YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**War in Halakha**

**Rav Yishai Jeselsohn**

**Shiur #23: The Definition of a War Camp**

The Mishna in *Eiruvin* teaches that there is a concept of a "camp," which is subject to several special *halakhot*:

[Regarding] four matters, exemption was granted [to soldiers] in a camp: they may bring wood from anywhere [to use without concern of stealing], and they are exempt from the washing of hands [before eating], from [the restrictions of] *demai* (produce that may not have been tithed), and from making an *eiruv[[1]](#footnote-1)*. (Mishna *Eiruvin* 1:10)

In addition to these laws that apply in an army camp, the Torah commanded the *mitzvot* that we saw in the previous *shiur* – regarding the designation of a place for defecation, using a trowel to cover excrement, sending out the impure, and maintaining sanctity – specifically in reference to a "camp":

When you go forth in **camp** against your enemies, you shall keep yourself from every evil thing… he shall go out of the **camp**; he shall not come inside the **camp**… when the sun sets, he may come inside the **camp**. You shall designate a place outside the **camp…** For the Lord your God walks in the midst of your **camp**, to save you and to give up your enemies before you; your **camp** shall be holy. (*Devarim* 23:10-15)

We must consider the parameters of this concept – what constitutes a "camp"? We will begin our inquiry into this definition with respect to the laws in *Eiruvin*, and then see if we can extrapolate from there to other *mitzvot* that were said in reference to a camp.

**A Camp Going Out to War**

While the above verses speak explicitly of a camp going out to war,[[2]](#footnote-2) the Mishna in *Eiruvin* is not explicit, and there is disagreement as to whether the exemptions it mentions apply only to a camp going out to war. Rashi (*Eiruvin*, ibid.) says they do:

“In a camp” – that is going out to war. (Rashi, *Eiruvin* 17a, s.v. *ba-machaneh*)

This understanding is also given by the Ritva and Rabbeinu Yehonatan (ad loc.), and it is strengthened by a *baraita* the Gemara brings in its discussion that explicitly says we are talking about a camp going out to war:[[3]](#footnote-3)

Our Rabbis taught: An army that goes out to a *milchemet reshut* is permitted to commandeer dry wood. (*Eiruvin* 17a)

This also seems to be the view of the Rambam in *Hilkhot Melakhim U-milchamoteihem*, wherehe codifies our *mishna* in the context of the laws of war:

They are exempt from making an *eiruv chatzerot* for a[n army camp]. Rather, one may carry from tent to tent and from booth to booth. (*Hilkhot Melakhim U-milchamoteihem* 6:13)

But in *Hilkhot Eiruvin*,the Rambam writes in a more general context of the necessity of an *eiruv* in an encampment:

Similarly, people who dwell in tents, in booths, or in a camp that is surrounded by a partition, may not carry from tent to tent until they make an *eiruv* of them all*.* (*Hilkhot Eiruvin* 1:3)

It would seem from here that an *eiruv chatzerot* must indeed be made in a camp in order to carry between the various tents! The *Maggid Mishneh* explains that we are dealing with two different camps:

The words of our master (i.e., Rambam) here are to say that tents which are in an established camp, which stays in that place for days, they must make an *eiruv*…and this is explained in the *Yerushalmi*… But in the sixth chapter of *Hilkhot Melakhim U-milchamoteihem*, he wrote:“They are exempt from making an *eiruv chatzerot*,” and this is the ruling of the Mishna…

There is no contradiction in the words of our master, for the Mishna’s ruling [codified in *Hilkhot Melakhim*] applies to a camp that is going out to war, and when they encamp for days they encamp to fight, and therefore they were lenient with them. But the ruling of the *Yerushalmi* [codified in *Hilkhot Eiruvin*] applies to people who are encamping not to fight. Thus it seems [correct] to me to explain the words of our master. (*Maggid Mishneh*, ad loc.)

That is to say, the Mishna's ruling that those “in a camp” are exempt from the obligation to establish an *eiruv* refers specifically to "a camp that is going to war."

