

# A Holiday At Sea?

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For many centuries, rabbis have been overseeing kosher food products in the marketplace. Due to the advances of modern food production and the complexity of the industry, kosher food supervision has been organized in countries throughout the world and even on the high seas. The current worldwide explosion of cruise ship travel vacations has resulted in the proliferation of "kosher cruises" to meet the needs of the kosher consumer. However, there is an issue that must be dealt with before one decides to embark on such a cruise. This is the issue of travel with regard to Shabbat.

The Gemara in *Shabbat* 19a<sup>1</sup> cites the following *Braita*:

The rabbis have taught – "One is forbidden to embark on a journey by boat less than three days before Shabbat." When is this applicable? For a purpose which is not a mitzvah, but for a mitzvah it is permissible. And [when traveling for a mitzvah within three days of Shabbat] the passenger must make arrangements with him [the gentile captain] to stop the boat before Shabbat,<sup>2</sup> [but

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1. All references not annotated can be found in *Shabbat* 19a, or *Orach Chaim* 248, as appropriate.

2. See *Shevitat HaYam* by Rabbi Eliezer Yehuda Waldenberg, (author of *Responsa Tzitz Eliezer*), pg. 13, who cites differing explanations regarding the arrangements that must be made. See also note 14.

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one need not be concerned] even if [the captain reneges on his agreement and] the boat doesn't stop. These are the words of Rebbi. Rabban Shimon Ben Gamliel says he does not have to [make such arrangements.] And from Tyre to Sidon [which are within a day's journey of each other] even on Friday it is permitted [to embark].

The passage above clearly states that within three days of Shabbat it is forbidden to undertake a journey with no mitzvah purpose. However, the Gemara is silent with regard to the reasoning behind the prohibition, leading to a multitude of opinions regarding the nature of this *gezaira*.<sup>3</sup> We will examine these opinions, analyze their halachic ramifications, and then discuss the operative halacha.

## I Opinions of the Rishonim

1-**Baal Hamaor**: An element of danger exists on a boat from storms and other nautical hazards. Therefore, a seafarer will probably have to desecrate Shabbat. This *chilul* Shabbat would actually be permissible, as is all *chilul* Shabbat in any life-threatening situation. Nevertheless, one may not go on the boat before Shabbat because he is knowingly placing himself in a situation where *chilul* Shabbat may be necessary, and it appears as if he is not concerned about *chilul* Shabbat. (However, if he disregards the halacha and does go on the boat, he *must nevertheless* save himself if necessary.) This restriction applies only three days prior to Shabbat. But Sunday, Monday, and Tuesday are called *acharai* Shabbat<sup>4</sup> (literally, after Shabbat), i.e. they are connected to the previous Shabbat, and he need not concern himself yet with next Shabbat. Therefore, at the

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3. See Meiri who refers to the difficulty surrounding this issue. (“*nitbalbilu hameforshim b'inyana*”).

4. *Gittin* 77a.

beginning of the week he can place himself in a situation which may ultimately necessitate *chilul* Shabbat. (The concept of *acharai* Shabbat is also the source for another well-known halacha – namely that one who did not make *havdalah* after Shabbat can do so through Tuesday.<sup>5</sup>)

2- **Rabbeinu Chananel** - Rabbeinu Chananel sees the source of this prohibition as the *issur* of *techum* (lit. boundary). It is forbidden on Shabbat to travel outside of one's *techum*, (2000 *amot*, less than a mile). According to Rabbeinu Chananel, the *Braita* above must be referring to a boat that is scraping the river bed or traveling in shallow water, with less than 10 *tefachim* (approx. 35 inches) between the bottom of the boat and the ground.<sup>6</sup> The traveler is then bound to the rules of *techum*. But if the boat would be in deeper water, there is no *issur* of *techum*, which does not apply to movement above 10 *tefachim*.<sup>7</sup>

Other *Rishonim* have great difficulty in explaining Rabbeinu Chananel's view, because why then is it permitted to embark more than three days before Shabbat? In fact, Rif and Rosh reject this opinion primarily due to this problem. However, perhaps we can explain that even according to Rabbeinu Chananel, one is not actually transgressing the prohibition of going outside the *techum* in this case because one is passive on the boat;<sup>8</sup> nevertheless, it is improper to get on a boat on which it will seem as if he is transgressing the laws of *techum*. Therefore

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5. *Pesachim* 106a; *Orach Chaim* 299:6.

6. *Beit Yosef* in explanation of Rabbeinu Chananel.

