an area shared by several courtyards.) But an 'erub can be prepared (in two *shitufei mevo'ot*) when their boundary crosses the street, dividing the town crosswise (and these words of R. Papa are also compatible with R. Akiba's view).

According to the second statement preceded by ED, R. Papa's restriction of the baraita “אין מערבין עיר לחצאין” (= “no 'erub may be provided for half of a town”) (Eruvin 59b) is inclusive, namely, the statement that no 'erub may be provided for half of a town is true not only when the 'erub divides the town lengthwise but also when it divides the town crosswise. In other words, no 'erub may be provided for a town either for half its length or for half its width (and these words of R. Papa are also compatible with the sages' view) [30, p. 868].

Maimonides ruled according to the second statement preceded by ED: “An 'erub is not established in half a city” [34, p. 154], neither to the length or to the breadth of the city, and as in the Tosefta [23, p. 112], and this is compatible with R. Judah in the Talmud Yerushalmi (Eruvin 5:5, 22d) and as noted by the scholars it is consistent with R. Papa in the second statement [26, p. 389] (but further on in the sugya, in the Talmud Yerushalmi, a question was raised about whether R. Judah's view had been transposed, and the solution given there indicates that according to the Yerushalmi an 'erub may be provided in the public domain by dividing the city crosswise but not lengthwise - following the view of R. Papa in the first statement [26, p. 390]). In fact, Maimonides ruled according to the view of Rif [18, p. 34; 38, p. 197]. It is

surprising that some contend that Maimonides' ruling was lenient [namely, according to R. Papa in the first statement] [48].

Some commentators interpreted the phrase "no 'erub may be provided for half of a town (/public domain)" differently. Namely, if the townspeople wish to establish an 'erub for only half the town, they can do so, and the intention was not that no 'erub may be provided for half a town [26, p. 389; 49]. Rather, if they had already established an 'erub for the entire public domain, it is not possible to then establish an 'erub in halves, namely, that each half city will establish an 'erub separately and independently.

It is notable, however, that other *poskim* ruled following R. Papa's view in the first statement [15; 39, p. 115a] for two reasons. The first is that in matters concerning an 'erub the halakha is lenient. The second is that the statement preceded by *ED* is secondary to the first statement.

3.1.15. *Sugya on companies who spent the Sabbath in one hall (Eruvin 72a)*

Mishnah. If five companies spent the Sabbath in one hall each company, Beth Shammai ruled, must contribute separately to the 'erub; but Beth Hillel ruled: All of them contribute to the 'erub only one share.

Gemara. R. Nahman stated: The dispute relates only to partitions of stakes [*mesifas*] but where the partitions were ten handbreadths high all agree that a separate contribution to the 'erub must be made for each company.

Others read [*ED*]: R. Nahman stated: The dispute relates also to partitions of stakes ... [Epstein edition].

3.1.16. *Explanation of the two statements and of Maimonides' ruling*

R. Nahman's words were aimed at explaining the mishna (Eruvin 72a), which describes a dispute between Beth Shammai and Beth Hillel concerning partitions that divide between five companies who are in one big hall. Each company has an opening to a courtyard shared by all five companies. The question on which Beth Shammai and Beth Hillel were divided is: Must each of the five companies provide its own 'erub *hatzerot* (occupants of a building with a common court contribute their share towards a dish deposited in one of the apartments, whereupon all the apartments are deemed common to all and objects may be carried from one to the other on the Sabbath) or is a single 'erub *hatzerot* sufficient for all five courtyards.

In the sugya, R. Nahman explains the dispute between Beth Shammai and Beth Hillel. According to the first statement, R. Nahman says that the dispute between Beth Shammai and Beth Hillel is only about the *mesifas*, which is a partition made of wooden stakes that is lower than ten handbreadths. According to Beth Hillel, such a partition that is lower than ten handbreadths does not divide companies of people who live between the partitions to separate domains, rather on the contrary, they are considered living in one domain and therefore one 'erub is sufficient for all those living there. But if the partition is higher than ten handbreadths (even if it does not reach the ceiling), Beth Hillel too contend

that such a high partition creates a separation between the companies living between such partitions and each of the companies there is in fact in a separate domain and therefore must provide an 'erub for itself, separate from the others.