The understanding of all the above-cited *Rishonim* may be based on simple logic – the reason for the exemption is presumably a special leniency granted to soldiers,[[4]](#footnote-4) and therefore it applies only in a camp going out to war. Indeed, this is how the Rambam explains it in his commentary on the Mishna:

This “camp” that is mentioned here – even for a *milchemet reshut*, and all the more so for a *milchemet mitzva* – for they were lenient with them because they are busy with the conquest of the land of the enemy. (Rambam, Commentary on the Mishna, *Eiruvin* 1:10)

However, the Gra points out in his commentary on the *Shulchan Arukh* (*Orach Chaim* 158:8) that this understanding is not universally accepted by all the *Rishonim*. The Rashba and the Ramban, he contends, do not limit application of the *mishna* specifically to a camp of war. It seems that in their view, the exemptions mentioned in the Mishna are not due to the state of warfare, but apply to any camp for the reason that it moves from place to place. This reasoning is easily understood with regard to an *eiruv chatzerot*, for in a non-permanent camp, it is difficult to speak of a division of jurisdictions between the various tents;[[5]](#footnote-5) we therefore exempt from this law any caravan whose tents are not permanent. But it is difficult to understand it with regard to the other three exemptions: Why should the residents of a camp be exempt from laws related to stealing, tithes, or hand-washing? It may be suggested that in these three cases, the prohibition is in any case Rabbinic,[[6]](#footnote-6) and that just as other Rabbinic prohibitions are sometimes permitted in extenuating circumstances, so too here, the Sages permitted these prohibitions in the case of a caravan, which by its very nature involves a degree of extenuating circumstances.

**How Many Constitute a Camp**

Having discussed the question of the camp’s destination, let us now examine the question of how many people are considered to constitute a camp. I will preface by saying that, logically speaking, if the basis of these special laws is the state of war, there should be no difference between an individual and a camp. It is possible to understand the Babylonian Talmud this way, as it does not deal at all with the question of what constitutes a camp – and the Rambam as well does not address this issue in his *Mishneh Torah*. In contrast, the *Yerushalmi* has a lengthy discussion of the number of people that constitute a "camp," which seems to be based on the assumption that these are not laws of a "camp" but of "people going out to a camp" – a defined group of people, whose status as such must be determined. Let us try to understand the significance of this group by examining the possibilities brought in the *Yerushalmi*, where we find essentially three opinions:

How many form a camp? Rabbi Chananya said: One hundred [as it is stated]: "Gidon came with the hundred men who were with him at the outermost border of the camp" (*Shoftim* 7:19)… Rabbi Yochanan said: Ten [as it is stated]: "David's young men came, and they spoke to Naval…[and they ceased (*vayanuchu*)]" (I *Shmuel* 25:9). What is meant by: "and they ceased"? Rabbi Yusta bar Shuna said: They formed a camp (*machaneh*]. Rabbi Y[eh]uda ben Pazi said: Ten [as it is stated]: "[They came to David to help him] until there was a great camp, like the camp of God" (I *Divrei Ha-yamim* 12:23). How many are “God's camp”? Ten. It was taught in the name of Rabbi Y[eh]uda: Twelve thousand, like the camp of Israel. (*Yerushalmi* *Eiruvin* 1:10)

Note that there are three measures here by which we might define “camp,” but two alternative sources are provided for the measure of ten, and it seems that the difference between the various sources is not insignificant.

Rabbi Chanina and Rabbi Yochanan both derive their viewpoints from Biblical war stories dealing with a “camp.” It seems that according to both, the measure of a camp expresses some military unit, and we can learn its measure from the Biblical account. We see this from the *Pnei Moshe*'s explanation of the derivation from David's servants, according to which they actually set up a camp when they went to speak to Naval:

"Ten” – as it is written regarding David: "And David sent ten young men… and David's young men came, and they spoke to Naval according to all these words in the name of David, and they ceased (*vayanuchu*)." And the word *vayanuchu* is superfluous, except to intimate that they formed a camp. As it is written regarding the camp of Israel: "to seek out a resting place (*menucha*) for them" (*Bamidbar* 10:33). And here they were ten.[[7]](#footnote-7) (*Pnei Moshe* ad loc., s.v. *asara*)

