

The Gender of Shabbat

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Introduction

“Women are like men in regards to Shabbat ...”¹

There are several specific ways in which Shabbat itself, the day, not the tractate, is gendered. Shabbat is called a “bride” (*bShab* 119a). At the onset of Shabbat, the sunset on Friday evening, the *Bavli* relates that sages would go out to greet the bride, Shabbat the Queen.

Shabbat is “brought in” on command of the man of the house. He interrogates the woman: “have you tithed?” “Have you made an *eruv*?” Upon receiving the correct answers he commands: “Light the candles,” (*mShab* 2:7).²

The Mishnah distinguishes between what a man is allowed to wear out of the house on Shabbat and what a woman is allowed to wear out of the house on Shabbat. The discussions center on jewelry and other “accessories” for a woman and body armor and weapons for a man (*mShab* 6:1-3). The prohibitions serve to construct the masculine and the feminine.³

However, I want to look elsewhere. *mShabbat* starts with distinguishing between inside and outside. This should be familiar terrain for feminist theory. However, when we look at *mShab* 1:1, there is no distinction drawn between a man and a woman. In the complicated choreography of transgression illustrated in this text, it is the house-owning man who inhabits the inside and the poor man who stands outside.

יציאות השבת שתיים שהן ארבע בפנים, ושתיים שהן ארבע בחוץ. כיצד? העני עומד בחוץ ובעל הבית בפנים. פשט העני את ידו לפנים ונתן לתוך ידו של בעל הבית, או שנטל מתוכה והוציא, העני חייב ובעל הבית פטור. פשט בעל הבית את ידו לחוץ ונתן

¹ הנשים הרי הן כאנשים לענין שבת, HA-MEIRI, *Beth Habehira to Tractate Shabbat*, 458. Most interestingly, this statement actually refers to positive actions on Shabbat.

² Here too it should be noted that the language of בית is applied to the man: אדם צריך, לומר בתוך ביתו, and also “inside” – though here inside is בחוץ not בפנים. Second, the man is not doing the lighting, etc. but commanding it. Finally, the lighting happens before שבת starts, by definition, something which the Mishnah points out immediately in *mShab* 2:7: ספק השיכה etc.

³ YINON and ROSEN-ZVI, “Men’s Ornaments – Women’s Ornaments.”

לתוך ידו של עני, או שנטל מתוכה והכניס, בעל הבית חייב והעני פטור. פשט העני את ידו לפנים ונטל בעל הבית מתוכה, או שנתן לתוכה והוציא, שניהן פטורין. פשט בעל הבית את ידו לחוץ ונטל העני מתוכה, או שנתן לתוכה והכניס, שניהם פטורין (מ' שבת א א).

The “goings out” (יציאות) of Shabbat are two which are four inside, and two which are four outside. How so? The poor man stands outside and the house-owning man stands inside. If the poor man reached his hand inside and placed [an object] in the house-owning man’s hand; or if he removed [an object] from it and brought it out – the poor man is accountable and the house-owning man is exempt. If the house-owning man reached his hand outside and placed [an object] in the poor man’s hand; or if he removed [an object] from it and brought it inside – the house-owning man is accountable and the poor man is exempt. If the poor man reached his hand inside and the house-owning man removed [an object] from it; or if he placed [an object] in it and he brought it out – both are exempt. If the house-owning man reached his hand outside and the poor man removed [an object] from it; or if he placed [an object] in it and he brought it inside – both are exempt (*mShab* 1:1).

If anything, the woman is erased completely from this landscape. While there does seem to be an implied social, and thence power hierarchy, and in that sense, perhaps, the poor man is feminized, the actions that the two perform are identical and symmetrical. There is no more giving on one side than on the other, no more guilt borne by one than the other. It even occurs to a reader that the use of a poor man and a householder might be merely employed as placeholders for one inside and one outside. This point is ignored in the talmudim, though contested amongst medieval commentators.