According to the second statement preceded by *ED*, R. Nahman said that the dispute between Beth Shammai and Beth Hillel is also about the *mesifas*. According to Beth Shammai, even if the partition is lower than ten handbreadths, each company living between such partitions is considered separate. The partitions separate the companies into different domains and therefore each of the five companies must provide its own 'erub. Obviously, if the partition is higher than ten handbreadths, each company living between such partitions will have to prepare a separate 'erub.

According to Beth Hillel, who disagree with Beth Shammai, even if the partition is higher than ten handbreadths it does not form a separation and does not divide the companies living there into separate domains. Therefore, a single 'erub is sufficient for all the companies living there (and there is no need for each company to prepare a separate 'erub).

The difference between the two statements is that according to the first statement the dispute is narrowed down, but for the purpose of reaching a stricter view. According to the second statement, there is no narrowing of the dispute [28, p. 179].

Maimonides ruled in accordance with the second statement preceded by *ED*: "[When] five groups spend the Sabbath together in a single large hall: If a partition that reaches the ceiling separates each of the groups, it is as if each group has a room of its own... In such an instance, every group must contribute a loaf of bread ['erub hatzerot]. If, however, the partition does not reach the ceiling, a single loaf of bread is sufficient for all of them. For they are all considered to be the members of a single household." [34, p. 148]

Other commentators too side with the second statement, and they wrote "אחיה כלישנא בתרא" (= [the dispute between Beth Shammai and Beth Hillel] "follows the second statement" [according to R. Nahman's explanation] [47, p. 22a; 50]).

The scholars suggest two options regarding how the two statements featuring R. Nahman were formed. The first option is that R. Nahman's comment concerned the *mesifas* only and this was the basis for the two statements. The second option is that R. Nahman's comment on the *mesifas* could be understood in two ways, thus generating the two statements that cite him. The understanding reflected in the first statement is that the dispute between Beth Shammai and Beth Hillel concerns only the *mesifas* and not the issue of the partition. The understanding reflected in the second statement is that the dispute between Beth Shammai and Beth Hillel concerns both the *mesifas* and the issue of the partition [45, p. 246]. Other scholars contend that R. Nahman was cited in two opposing versions [first statement and second statement] of the Mishna. Further on in the sugya, other explanations of the Mishna, by R. Hiyya and R. Sime'on son of Rabbi, are brought. All these explanations, both by R. Nahman in the two statements and by the two latter sages, present questions based on a baraita in the name of R. Judah ha-Sabbar

(= the reasoner or the interpreter). These questions end with the term *te'yuvta* (= an objection) (meaning that the explanations by all the aforementioned sages cannot contradict the baraita, which is a tannaitic source from a previous era) and therefore they cannot be accepted, aside from that of R. Nahman in the second statement preceded by *ED*, who is not referred to by this term [30, p. 890]. Hence, Maimonides too may have ruled in accordance with the second statement that is preceded by *ED*.

3.1.17. *Sugya on the issue of the halakhic permission to fill water on the Sabbath on a balcony with a partition (Eruvin 88a)*

Rabbah son of R. Huna stated: This [that the Rabbis recognized the validity of a suspended partition on a balcony] was learnt only in respect of drawing water, but pouring it down [through the hole] is forbidden [because the water is carried down the stream beyond the partitions]

Others say that Rabbah son of R. Huna explained: Do not say: It is only permitted to draw water but that it is forbidden to pour water down; since in fact it is also permitted to pour it down [Epstein edition].

3.1.18. *Explanation of the two statements and of Maimonides' ruling*

Two statements cite Rabbah son of R. Huna regarding the mishna that permits filling water on a balcony on which a partition of more than ten handbreadths was erected (Eruvin 78b).

According to his words in the first statement, he limits the words of the mishna and says that it permits filling water on the Sabbath on a balcony (on which there is a partition of ten handbreadths) through a hole in the balcony. But it is forbidden to pour water [meaning, sewage] through the hole in the balcony to the water (such as, a sea or river) below. The explanation is that the stream, for instance the river, conducts the sewage beyond the partitions on the balcony [40, p. 88a], which is considered removing something from one domain (the private domain) to another (a Carmelit, which is neither a private nor a public domain, such as a sea or river), which is forbidden in the context of the balcony.