In contrast, Rabbi Yehuda ben Pazi learns the parameters of a camp not from a human military camp but from the "camp of God" in which the *Shekhina* can rest. According to him, the special laws of a camp do not derive from its importance as a military unit, but from the fact that the *Shekhina* dwells there. These considerations are very pertinent to the *mitzvot* of designating a place for defecation and using a trowel, which the Torah explains as stemming from the fact that God walks in the camp. It is therefore reasonable to learn the definition of a camp from the laws governing the resting of the *Shekhina*, which takes place in the presence of ten Jewish men, as derived from the verse: "God stands in the assembly of God" (*Tehillim* 82:1).[[8]](#footnote-8) According to Rabbi Yehuda ben Pazi, the other laws of the camp are likewise dependent on the same criterion – the gathering of a community fit for the resting of the *Shekhina.*

A third understanding of the issue emerges in the words of Rabbi Yehuda: a camp of twelve thousand, the size of the camp of Israel that went out to war against Midyan. In the war against Midyan, Israel was commanded to take "of every tribe a thousand" (*Bamidbar* 31:4), presumably in order to represent the entire nation of Israel – for the commandment "to execute the Lord's vengeance on Midyan (ibid., v. 3) was incumbent upon the nation as a whole. According to this understanding, the special laws apply only to a camp that represents the entire nation.

As for the *halakha*, most of the *Rishonim* (Rashba and Ramban on *Eiruvin*, ad loc.; *Maggid Mishneh* on the Rambam in *Hilkhot Eiruvin*; and others)maintain that a military camp is ten, but it is necessary to determine whether they follow Rabbi Yochanan’s opinion, that we are dealing with the definition of a military unit, or Rabbi Yehuda ben Pazi’s opinion, that a “camp” is necessary for the resting of the *Shekhina*. This question has practical ramifications regarding certain laws.

The *Chazon Ish* proposes two novel positions from which it emerges that the opinion of Rabbi Yehuda ben Pazi was accepted as *halakha*, and the need for ten stems from the resting of the *Shekhina*. The first relates to an extension of the laws of a camp here to the laws of a camp in other places:

And it would seem that also with regard to the mitzvaof designating a place for defecation and using a trowel… the minimum size of a camp is ten. (*Chazon Ish*, *Eiruvin*, *Likkutim*, 114, 6)

The discussion in tractate *Eiruvin* (in both the Babylonian and the Jerusalem Talmuds) deals with the definition of a camp with regard to the laws that appear in the Mishna there, without mentioning the laws of designating a place for defecation and using a trowel. The application of that definition to those other two *mitzvot* indicates that the laws of a camp in these two sources are based on the same foundation. The mitzvato designate a place for defecation is based on the fact that God is found in the midst of the camp, as we have seen above, and if we equate the definition of a "camp" in this context to the definition of a "camp" in the Mishna in *Eiruvin*, it follows that this definition as well is based on the resting of the *Shekhina* in the camp.

The second novel idea of the *Chazon Ish* concerns the soldiers who are counted for the purpose of a camp. He learns from the laws of a *minyan* that one who is not counted for the purpose of public prayer is not counted for the purpose of a camp, based on the opinion of Rabbi Yehuda ben Pazi:

In the *Yerushalmi* there, [the need for] ten is derived from "like a camp of God." And how many is a camp of God? Ten. And it seems that the people who are not counted toward a quorum for matters of sanctity do not complete the quorum of ten for a camp. (Ibid.)

If, however, we understand the requirement of ten only as defining a significant number of soldiers, it is clear that even those who are not counted towards a *minyan* for prayer are counted for a camp, and there is no need to apply the law of ten to the *mitzvot* of designating a place for defecation and using a trowel.

In addition to setting the size of a camp as ten, the *Chazon Ish* adds further parameters that are not found in the Gemara or in the *Rishonim* for the definition of a camp.

**A Camp Outside the Land of Israel**

The *Chazon Ish*, on his own accord, raises a question as to whether the law of a camp applies outside the Land of Israel:

And we must consider whether the law of a camp also applies outside the Land of Israel. (Ibid.)

This is discussed explicitly by the Ritva, who concludes that the laws of a camp indeed apply only in the Land of Israel:

Mishna: Four things were permitted in the camp – that is to say, in a camp that is going out in the Land of Israel for a *milchemet reshut.* (Ritva, *Eiruvin* 17a)

But why should the law of a camp apply only in the Land of Israel?

In addition, the *Chazon Ish* adds further conditions that must be met in order to apply the laws of a camp:

But it may well be argued that the law of a camp applies only to a war of all Israel, at the command of the king and the judge of the generation. (*Chazon Ish*, ibid.)