Following on this last point, my statement earlier that the man “inhabits” the inside is something of a gross mischaracterization. If one thinks of Gaston Bachelard’s masterful description of inhabited space, the home of one’s imagination,⁴ there is no inhabiting in this Mishnah. This is made clearer when the Mishnah is read against the background of the Tosefta, upon which the former is dependent.⁵

1. ארבע רשויות:

- א. רשות היחיד,
- ב. רשות הרבים,
- ג. וכרמלית,
- ד. ומקום פטור.

2. אי זהו רשות היחיד?

- א. חריץ שעמוק עשרה ורחב ארבעה,
- ב. וכן גדר שגבוה עשרה ורחב ארבעה,

⁴ BACHELARD, *The Poetics of Space*.

⁵ Though this is not the point, nor is this the place, I am arguing that *tShab* 1:1-5 precedes *mShab* 1:1.

זהו רשות היחיד גמורה.

3. אי זהו רשות הרבים?

א. סרטיה,

ב. ופלטיה גדולה,

ג. ומבואות המפולשין,

זו היא רשות הרבים גמורה.

אין מוציאים מרשות היחיד זו, לרשות הרבים זו,

ואין מכניסים מרשות הרבים זו, לרשות היחיד זו,

ואם הוציא והכניס בשוגג חייב חטאת,

במזיד ענוש כרת ונסקל (ת' שבת א א-ג)

1. There are four domains in respect to the Sabbath;
 - a. private ground,
 - b. public ground,
 - c. *karmelith*, and
 - d. a place of non-liability.
2. And what is private ground?
 - a. A trench ten [handbreadths] deep and four wide,
 - b. and likewise a wall ten [handbreadths] high and four broad – that is absolute private ground.
3. And what is public ground?
 - a. A highroad,
 - b. a great public square,
 - c. and open alleys – that is absolute public ground.
 - c. One may not carry out from this private to this public ground,
 - c. nor carry in from this public to this private ground;
 - c. and if one does carry out or in, unwittingly, he is liable to a sin-offering;
 - c. if deliberately, he is punished by *karet* or stoned (*tShab* 1:1-3).

tShab 1:1-5 maps the space of Shabbat and describes its dimensions. Without this information, the transgressive transferring of *mShab* 1:1 is unintelligible. Beyond this, the description in Tosefta supports the contention that the point of these texts is not habitation but cartography. While “inside” may be more suggestive than “individual domain” it is actually not so. There is nothing of the intimacy of life towards which Bachelard points in these descriptions. How, then, to think about Shabbat within the context of gender?

Deficient Activity

I propose to start with a category which is developed by the *Rishonim*, the medieval commentators and, anachronistically read it back into the Mishnah, filtered through the lens of ritual theory. The conceptual claim of the *Rishonim* is that *ha'avarah*, the transferring of objects from domain to domain, the prohib-

ited category of “work” with which our tractate opens is a *melakhab gru‘ab*. I would translate this latter as “a deficient category of activity.” The *Rishonim*⁶ have different understandings of what constitutes transferring as a *melakhab gru‘ab*. Some point out that, as opposed to other categories of forbidden activity, transferring is completely contextual (Ha-Meiri). If one moves the stew pot from kitchen to dining room, nothing has happened. If the stew is bad and one takes the stew out to the street, one has committed a capital crime and, under the proper circumstances, may be liable for execution.

On the other hand, context plays no part when one engages in other forbidden activities such as lighting a fire or writing two letters on Shabbat. Performing these activities – inside or outside – is always a transgression of Shabbat law. Others point out that on holidays when *melakhab* or “proscribed activity” is biblically prohibited, transferring objects is permitted. And there are other explanations. The central point is that the first Mishnah of *Shabbat* frames the tractate by introducing an “artificially constructed” activity which is completely dependent on the context of its execution. All activities which are forbidden are, of course, in some sense “artificially constructed.” My claim is that transferring is even more so. Whilst the others’ artificiality is transparent to the tradition, that of transferring is remarked upon. In ritual terms, the first mishnah maps the space of Shabbat by creating the context for all activity to be ritualized.