7. The Gemara (*Eruvin* 43a) discusses this question and does not resolve the issue. Rambam (*Responsa* (Blau) #308) writes that we should rule leniently since it is a question of rabbinic decree. The prohibition of *techum* over water is certainly only rabbinic in nature, (even according to Rambam who is of the opinion that 12 *mil* is biblically forbidden). See *Orach Chaim* 404.

8. See Rashbam (below I,7).

if one gets on the boat at the beginning of the week, he need not be concerned with Shabbat at that point (similar to *Baal Hamaor*.)<sup>9</sup>

3- **Rif** (and Rambam<sup>10</sup> and Rosh) – *Chazal* learn from the words of the Prophet Isaiah<sup>11</sup> that every person is obligated to have *Oneg Shabbat*, to enjoy the Shabbat, through partaking in delectable food and drink. Therefore, since people commonly get seasick during the first 3 days of boat travel due to the constant motion, we are concerned that the traveler will not be able properly to enjoy Shabbat. After being on the boat for 3 days, however, the average person has adjusted to the boat's motion, and his Shabbat will not be disturbed. It is therefore permitted to leave more than 3 days before Shabbat.

Rif adds that according to his explanation, the reason for the permissibility of travel for purposes of a mitzvah (as stated in the *Braita*) is readily understood. When one is involved with one mitzvah, he is freed from obligations of another mitzvah.<sup>12</sup> Therefore, one who is traveling for the sake of a mitzvah need not concern himself with the mitzvah of *Oneg Shabbat*.

4- **Ramban**<sup>13</sup> – The *Braita* is referring to a case where a majority of the passengers are Jewish.<sup>14</sup> Furthermore, running a ship

9. *Bach* explains that Rabbeinu Chananel's explanation is similar to that of *Baal Hamaor*, but does not explain how this is so. *Shulchan Aruch Harav* 248:5 gives an explanation which is similar to what we have written above.

10. *Hilchot Shabbat* 30:13.

11. Chap. 58, verse 13.

12. See *Succah* 25a.

13. Also see *Bach* who explains *B'hag* along the lines of Ramban.

14. *Aruch Hashulchan* (248:6) brings support for Ramban from the end of the *Braita*. The Jew is instructed to make a deal with the non-Jewish captain to stop the ship before Shabbat. If the majority of

involves *melachot* (activities) forbidden on Shabbat (e.g. tying knots ). Therefore, when it is close to Shabbat (i.e. within three days,) it *looks* as if one is asking the non-Jews running the ship to desecrate Shabbat on behalf of the Jewish majority. However, more than three days before Shabbat it is permissible to embark because essentially the non-Jewish crew members are doing the *melacha* for themselves, regardless of which day the ship embarks.<sup>15</sup> The crew is anxious to finish the journey as soon as possible, but the Jewish passenger does not care whether the ship travels on Shabbat.<sup>16</sup>

Thus, according to Ramban, in a case where the majority of passengers are non-Jews, one would even be permitted to go on the boat right before Shabbat, because we assume the *melacha* is carried out on behalf of the majority.<sup>17</sup>

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the boat's passengers are non-Jews, then the captain would not agree to consider the request of the minority. Perhaps the Jews could inform the captain that he actually need not stop (as the *Braita* states that one not need be concerned even if the ship does not stop), in which case he would agree to make this "condition". However, this would certainly be a *chilul hashem* (because it looks like a sham.) Therefore, the *Braita* must be referring to a case where most of the passengers are Jewish, and thereby have the leverage to make a deal with the captain.

However, *Nishmat Adam* (*Hilchot Shabbat*, klal 4) explains that the condition which the Jews must make with the captain is that he will not call upon them to do *melacha* on Shabbat. It would appear that according to this explanation, even a minority of Jews would be able to arrange this with the captain, and we would not be able to show from this requirement that the *Braita* is discussing a Jewish majority.

15. *Yalkut Yosef* (*Shabbat* 1:248:note 1).

16. We must explain Ramban in this way, for if the Jew specifically intends to travel on Shabbat, the non-Jew is then doing *melacha* for the Jew, and it would be forbidden to embark on *any* day of the week. See below, note 60, and accompanying text, quoting *Pri Migadim*.

17. See *Shabbat* 122a, regarding a non-Jew who lights a candle for

5- **Tosafot**<sup>18</sup> (*Shabbat* 19a, *Eruvin* 43a)–The Rabbis prohibited ‘*shat*’–floating or swimming – on Shabbat, in order to provide a safeguard and deter a person from building a raft (*Baitza* 36b). Tosafot state that one is also not allowed to be on a boat on Shabbat, because it is similar to floating.<sup>19,20</sup> According to this opinion, *Chazal* restricted such travel by requiring one to embark three days in advance. This requirement is intended to remind a person that there is a fear of his violating Shabbat, and consequently he will be careful not to build a raft.<sup>21</sup>

6- **Tosafot** (*Eruvin* 43a)- The prohibition is due to the possibility that the traveler may come to pilot the ship for a

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a group of whom the majority are non-Jews .