This ruling is also not explicitly stated in the Talmud, and we must try to understand from where the *Chazon Ish* derives it.

It would seem that these two laws are based on the same foundation that underlies the opinion of Rabbi Yehuda in the *Yerushalmi*. Rabbi Yehuda requires a camp of twelve thousand, the number of the camp of Israel, and we saw above that this camp represents the entirety of Israel. It would seem to follow from the words of the *Chazon Ish* that it is not sufficient for a camp to be defined as a "camp of the *Shekhina*," but it must also be defined as a "camp of Israel"; and therefore, these special rules can only apply in the context of a war waged by the entire nation (at the command of a king or judge). It is then possible to explain the application of the term "camp" only in the Land of Israel, based on a statement in the Gemara in *Horayot* that the term "congregation of Israel," with respect to the offering brought for the inadvertent sin of the congregation, applies only in the Land of Israel:

Rav Asi said: Regarding [an erroneous] ruling [of a court], follow the majority **of the inhabitants of the Land of Israel** [in defining the majority to establish liability], as it is stated: "And Shlomo held the holiday at that time, and all Israel with him, a great congregation, from the approach of Chamat until the river of Egypt, before the Lord our God, seven days and seven days, [i.e.,] fourteen days" (I *Melakhim* 8:65). Since it is written, "and all Israel with him, a great congregation," what need was there for "from the approach of Chamat until the river of Egypt"? Learn from it: it is [only] these who are considered the "congregation," but those are not considered “congregation.” (*Horayot* 3a)

Accordingly, it would seem that the foundation upon which the *Chazon Ish* builds the laws of the camp, "the camp of the *Shekhina* of Israel," may only apply in the Land of Israel. If what we have said is correct, then the fundamental approach of Rabbi Yehuda also finds halakhic expression – not in the numerical definition of a "camp," but in other parameters.

We have now seen several possible foundations for the various laws of the camp: the extenuating circumstances of a military camp, the fact that it is a time of war, the definition of a camp as the camp of the *Shekhina*,and the definition of a camp as representing all of Israel.

**In Training and in Routine Security Operations**

There may be another important practical ramification between the different foundations of these laws with respect to *when* the laws of a camp apply: Is there a “camp” only when the forces are actually fighting, or does any military force qualify as a camp? If we base the laws of the camp on the fact that it is a war or extenuating circumstances, these laws may apply specifically to a "camp going out to war," while if these laws derive from the "definition of a camp," be it connected to the resting of the *Shekina* or to the camp of Israel, it is very possible that they apply even when there is no actual fighting.

The *Acharonim* disagree about this point. Rabbi Shlomo Goren rules:

And proof can be brought that even according to the *Rishonim* who maintain that they only exempted those going out to war, this does not mean [that they are only exempt] when they are actually at war, but rather whenever they are encamped there to train and fight, even though they have not yet fought, or during lulls in the fighting, they are exempt. (*Responsa Meishiv Milchama*, vol. 1-2, no. 4)

His proof is from the words of Rabbeinu Yehonatan on the Rif, in his discussion of why the Sages were not also lenient about *eiruvei techumim* in a camp:

But as for *eiruv techumim*, the Sages required them, that they are prohibited from going out beyond two thousand cubits from the place where they had established their resting place on Shabbat, unless they had arranged an *eiruv techumim*, in accordance with the procedure of every individual who is stationed in a settled area, for what need is there to permit them to go out [beyond the Shabbat limit] when they are not fighting and the enemy is not coming out against them? (Rabbeinu Yehonatan, *Eiruvin* 4b in the Rif pages)

He explains that it is inappropriate to be lenient in a camp with regard to the laws of *eiruv techumin*¸ since there is no need to do so when they are not fighting. From this it may be inferred that the passage also includes a camp that is not fighting, and that the leniencies in the Mishna still apply.