Catherine Bell points out that distinguishing between ritual and non-ritual activities is a tricky business. Ritual actions are dependent on the systemic context for them to function. Or, as she puts it: “Viewed as practice, ritualization involves the very drawing, in and through the activity itself, of a privileged distinction between ways of acting, specifically between those acts being performed and those being contrasted, mimed or implicated somehow.”⁷ When one is inside the systemic context, one has a different view of the distinction between ritual and non-ritual activity than when one is outside that context. Non-aculturated anthropologists might talk about the urban practices of stopping and turning at stop lights as rituals, although the practitioners of those rituals might themselves see those in different light. Bell cites the truism: “every established order tends to produce [...] the naturalization of its own arbitrariness”⁸. She further characterizes this idea as “that way in which reality [is] experienced as a natural weave of constraint and possibility, the fabric of day-to-day dispositions and decisions experienced as a field for strategic action.” Strategic action being those actions that one chooses to perform on this background thereby ritualizing them.

⁶ Tosfot included in the Vilna edition of the Talmud [Touques], *Tosafot Harosh*, Ha-Meiri and virtually everybody else.

⁷ BELL, *Ritual Theory, Ritual Practice*, 90.

⁸ BELL, *Ritual Theory, Ritual Practice*, 85.

Here we come to the point. In using a discussion of transferring objects from domain to domain to frame Tractate *Shabbat*, the Mishnah is creating the spaces within which everything is ritualized. Shabbat is now defined – between its onset and its end – by the map of public and private⁹. The activities that take place in public and private are only sanctioned to the extent that they must respect those boundaries.

Some Thoughts about Shabbat as Ritual

In his 2003 study, Ithamar Gruenwald uses ritual theory and the study of rituals as a tool of analysis in the study of Jewish ritual, from Torah through rabbinic and *halakbic* literature.¹⁰ Gruenwald uses the Shabbat as a central example (among others) of what a ritual is and how to describe it. Gruenwald's methodological investments move him to analyzing rituals (plural) rather than attempting to create a universal structure of ritual (singular). Still and all, Gruenwald has some idea of what constitutes ritual(s). He claims that there needs to be a beginning and a terminating ritual. Second he claims that each ritual has its own structure and unfolds in a processual way.

I want to engage with Gruenwald's analysis, specifically as it applies to Shabbat. Gruenwald places great emphasis on the fact that Shabbat has a beginning and a terminating ritual: All rituals "entail a special ritual that is aimed at guaranteeing the peaceful beginning and completion of [entering and leaving holy space or time-space]. [...] The Sabbath Day begins with lighting candles [...], reciting special prayers in synagogue, and then, at home again, reciting blessings over wine and bread. The Sabbath Day terminates in almost reverse order: the evening prayer is recited with a special section concluding the Sabbath. Then, a blessing is said over wine and over a newly lit candle."¹¹

Elsewhere Gruenwald claims that it is this beginning, or entering that assures the efficacy of the ritual in its processual whole, played out over time and/or space (in the case of Shabbat over time and space).

Part of my argument is that this characterization of the ritual of Shabbat, as it is mandated in *mShabbat* and refracted through the discussions in the *Bavli* of the mishnaic law – and therefore this characterization of ritual as it is applied to Shabbat – is largely wrong. However, I will also argue that Gruenwald's theory is interestingly wrong. That is, while he is wrong in relation to Shabbat as a ritual and the rituals of Shabbat, his categories apply to Temple ritual. This distinction and contrast, I will argue, is not coincidental.

⁹ The map, of course, is only a mental map, it is not invoked through any action ritual or otherwise.

¹⁰ GRUENWALD, *Rituals*.

¹¹ GRUENWALD, *Rituals*, 23

So, let me return to my differences with Gruenwald about Shabbat. First, the beginning and terminating rituals, or entering and exiting rituals of Shabbat are a later addition to the body of halakhic discussions of Shabbat. *mShabbat* while discussing the types of wicks and oils permitted and forbidden to be used for Shabbat candles, does not mandate the candle-lighting ritual itself. *mShabbat*, further, does not discuss the *qiddush* ritual, the so-called “sanctification of the day,” nor the blessings recited over bread.