According to Rabbah son of R. Huna in the second statement preceded by *ED*, not only is it permitted to fill water on the balcony, rather it is also permitted to pour (sewage) through a hole in the balcony, where the explanation is that the person pouring does not care whether the water is carried out beyond the partition or not [40, p. 88a] as it cannot be said that the pourer intended for the sewage to come out beyond the partition.

Maimonides ruled according to the second statement preceded by *ED*: "Just as one may fill [water on the Sabbath from the sea] from this (from the *khatzotzera*, according to Maimonides, following the version of the Yerushalmi (yEruvin 8:9,24d; yEruvin 8:9,25b)) and also in Maimonides' commentary on the Mishna in the Arabic origin '*khatzotzera* is *alrawshan*' (الروشن) [51] (meaning aperture, window) or *khatzotztera* or *kassostera* [52], similar to the version of MS Kaufmann - which is in fact a balcony above the sea, with a

window that is above the water)], on which a partition [higher than ten handbreadths] was erected, thus [water] can be poured from it [from the balcony on the Sabbath] into the sea, as it is poured onto a Carmelit" [17, p. 65].

Other commentators as well contend that Maimonides ruled according to Rabbah son of R. Huna in the second statement preceded by *ED*: "There are two statements, and [Maimonides] ruled according to the second statement" [31, p. 65; 38, p. 25; 53].

Other *poskim* too ruled that the halakha should be determined following the second statement preceded by *ED* [18, p. 88a; 53-55], as did yet others [39, p. 242; 50, p. 86b; 56].

From a practical perspective, people who had a lavatory on the water with partitions above the water relied on Maimonides' ruling [50, p. 86b; 53; 55, p. 268; 57] that followed the second statement preceded by *ED*.

4. Conclusions

In this article we brought nine sugyot from Tractate Eruvin, each including two statements, a first statement and a second statement preceded by the term *eika de-amrei*, which have implications for the halakhic ruling. We followed Maimonides' halakhic practice with regard to statements linked to the term *ED* in these sugyot and we found the following distribution: In the first three sugyot (subsections 3.1.2, 3.1.4, 3.1.6) he ruled according to the first statement. In five other sugyot (3.1.8, 3.1.10, 3.1.14, 3.1.16, 3.1.18) he ruled according to the second statement preceded by *ED*. In one sugya (3.1.12) it is unclear whether he ruled according to the first or second statement.

Hence, it can be said that Maimonides did not follow a halakhic approach that required him to rule based on only one statement, either the first or the second. Rather, he ruled in light of the contents of the sugya and therefore followed at times the first statement and at other times the second statement preceded by *ED*. His halakhic practice regarding statements linked to the term *ED* fits the sixth indication cited above in section 2.

References

- [1] S.B.D. Sofer, *Itur Sofrim, Sefer Kritut*, Divrei Sofrim Press, Jerusalem, 1965, 297.
- [2] H.H. Medini, *Sdei Hemed*, vol. 1, Bet ha-Sofer, Bnei-Braq, 1963, 30.
- [3] M. Milzeiner, *Hakdamah le-Torat ha-Parshanut ba-Tlmud*, Hed Press, Jerusalem, 1986, 162-163.
- [4] J. Fraenkel, *Darko shel Rashi be-Perusho laTalmud ha-Bavli*, Magnes, Jerusalem, 1975, 165.
- [5] N. Aminoah, *Mahu Talmud*, Dyonon, Tel Aviv, 1984, 120.
- [6] W. Bacher, *Tradition und Tradenten in den Schulen Palästinas und Babylonien*, Buchhandlung G. Fock, Leipzig, 1914, 588.
- [7] Y.N. Virga, *She'erit Yossef*, Manortzi, Mantua, 1593, 33b.
- [8] C. Albeck, *Introduction to the Talmud, Babli and Yerushalmi*, Dvir, Tel Aviv, 1969, 517.