There are *poskim* (for example *Responsa Tashbetz* 4:11) who understand that Ramban is simply going along the lines of *Baal Hamaor*, and is concerned that in a situation of *pikuach nefesh*, non-Jews will do *melacha* for the Jews. See, however, *Responsa Chatam Sofer* (6:97) who writes that Ramban and *Baal Hamaor* have two distinct explanations. *Baal Hamaor* prohibits even with a majority of non-Jewish passengers aboard, because if there is *pikuach nefesh* each Jewish passenger will have to desecrate Shabbat. Ramban is not concerned about a *pikuach nefesh* situation; if it happens, one is permitted to desecrate Shabbat. He is concerned only with the issue of non-Jews doing work for a majority of Jews. In addition, *Beit Yosef* and *Pri Migadim* refer to Ramban and *Baal Hamaor* as separate opinions. This is our assumption above.

18. *Responsa Tashbetz* (4:11) cites a similar opinion in the name of Rav Hai Gaon.

19. Tosafot, *Shabbat* 19a, imply that it was included in the prohibition of *shat* (*m'shum shat*). Tosafot, *Eruvin* 43a, and similarly *Tur* seem to understand that it is only similar to *shat* (*d'dami l'shat*).

20. Meiri rejects this explanation. In his opinion, going on a boat is so dissimilar to *shat* as to preclude any confusion that would necessitate a *gezaira*.

See also *Beit Yosef* who points out other difficulties with this explanation.

21. *Ibid.* See *Aruch Hashulchan* (248:1) for an alternate explanation.

distance of 4 *amot*. This would be forbidden because the ocean is a *Carmelit*, an unenclosed area where *Chazal* forbade one to carry.<sup>22</sup> *Chazal* required one to go three days in advance in order that he recognize that there is a fear of his violating Shabbat, and consequently he will be careful not to pilot the boat.<sup>23</sup>

7-**Rashbam**<sup>24</sup>– The above *Braita*, which prohibits travel, is following the opinion of *Beit Shammai*, but according to *Beit Hillel*, whose opinion is authoritative in halacha, travel is actually permitted. This is based on the Mishnah which writes that *Beit Shammai* is of the opinion that it is forbidden to do *melacha* on *erev* Shabbat unless there is enough time to finish it before Shabbat. *Beit Hillel*, on the other hand, permit a person to start a *melacha* on *erev* Shabbat even if the *melacha* continues by itself on Shabbat.<sup>25</sup> Rashbam explains that the *issur* being done on a

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22. It would seem Tosafot are referring to a ship which is propelled manually, where one's actual rowing would be moving the ship, otherwise it is difficult to see how this could be classified as carrying. See *Shevitat HaYam* (pg. 68), who suggests a similar understanding of Tosafot.

23. *Beit Yosef*.

24. Quoted by Tosafot *Eruvin* 43a.

25. Mishnah *Shabbat* 17b. A support for Rashbam's opinion is that the *Braita* is cited in the Gemara following this Mishnah.

A difficulty with Rashbam's explanation is that the Gemara writes that *Beit Shammai* only forbade starting a *melacha* on Friday if that *melacha* would be biblically forbidden on Shabbat. In such a case, *Beit Shammai* made a *gezaira* on Friday also. In our issue of going outside the *techum*, we are dealing with a rabbinical decree. (See *Korban Netanel* (*Eruvin* chap. 4, par.3, note 2) who also points out this difficulty.) Perhaps we are afraid that he will go outside 12 *mil*, which could be biblically forbidden. But on water, even Rambam agrees that 12 *mil* is *d'rabanam* (see note 7 above). Perhaps for *Beit Shammai* to make a *gezaira* it is sufficient that *techum* in general is an issue which could involve a biblical prohibition (on land.)

boat is travel outside the *techum*.<sup>26</sup> Since he gets on before Shabbat, and the boat goes outside the *techum* without his involvement, *Beit Hillel* permit this.<sup>27</sup>

The *poskim* have completely rejected this explanation<sup>28</sup> for two reasons. Firstly, why would the *Tanaim* interest themselves in discussing the opinion of *Beit Shammai*?<sup>29</sup> It would seem logical that this *Braita* follows *Beit Hillel*, and therefore must be considered when determining the halacha. Secondly, *Beit Hillel* only permitted setting out traps on *erev* Shabbat and the like, where one does nothing on Shabbat itself. But here the person will be going outside the *techum* on Shabbat!<sup>30</sup>

## II Support for *Baal Hamaor* and Rif from the Gemara

Upon examination of *Orach Chaim* 248, we find that not all of the above opinions are codified as halacha. Only the opinions of Rabbeinu Chananel, Rif, and *Baal Hamaor* are cited. Let us briefly examine some of the support for two of these opinions, which surely affected the determination of the halacha.