It is possible that there was an assumption that people knew these rituals, for otherwise, why would they discuss the types of forbidden or permitted wicks and oils? However, the fact remains that the Mishnah does not concern itself with these rituals. There is then, at the earliest stages of the rabbinic Shabbat, no mandated beginning and terminating ritual. Even, however, if I am wrong about this, Gruenwald makes a further claim that “[n]othing of significance happens without the rituals that are done to mark the beginning (and the end) of the event.”¹² Further, he says, “unless people do the relevant rituals, the particular day does not become a ritually meaningful date.”¹³ In terms of Shabbat this would mean that without the candles, wine and bread ritual at the start of the day, and without the candle, wine and spices ritual ending the day, the ritual of the day itself has no significance.

This claim is wrong because it is derived from a misunderstanding of the rituals of Shabbat. I will be arguing that Shabbat is a space which is constructed by an absence of activity – what is halakhically referred to as commandments of “do not do” (*mitsvot lo ta’aseh*)¹⁴. Everything that happens on this blank canvas – from walking to eating to praying – is a Shabbat ritual. The space of Shabbat is mapped with an intricate and powerful set of forbidden activities which require a level of knowledge (*yedi’ah*) about the activity and specifically about the punishment for abrogating the activity in different ways, though not, as Gruenwald claims, intent (*kavanah*) to transgress and engage in the forbidden activity.¹⁵ Further, the *Bavli* expressly discusses a case wherein a person is lost in the desert and does not know what day Shabbat would be and asks if he can be considered as having transgressed. This is a good text to test whether Gruenwald’s understanding of Shabbat ritual holds up.

However, there is a lot of ground to be covered to back up my basic claim, that Shabbat, essentially, is a blank territory mapped by an intricate set of prohibitions, within which everything that happens is Shabbat. The importance of my suggestion is that it demands a completely different notion of ritual. Ritual in this instance is not any specific activity, it is actually any activity. So, to be com-

¹² GRUENWALD, *Rituals*, 10.

¹³ GRUENWALD, *Rituals*, 8.

¹⁴ These commandments are usually translated as negative commandments, but the literal and more appropriate translation is the one I have supplied.

¹⁵ Cf. GRUENWALD, *Rituals* 164-167.

pletely quotidian, taking a walk on Shabbat is a Shabbat ritual activity. It is defined as a Shabbat activity by the fact that it takes place in a space which has been mentally mapped so that the walker will not transfer any object from individual¹⁶ to public domain neither will she carry anything for four cubits or more within the public domain, nor will the walker walk outside the two thousand cubits of the Shabbat “boundary.” However, for all intents and purposes, the walker is just taking a walk. The same goes for reading a book, having sex, eating and also praying and blessing before eating or drinking. The claim then is, that Shabbat as a (day-long) ritual, is not dependent on, nor defined by any specific activity. It is rather defined by the lack of specific activities. Shabbat is the province of “do not do” or *lo ta’aseh*.

Shabbat’s Forbidden Activities

We begin our textual analysis with *mShab* 7:1. The Mishnah’s topic is defining what transgression means in the context of prohibited Shabbat activity¹⁷. The thirty-nine prohibited activities themselves are listed in the next Mishnah.¹⁸ The Mishnah reads as follows:

כלל גדול אמרו בשבת: כל השוכח עיקר שבת, ועשה מלאכות הרבה בשבתות הרבה, אינו חייב אלא חטאת אחת. היודע עיקר שבת, ועשה מלאכות הרבה בשבתות הרבה, חייב על כל שבת ושבת. היודע שהוא שבת, ועשה מלאכות הרבה בשבתות הרבה, חייב על כל אב מלאכה ומלאכה. העושה מלאכות הרבה, מעין מלאכה אחת, אינו חייב אלא חטאת אחת (מ' שבת ז א).