- [9] N. Aminoah, *The Redaction of the Tractate Qiddushin in the Babylonian Talmud*, The Chaim Rosenberg School of Jewish Studies, Tel Aviv University, Tel Aviv, 1977, 219.
- [10] Y. Lamparonti, *Pahad Yitzhak*, vol. 2, Mossad Harav Kook Jerusalem, 1966, 38-40.
- [11] Y. HaLevi, *Halikhot Olam*, Sha'ar ha-Mishpat, Jerusalem, 2008, 261.
- [12] S. ben Ga'on, *Migdal Oz, Mishneh Torah, Zemanim*, Hilkhot Shabbat 15:1, vol. 1, Pardes Press, Jerusalem, 1959, 61.
- [13] S. Algazi, *Yavin Shemu'a, Halikhot Olam*, Sha'ar ha-Mishpat, Jerusalem, 2008, 261.
- [14] Y. Horowitz, *Shnei Luchot Ha-Brit*, vol. 2, part 4, Zisberg, Warsaw, 1862, 19d.
- [15] M. HaCohen, *Hagahot Maimoniyot, Mishneh Torah, Zemanim*, Hilkhot Eruvin 5:24 (5), vol. 1, Pardes Press, Jerusalem, 1959, 154.
- [16] S. ben Ga'on, *Migdal Oz, Mishneh Torah, Nezikin*, Hilkhot Hovel ve-Mazik 4:1-2, vol. 5, Pardes Press, Jerusalem, 1959, 105.
- [17] M. ben Maimon, *Mishneh Torah, Zemanim*, Hilkhot Shabbat, vol. 1, Pardes Press, Jerusalem, 1959, 77.
- [18] I. Alfassi, *Hilkhot Rav Alfasi, Tractate Eruvin*, El ha-Mekorot, Jerusalem, 1961, 10.
- [19] N. ben Reuven, *Hidushei Ha-Ran Comments on Tractate Erubin*, Akiva-Yossef Printing, Jerusalem, 1969, 68-69.
- [20] Y. Minkovski, *Keren Orah, Eruvin*, vol. 1, Lewin-Epstein Press, Jerusalem, 1965, 29b.
- [21] H. ben Hushiel, *Perush HaRach, Tractate Eruvin*, El ha-Mekorot, Jerusalem, 1961, 19b.
- [22] M. Hameiri, *Hidushei hameiri on Tractate Eruvin*, vol. 1, Mossad Harav Kook, Jerusalem, 1971, 134.
- [23] S. Lieberman, *The Tosefta, Eruvin*, The Jewish Theological Seminary of America, New York, 1962, 90.
- [24] R. Rabinovicz, *Dikdukei Sofrim*, Ma'ayan ha-Hokhma, Jerusalem, 1960, 64.
- [25] J.N. Epstein, *Mavo le-Nossach ha-Mishna*, vol. 2, Magnes, Jerusalem, 1964, 512.
- [26] S. Lieberman, *Tosefta Ki-Fshutah*, vol. 3, The Jewish Theological Seminary of America, New York, 1962, 313.
- [27] D. Halivni, *Sources and Traditions, A Source Critical Commentary on the Talmud Tractates Erubin and Pesahim*, The Jewish Theological Seminary of America, Jerusalem, 1982, 44.
- [28] A. Goldberg, *The Mishna Treatise Eruvin Critically Edited*, Magnes, Jerusalem, 1986, 39.
- [29] S. Safrai and Z. Safrai, *Mishnat Eretz Israel Tractate Eruvin*, The E.M. Liphshitz Publishing House College, Jerusalem, 2009, 61.
- [30] N. Aminoah, *The Redaction of the Shabbat and Eruvin Tractates of the Babylonian Talmud*, The Chaim Rosenberg School of Jewish Studies, Tel Aviv University, Tel Aviv, 2016, 795.
- [31] Y. Karo, *Magid Mishne, Mishneh Torah, Zemanim*, Hilkhot Shabbat, vol. 1, Pardes Press, Jerusalem, 1959, 77.
- [32] W.B. Shiff, *Minchat Zikaron on Tractate Eruvin*, Fischer, Cracow, 1894, 26.
- [33] I. ben Moshe, *Or Zaru'a, Eruvin*, vol. 2, Jerusalem Institute, Jerusalem, 2010, 184.
- [34] M. ben Maimon, *Mishneh Torah, Zemanim*, Hilkhot Eruvin, vol. 1, Pardes Press, Jerusalem, 1959, 158.
- [35] I. ben Mali, *Piskei HaRid, Tractate Eruvin*, vol. 2, Yad Harav Herzog, Jerusalem, 1966, 89.
- [36] Y. Karo, *Shulchan Arukh, Orach Haim*, Hilkhot Techumin, vol. 2, Books Export Enterprises, Jerusalem, 1974, 292.