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26. Why this would be forbidden is unclear, since there is no *issur* of *techum* above 10 *tefachim* (see note 7 above). Perhaps according to Rashbam we are discussing a boat within 10 *tefachim* of the ground as Rabbeinu Chananel explained (above 1,2). Or perhaps Rashbam feels that since the Gemara left this question unanswered, we must rule stringently.

27. Rashbam writes that according to *Beit Hillel* one could board the boat even on Shabbat, and could subsequently travel, since he does not contribute to the boat's travel.

28. *Beit Yosef* declares that no halachic decisor has even mentioned Rashbam's opinion.

29. Rashbam himself points out this difficulty with his own explanation. *Beit Yosef* also cites *Hagahot* in the name of Rivah who asks this.

30. *Rivash* #18, *Sefer Hateruma* (*Hilchot Shabbat* #224).

The Gemara that follows the above-quoted *Braita* continues:

It is forbidden to lay siege to non-Jewish cities less than three days before Shabbat. But if they started [the siege prior to the three-day limit] they do not stop [for Shabbat].

Since this Gemara follows immediately after the discussion about going on a boat, one might well expect to find some similarity between the two cases. Indeed, according to two of the explanations quoted above, there is a direct connection.

*Baal Hamaor* writes that just as there is danger on a boat, there is danger in war. Therefore, one may start the war only at the beginning of the week, which is connected to the previous Shabbat.<sup>31</sup> Otherwise, one must be concerned that he will violate Shabbat. Thus, there is a clear connection between the two cases according to *Baal Hamaor*.<sup>32</sup>

According to Rif also, the two texts are analogous. The reason for the prohibition of starting a siege before Shabbat is that for three days the soldiers are extremely frightened and nervous and cannot enjoy Shabbat. After three days of fighting they are somewhat used to the fighting and can be more settled

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31. See *Responsa Melamed L'hoil* (O.C. #42), who applies this explanation of *Baal Hamaor* to a case of one inducted into the army, where he will be forced to desecrate Shabbat.

32. Perhaps even the next Gemara could be explained in this manner also. The Gemara writes that in the house of R. Gamliel they used to give white clothes to a non-Jewish laundry at least three days before Shabbat. The simple explanation is that it generally requires three days to clean these clothes, giving time for the laundry to be completed before Shabbat. But according to *Baal Hamaor*, we could explain that the clothes take more than three days to clean, but the beginning of the week is connected to the past Shabbat. See *Responsa Binyamin Ze'ev* (#220) who also seems to interpret this way.

on Shabbat. Therefore, according to Rif too, there is a direct correlation between the cases.

However, according to other *Rishonim*, this Gemara is not connected to the previous topic, and is placed here only because it is also applicable three days before Shabbat. (The other *Rishonim* do not explain why there is a prohibition of going to war within three days of Shabbat.)

### III Practical differences among *Rishonim*

#### 1. Ocean/River

Rambam<sup>33</sup> writes that according to his explanation (which is the same as that of Rif, seasickness on a boat), the prohibition is limited to traveling on an ocean. However, if one is traveling on a river, where there is not as much motion, he is permitted to embark even on *erev* Shabbat.<sup>34</sup> According to Rabbeinu Chananel, the opposite is true. A *river* (within 10 *tefachim* of the ground) is where the problem exists. On an ocean, there is no *issur* because it is much deeper and there is no problem of *techum*. According to all the other explanations, there is no difference between a river and an ocean.<sup>35</sup>

#### 2. Wednesday

We have assumed in this essay that the three-day prohibition commences on Wednesday. This seems to be the assumption

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33. *Responsa* (Blau) #308.

34. See *Bach* (*s.v. v'rov Alfaf*) who explains in a slightly different way – the problem on the ocean is that because of the motion one cannot guard oneself from the effects of the salty air. But on a river, although there is much motion, there is no salty air (see below V,3).

35. Rif and Rosh are assumed to agree with Rambam on this point, since they have all explained the *Braita* in the same way.

of many *poskim*.<sup>36</sup> Moreover, according to *Baal Hamaor* (above I,1), this must be so. Clearly he bases his opinion on the Gemara which explains that the week is divided into two sections – Sunday through Tuesday, and Wednesday through Friday. In the latter half of the week, one needs to be concerned about the coming Shabbat.