On the other hand, Rabbi Herzog rules that border outposts are not included in the laws of a camp:

But this is clear to me, that the outposts regarding which the above-mentioned ruling was issued, are neither in the category of camp, nor in the category of a caravan, and they are not subject to the aforementioned leniencies. For they are permanent buildings built of stone, bricks, and metal, and soldiers are stationed there permanently, and they are not going out to war and encamping there for days, and already from this aspect, the above-mentioned ruling is misleading. (*Responsa Heikhal Yitzchak*, *Orach Chaim*, no. 47)

When we examine his words, we can discern two principles that underlie this ruling: first, we are talking about a permanent, and not a transient, structure; and second, it is not a time of war; and regarding this he disagrees with Rabbi Goren.

**When They Return**

The Rambam adds, at the end of the *halakha* dealing with the laws of the camp, that its special laws are not restricted to when the soldiers are going out to war:

Just as they are exempt from all these when [the army] goes out to war, so they are exempt when they return. (*Hilkhot Melakhim* U-*milchamoteihem* 6:13)

We must understand the foundation of this law. First, it should be noted that the source of this law is the *Yerushalmi*; it is not found at all in the *Bavli*, and it is possible that the *Bavli* disagrees and holds that these laws are unique to the time of going out to war.

If the basis for these laws is *pikuach nefesh*, the wartime context certainly suggests limiting them to the time of going out to battle, but if we base the laws of the camp on the very definition of a camp, it would seem that this definition is not limited to the time of departure for battle, and the unique laws of the camp would also apply at the time of the camp's return from battle.

**Summary**

This *shiur* dealt with the *mishna* that teaches that "[regarding] four matters, exemption was granted [to soldiers] in a camp," and the ensuing discussion about what exactly constitutes a "camp" – a question that is also relevant to *mitzvot* we have seen in previous *shiurim*. There is no necessary connection between the definitions, but many opinions assume that the camp in question in the *mishna* is a war camp and its definition applies to other war-related *mitzvot* – and therefore, it is clear that the definition of the camp is significant to understanding the basis for the various *mitzvot* relating to war.

We have seen that there are different opinions as to the definition of a camp, both in terms of the minimum number of people and in terms of the place and time of its assembly. From these opinions, we deduced different approaches to the basis of the leniencies and the *mitzvot* that apply in the camp – whether they are related to the war and its circumstances, to the fact that the people of the camp are representatives of the entire Jewish people, or to whether the camp itself is a place fit for the resting of the *Shekhina*.

(Translated by David Strauss; edited by Sarah Rudolph)

1. An eiruv is a ritual halakhic enclosure made for the purpose of allowing certain activities of carrying which are normally prohibited on Shabbat: carrying objects from a private domain to a semi-public domain (carmelit), and transporting objects four cubits or more within a semi-public domain. [↑](#footnote-ref-1)
2. Though there too, some explain that the primary command relates to the camp of Israel in the wilderness; see *shiur* #21, which deals with the sanctity of the camp. [↑](#footnote-ref-2)
3. While the *baraita* only mentions a *milchemet reshut*, the *Rishonim* noted (Rambam, in his commentary to the Mishna, and others) that regarding this matter, there is no difference between a *milchemet reshut* and a *milchemet mitzva*. [↑](#footnote-ref-3)
4. It may also be argued that war serves as an example of a certain type of danger, but that in fact, the exemptions apply in all situations of danger. Indeed, the *Shulchan Arukh* (*Orach Chaim* 158:8) expands the exemptions to other cases of danger: "One who was in the desert or in a place of danger, and has no water, is exempt from washing his hands" (see the *Beit Yosef*, ad loc., who says his source is our passage in *Eiruvin*). The question arises as to whether the situation of war is an independent exemption owing to its importance, or because of the *pikuach nefesh* that it is liable to involve. But this is not the place to expand further. [↑](#footnote-ref-4)
5. As the Rambam writes (*Eiruvin* 1:3) regarding any caravan. [↑](#footnote-ref-5)
6. Except the prohibition of stealing in the taking of wood – but we see the Gemara there that this is permitted based on the conditions that Yehoshua attached when he divide up the land, and the rule is that property that the court declared ownerless is regarded as ownerless. [↑](#footnote-ref-6)
7. The *Korban Ha-eida* explains that they warned Naval that they would take what they deserve, for in a war camp, stealing is permitted. See there. [↑](#footnote-ref-7)
8. Editor’s note: The word used here for “assembly” is *eida*, and it is derived from *Bamidbar* 14:27 that *eida* refers to a group of ten. [↑](#footnote-ref-8)