- [37] M. Rivkes, *Be'er ha-Gola, Shulchan Arukh, Orach Haim*, Hilkhot Techumin 409:11(5), vol. 2, Books Export Enterprises, Jerusalem, 1974, 292.
- [38] Y. Karo, *Bet Yossef, Tur, Orach Haim*, Hilkhot Shabbat, vol. 4, Shirat Deborah, Jerusalem, 2012, 235.
- [39] A. ben Yechiel, *Perush Rabbenu Asher, Tractate Eruvin*, El ha-Mekorot, Jerusalem, 1961, 226.
- [40] S. Yitzchaki, *Perush Rashi, Tractate Eruvin*, El ha-Mekorot, Jerusalem, 1961, 57b.
- [41] H. ben Hushiel, *Perush Rabbenu Hananel, Tractate Eruvin*, Lev Same'ach, Jerusalem, 1993, 131.
- [42] Y. ben Barzilai, *Sefer ha-Itim, [Itim la-binah]*, Hilkhot Eruvei Techumin, Mekitzei Nirdamim, Cracow, 1903, 86-87, 240.
- [43] Y. Sirkish, *Bait Hadash, Tur, Orach Haim*, Hilkhot Shabbat, vol. 4, Shirat Deborah, Jerusalem, 2012, 223-225.
- [44] Y. ben Hakhmon, *Perush Rabbenu Yishma'el ben Hakhmon on Hilkhot ha-Rif Tractate Eruvin*, Mishkan ha-Torah, Bnei Brak, 1974, 143.
- [45] A. Weiss, *The Talmud and Its Development*, vol. 1, Feldheim, New York, 1954, 238.
- [46] S. Ashkenazi, *Merkevet ha-Mishneh al ha-Yad ha-Hazakah le-ha-Rambam*, Hilkhot Shabbat, vol. 1, Feldheim, Jerusalem, 2010, 189.
- [47] Y. Sirkish, *Hagahot ha-Bach al Hilkhot Rav Alfasi, Tractate Eruvin*, El ha-Mekorot, Jerusalem, 1961, 17a.
- [48] M. ha-Meili, *Sefer ha-Me'orot, Tractate Eruvin*, Blau, New York, 1967, 54.
- [49] Y. Ishbili, *Hidushei ha-Ritva, Tractate Eruvin*, Mossad Harav Kook, Jerusalem, 2018, 556-557.
- [50] I. ben Samuel, *Perush Tosafot, Tractate Eruvin*, El ha-Mekorot, Jerusalem, 1961, 72b.
- [51] H. ben Shmuel, *Commentary of R. Hanan'el b. Shmuel on the Code of R. Isaac Alfasi on Tractate 'Eruvin*, Ofef Institute, Jerusalem, 1996, 533.
- [52] M. ben Maimon, *Mishneh Torah, Zemanim*, Hilkhot Shabbat, vol. 3, Makhon Moshe, Kiryat Ono, 2016, 321.
- [53] M. ben Jacob, *Sefer Mitzvot Gadol*, Lo Ta'asse, Schlesinger, Jerusalem, 1989, 90.
- [54] Y. ben Asher, *Tur, Orach Haim*, Hilkhot Shabbat, vol. 4, Shirat Deborah, Jerusalem, 2012, 2.
- [55] Y. Karo, *Shulchan Arukh, Orach Haim*, Hilkhot Shabbat, vol. 2, Books Export Enterprises, Jerusalem, 1974, 267b.
- [56] D. Halevi, *Turei Zahav, Magen David, Shulchan Arukh, Orach Haim*, Hilkhot Shabbat, vol. 2, Books Export Enterprises, Jerusalem, 1974, 267b.
- [57] Y. Hazan, *Etz Haim, Halakhot Pessakim u-Minhagim*, Mossad Harav Kook, Jerusalem, 1962, 217.