However, Rosh, who is concerned with the problem of seasickness, cites the *Tosefta* which indicates that on Wednesday one is permitted to embark. The three-day prohibition refers to Thursday, Friday, and Shabbat. This is in consonance with Rosh's explanation of the *Braita*, as Rosh considers two days enough to get used to the boat's motion. The Vilna Gaon is also of the opinion that one may embark on Wednesday.<sup>37</sup>

### 3. Yom Tov

According to *Mishnah Berurah*,<sup>38</sup> whatever restrictions apply to Shabbat also apply to Yom Tov.<sup>39</sup> For example, if Yom Tov is on Wednesday, the three-day prohibition would apply to the beginning of the week too, restricting one's voyages for that week.<sup>40</sup>

In *Shaar Hatziyun* (248:2) the *Mishnah Berurah* declares that this halacha is true according to *all* the differing opinions cited above (section I). However, this statement bears further

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36. See *Magen Avraham* (248:3).

37. See *Mishnah Berurah* (248:4).

38. 248:5.

39. See *Kaf Hachaim* 248:8 who also states that Yom Tov has the same halachot as Shabbat.

40. If one follows the opinion of Rosh and the Vilna Gaon that the 3 days include Shabbat, then in the case of a voyage before Yom Tov it follows logically that Yom Tov is included. In our example, then, on Sunday one would still be permitted to depart.

examination. The comparison between Shabbat and Yom Tov is certainly true with regard to the issues of seasickness (Rif's opinion) which is a matter of disturbing one's enjoyment and would apply to Yom Tov as well. The same holds true for the concerns that one should not make a raft or pilot a boat (Tosafot), which activities are forbidden on Yom Tov also. However, we could question this statement at least with regard to *Baal Hamaor* (and those *Rishonim* who follow the same basic reasoning.)

The concept of a day having a relationship with the three days prior to and after it would seem to be unique to Shabbat. Although technically the last day of the week, Shabbat is also the focal point of each week, and draws with it days prior to it and after it. We have no indication that Yom Tov has anything more than a casual relationship with the days preceding and following it. This is portrayed in the halacha that *Mishnah Berurah* himself cites (O.C. 299:16), that if one misses *havdalah* after Yom Tov, he has only one day to make it up. (Even this allowance is due to the fact that day follows night in the Jewish calendar. Therefore, the next period of daylight is still halachically considered the same day as the previous night, and one can make *havdalah* any time during the next Jewish calendar day after Yom Tov.<sup>41</sup>)

#### 4. Re-embarking

An additional factor to contend with, and which may also depend on the varying opinions of the *Rishonim* with regard to this issue, is the question of a ship which departs early in the week, but docks temporarily within three days of Shabbat, as many cruise ships do. Is one permitted to re-embark, this being a continuation of the original trip, or should we view this as the beginning of a trip which is prohibited on those days? One could argue that with regard to the issue of seasickness, if a

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41. See Rabbi Akiva Eiger in his notes to O.C. 299.

traveler is already used to the ship's motion after being on board for three days, then a short stop will not subject him to illness again upon reboarding, and this would be permitted. An argument to be lenient could also be made according to the view that the three-day requirement was to remind a person not to desecrate Shabbat. Perhaps the fact that he started his trip during the permitted days is a sufficient reminder. Or perhaps the fact that he is stepping onto a boat within 3 days of Shabbat was enough for the rabbis to forbid it, without regard to the underlying reasoning (*Lo Plug.*) This specific issue has apparently not been discussed by the early *poskim*. Rabbi Herschel Shachter is of the opinion that *Chazal* would probably have viewed reboarding as a continuation of the original trip, and as long as the trip commenced during a permitted time frame, it may be continued.<sup>42</sup>

#### IV Docking before Shabbat

If the boat ends its journey before Shabbat, our discussion is a moot issue. Even though the *Braita* declares that "One may not embark...within three days of Shabbat", the prohibition exists only if he will be traveling on Shabbat. This is evident from the *Braita* which we have quoted. Firstly, the *Braita* writes that for a mitzvah, one may embark even on *erev* Shabbat, but one should try to make arrangements for the boat to stop before Shabbat. Apparently such an arrangement would void all problems. Secondly, the *Braita* also permits a trip from Tyre to Sidon, leaving on *erev* Shabbat, because as Rashi explains, it is a one-day trip and he will be able to stop before Shabbat.<sup>43</sup>

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42. Personal communication.

43. Incidentally, *Beit Yosef* writes that this one-day trip is permitted even if one cannot be certain he will arrive before Shabbat, as long as with good travel conditions one can arrive before Shabbat. (*Magen Avraham*, 248:5 (based on inference from *Beit Yosef*, see *Pri Megadim*)

*Eliya Rabba*<sup>44</sup> explicitly extends this to a two-day trip leaving on Thursday, and it would seem logical to further extend this to a three-day trip leaving on Wednesday. Since the ship will dock before Shabbat, one is permitted to embark.<sup>45</sup>

### V Application of *Rishonim* to Current Times

As stated above, in order to reach a decision regarding the halachic disagreements of the *Rishonim*, we turn to *Shulchan Aruch*. In *Orach Chaim* 248, only the opinions of Rabbeinu Chananel, Rif, and *Baal Hamaor* are cited. This means that we have to take into account the issues of *techum*, seasickness, and danger. Each of these concerns must be resolved in order to permit embarking within three days of Shabbat.

On modern cruise ships there would be no problem of *techum* because the water in which they sail is always much deeper than 10 *tefachim*.

Let us now examine the problem of seasickness. One could claim that on modern cruise ships (which are really like floating hotels) this should not be a concern. Rambam (see III,1 above) permitted travel on a river because there is no seasickness to deal with. Modern cruise ships, even on an ocean, would

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permits even if conditions are not good at the time of departure.) One is permitted to assume favorable conditions will prevail. This issue comes to light in the not uncommon situation of people being delayed from leaving for their destinations on Friday until only with good travel conditions can they hope to make it in time for Shabbat. This text in *Beit Yosef* would seem to indicate that they would be permitted to embark. See Meiri who states that this was common practice (*aiyn choshishin l'mikreh*.) However, see *Mishnah Berurah* (249:3) who insists one must allocate ample time to arrive at his destination. See *Biur Halacha*.

44. O.C. 248:2.

45. See *Ra'avan* (beginning of #60).

seemingly be more comfortable, with less seasickness, than boats of earlier times on a river. For example, one contemporary cruise guide writes, "Modern cruise ships, unlike their earlier transatlantic predecessors, are relatively motion free vessels with computer-controlled stabilizers, and they usually sail in comparatively calm waters."<sup>46</sup>

Indeed, Meiri wrote that perhaps we should be lenient with regard to boats of *his* time— and this was in the 13<sup>th</sup> century. He writes:

Perhaps in these times all should be permitted [to embark]; due to the expert abilities of the shiphands there is not that much distress [for the passengers].

However, we can counter this with a number of points.

There are definitely people who do get seasick on cruise ships. Even though the boat does not toss in the sea, the waves and constant motion can often wreak havoc on one's equilibrium.<sup>47</sup> *Responsa Tzitz Eliezer*<sup>48</sup> and *Yalkut Yosef*<sup>49</sup> reject Meiri. *Yalkut Yosef* writes:

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46. *Fodor's Worldwide Cruises 1998*, pg. 35.

47. *Ibid.* "The most common minor medical problems confronting cruise passengers are seasickness and gastrointestinal distress....If however, you do feel queasy, you can always get seasickness pills aboard ship.(Many ships give them out for free at the front desk.)"

(In truth, there are a number of factors which affect the likelihood of getting seasick. They include the size of the ship (the larger ships are generally steadier); the ship's construction(e.g. a deeper draft (the measurement of the ship's waterline to the lowest point of its keel) will usually perform better); destination (sheltered waters are not as rough); and cabin location. See *Fieldings Worldwide Cruises 1997* (pg.1064)).

48. Vol.1:21.

49. *Shabbat* 1:248:note 1.

Even though from Meiri we can find support for those who embark even on *erev* Shabbat ... nevertheless, it is not clear that we should permit this as a proper course of action. We have heard that many get seasick when traveling on the ocean, even nowadays...and the Meiri himself was not certain if he should be lenient. In [books of] other *Rishonim* we do not find this distinction at all, and even in modern times we see that notwithstanding all the advances and comforts on ships, many people are physically disturbed by the turbulent sea, and get seasick...and my father [Rav Ovadiah Yosef] has concurred with this opinion.

Even if this affects only a minority, Rambam<sup>50</sup> writes that traveling on a boat is forbidden due to a minority (*miktzat*) of people who become ill.

Perhaps we should say that even though circumstances have changed the original enactment of the rabbis still applies.<sup>51</sup> For example, *melacha* was forbidden on the afternoon of *erev* Pesach since it is the time of the slaughter of the Pesach sacrifice. The enactment is still in force<sup>52</sup> even though we no longer have the Pesach sacrifice. Perhaps, due to the original decree, travel is still restricted even in the case of a boat that does not cause seasickness. Rambam, who permits travel on a river, seems to indicate that the decree allows leeway where the reasoning behind it does not apply. However, it is probable that Rambam learned this from the *Braita* itself – the *Braita's* expression is

50. *Responsa* (Blau), #308.

51. See *Baitza* 5a, *Davar shebiminyan tzarich minyan acher l'hatiro*.

52. *Tosafot Pesachim* 50a, s.v. *Makom*. However, sometimes we find laws that are no longer in force due to changes in circumstances, e.g. *mayim megulim*, the prohibition of drinking uncovered water. See *Pri Chadash* (Y.D. 116). Also, see *S'dai Chemed, Maarechet Daled* 20,21 for further references.

"*aiyn mafligin*," one may not embark. As pointed out by Rashi,<sup>53</sup> *mafligin* denotes going onto an ocean, not a river. Therefore, we have no right to make our own distinctions.

*Bach* writes that it is not the motion itself that makes people ill, but rather the motion makes it difficult to protect oneself from the effects of the salty, rotten (*sirchon*) air. According to *Bach's* explanation it is possible that any improvements in the ships' level of comfort should not be considered significant, since the air has not changed and the motion may be enough to let the air affect the passengers.

Along this same line of reasoning, Meiri permits one who is a veteran seafarer to embark even on *erev* Shabbat, as he will not be affected by the motion. Here, too, *Tzitz Eliezer* and *Yalkut Yosef* reject this, "for every person will say that the trip will not bother him." In addition, *Shevitat HaYam*<sup>54</sup> argues that from Rambam's statement that traveling was forbidden due to the minority of people who get seasick, we can infer that he argues with Meiri on this point. Rambam is apparently of the opinion that the rabbis' enactment applied to all, even those who usually do not get sick. So, too, it follows that the enactment applies to those who travel regularly; apparently the rabbis allowed no exceptions to their *gezaira*. *Yalkut Yosef*, however, is willing to rule leniently for one whose job is aboard a ship, such as a captain or sailor.

With regard to danger (and subsequent *chilul* Shabbat,) there would seem to be no concern for a modern-day ship on the ocean. Ships are no longer the dangerous means of travel they once were. There is no reason to worry about possible *chilul*

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53. *Shabbat* 19a s.v. *aiyn mafligin*. See also *Talmud Yerushalmi (Shabbat 1:8)* and *Midrash Tanchuma (Shelach)* where the wording explicitly refers to an ocean.

54. Pg. 35.

Shabbat on the part of the passengers.<sup>55</sup> However, we must still take into account the possibility that we have no right to permit travel on an ocean once the rabbis forbade it, despite the inapplicability of the reasoning behind it, as above.

It is relevant to note here that *Beit Yosef*<sup>56</sup> writes that although according to the halacha one should be concerned with the opinion of Rif, nevertheless, we may not criticize someone who relies on Ramban. In other words, were people to disregard the problem of seasickness they could not be criticized as long as the boat's passengers are mostly non-Jews, which is the requirement necessary to permit travel according to Ramban. (One should note that *Beit Yosef* limits his statement to the effect that we need not deter those relying on this opinion. However, we would not encourage such a course of action.)

The practical relevance of this statement is dependent upon the particular capacity of each cruise ship. Some are relatively small, carrying 100 or fewer passengers, while the "mega-ships" accommodate over 2000 passengers. In the latter case, a (kosher) cruise would probably be an arrangement made by an individual entrepreneur who has booked a number of cabins among the regular passengers. The majority of passengers would probably be non-Jews. In that case, according to *Beit Yosef*, one could not be censured for departing even close to Shabbat. However, if Jews do comprise the majority of passengers, the crew is viewed as doing *melacha* for the Jews, and this leniency would not apply.

There is another possibility; that the Jews may be in the

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55. See *Shulchan Aruch* (O.C. 248:2) who permits embarking on a voyage on a river. Yet in 248:4 he cites *Baal Hamaor*. Apparently *Shulchan Aruch* feels that on a river there is no danger. The same could be said for our oceans.

56. Cited by *Biur Halacha*(248:3).

majority, but the ship is on a regularly scheduled cruise, and would depart even without the Jews on board (much as an airline adheres to its schedule without regard to how many passengers are flying.)<sup>57</sup> In this scenario, the crew is doing the *melacha* for the non-Jews on board, and this would be permitted.<sup>58</sup>

## VI Amirah L'Akum

Until now our assumption has been that the only issue is travel within 3 days of Shabbat. On Sunday, Monday, or Tuesday, one is permitted to embark. However, this assumption bears further scrutiny. In a case where the majority of passengers are Jews, even embarking at the beginning of the week may be difficult to permit. *Pri Megadim*<sup>59</sup> points out that according to all opinions, when the Jew has a need or desire to travel specifically on Shabbat there is a problem of *amirah l'akum*, (asking a non-Jew to do work) which is forbidden regardless of which day of the week one departs. On a cruise with a specific itinerary, the Jew may very well want to travel on Shabbat also, in order to enjoy the full schedule of ports-of-call, and this would thus be forbidden.<sup>60</sup>

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57. In a situation where *all* of the passengers are Jewish, this leniency would not apply.

58. This is how *Beit Yosef* understands Ramban's requirement of a majority of non-Jews. This assures us that the boat would also go without the Jews.

*Tiferet Yisrael (Kalkelet Shabbat, Melechet Shabbat 9)* states this leniency clearly. See also *Shulchan Aruch Harav* 248:3, *Shemirat Shabbat K'hilchata* 30:55, and *She'arim Metzuyanin B'halacha* 74:4.

59. *M.Z.* end of 248. See, however, *Shevitat Hayam* (pg. 44).

60. A passenger may claim that he would not care if the boat did not travel on Shabbat, even if he were to miss stopping at some of the ship's destinations. Perhaps in that case the non-Jews would be

However, as stated above, if the boat is embarking on a regularly-scheduled cruise, in all likelihood it would embark even with only the minority of non-Jews on board, as opposed to canceling the entire cruise. Therefore, the *melacha* being done would be done in any event, and the Jews are not viewed as having the crew do *melacha* for them.

In addition, there is one innovation since the times of the Gemara (and *Pri Megadim*) which might allow one to embark at the beginning of the week, even with a majority of Jews on board. This is the auto-pilot. According to research done by the author, there exists technology aboard ships which allows them to be set on course and sail without intervention at all on Shabbat. This is often done when sailing a straight course between two points in the open sea. Therefore, any piloting done by the crew is not considered to be done for the Jews, it is *ahl da'at atzman*, for the non-Jews' own purposes. The possibility of having the boat run without *melacha* would lead us to view all *melacha* done by the non-Jews as for their own purposes, not as carrying out the Jews' wishes.<sup>61</sup> However, the scope of the lenient position due to the auto-pilot is limited. Wherever the ship needs a human pilot, such as when negotiating narrow straits, in congested areas, and when docking in port, the auto-pilot cannot be used. Therefore, this leniency needs careful consideration before being applied practically.<sup>62</sup>

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considered to be doing *melacha* for themselves. We question this assumption, since the passenger is paying for a cruise which travels on Shabbat and the cruise line would be held accountable if it simply abstained from travel on that day.

61. See, for example *Turei Zahav* 276:5, and *Mishnah Berurah* 27. Also see the article by Rabbi Alfred Cohen, "The Live-In Maid," *The Journal of Halacha and Contemporary Society*, vol. XXII, pg. 27.

62. At this point, it is appropriate to note that in any instance where it is permitted to board within 3 days of Shabbat (e.g. for

## VII Conclusion

It would seem that according to halacha it is questionable if one would be allowed to embark on a cruise within three days of Shabbat. (As for Wednesday, we have mentioned a dispute in the *poskim*.) Contemporary authorities are concerned with the problem of seasickness even today.

However, as *Beit Yosef* has indicated, those who depart even close to Shabbat are not to be censured for relying on Ramban, as long as the majority of passengers are non-Jews. But, if most of the passengers are Jewish, this would lead to additional questions of *amirah l'akum*, as above.

The purpose of this essay is not to decide the halacha in question, but rather to point out the halachic issues involved. One must certainly consult with proper rabbinical authority before embarking on a cruise.

In addition to the above issues, there may be others also, which could be more severe. These include mixed swimming aboard; crossing the dateline; docking on Shabbat;<sup>63</sup> difficulties with kosher supervision on a ship; and the Shabbat problems of electric devices on board.<sup>64</sup> These are beyond the scope of this article. An individual must also take into account *Hashkafa* – the Torah outlook – on such a cruise. How does the Torah regard this kind of a vacation? Does the proper atmosphere necessary for a Torah Jew exist on such vacations, especially

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mitzvah purposes, or if relying on Ramban), it is also permitted to board on Shabbat if a *kinyan shevita* is carried out (see O.C. 248:3). However, the author is of the opinion that for a pleasure cruise this should not be attempted, due to the likelihood of encountering challenges to one's Shabbat observance (e.g. checking in, luggage and passport handling).

63. This leads to questions of *techum* upon disembarking.

64. E.g. electrical locks and doors.

with regard to Shabbat and Yom Tov?<sup>65</sup> The Torah directs us in *all* aspects of our lives, defining for us *permitted* behavior, as well as guiding us in determining *appropriate* behavior.

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65. See Rambam *Hilchot Yom Tov* 6:20.