¹⁶ The translation of the Tannaitic term רשות היהיד / *reshut ha-yachid* is problematic. Private domain suggests itself since in the contemporary lexicon private is the opposite of public. The problem with private is that it denotes ownership as its central characteristic. This is not the case with *reshut ha-yachid*. The main characteristic of the Tannaitic *reshut ha-yachid* (for Shabbat, though not necessarily for lost objects or impurities) is accessibility. That is, a *reshut hayachid* as defined in *tShab* 1:1-2 is inconvenient if not impassable for the public. This is opposed to the public domains which are defined by the ability to be inhabited by many people at once. I use the term individual since that is the literal meaning of *yachid*.

¹⁷ “Activity” is the appropriate translation for the mishnaic *melakhab* as it is not labor that is prohibited but certain activity. Defining what constitutes certain activities (e.g. writing, burning, etc.) constitutes the bulk of the talmudic discussions in Tractate *Shabbat*.

¹⁸ *mShab* 7:2. The question of when these specific “forty minus one” activities were decided, as the list of prohibited Shabbat activities, is complicated, cf. WALD, *BT Shabbat: Chapter VII*, 155-164.

They stated an important¹⁹ principle regarding Shabbat [law]:

One who forgets the essence of Shabbat, and did many [prohibited] activities on many Shabbatot, is only liable for one sin offering.

One who knows the essence of Shabbat, and did many [prohibited] activities on many Shabbatot, is liable for each and every Shabbat.

One who knows that it is Shabbat, and did many [prohibited] activities on many Shabbatot, is liable for each and every activity²⁰.

One who does many activities which are alike, is only liable for one sin offering (*mShab* 7:1).

The mishnah is attempting to define what counts as a transgression on Shabbat. When, the mishnah asks, is one considered as having transgressed? Or, more to the point, to what extent is one liable for a transgression? It is obvious to the experienced reader of Mishnah that the transgressions under discussion are not intentional transgressions. The punishment for intentional transgressions is death or *karet*, which in the Bible means extirpation and is interpreted rabbinically as death at the hands of Heaven. The transgression under discussion is a *shogeg* transgression. *Shogeg* usually means inadvertent or accidental transgression. However, within the context of this mishnah and the discussions that come in its wake, accidental is not a completely accurate translation. The act is not accidental. The act is done intentionally. The background of the act (that is, what one knows when one is acting) changes the context so that there is a mitigated liability.

For the purpose of understanding Shabbat within the framework of ritual, we should concentrate on the first part of the principle: “One who forgets the essence of Shabbat.” Even before we try to figure out what the essence of Shabbat is, we note that even if one has forgotten the essence of Shabbat, one can still be liable for transgressing it. This would imply, contra Gruenwald, that nothing is required to turn Saturday into Shabbat. Consequently, even a misstep is punishable.

What is “the essence of Shabbat?” One might be tempted to propose that it is something along the lines of “commemorating the creation of the world” as in Exod 20:11, or commemorating the Exodus from Egypt as in Deut 5:15. The mishnah itself does not explicitly define what the essence is. However, based on the discussions in the *Bavli* which are generated by this mishnah, the medieval commentators do define this essence.

¹⁹ The Hebrew is *gadol* which literally means big or great. The first discussion in *bShab* 68a reads *gadol* as relational – i.e. bigger than another principle. This however is not a literal reading but rather a midrashic reading. *Gadol* here is best translated as significant or important.

²⁰ Some MSS (e.g. Vat 108) have “every category of activity” i.e. *kol av melakhah*. There is also a dispute amongst the medieval commentators about the correct reading. Maimonides reads “av” as “category” while Ha-Meir does not.

Rashi, in the late eleventh century, comments on the Mishnah's phrase "one who forgets the essence of Shabbat," with the words: "One who is under the impression that there is no Shabbat in the Torah." Conversely, Rashi interprets the phrase "one who knows the essence of Shabbat," as one who knows: "that there is Shabbat in the Torah and activities were forbidden on it."²¹

Maimonides, in the thirteenth century, in a similar vein, in his commentary to the Mishnah, explains that: "one who forgets the essence of Shabbat [...] that is that one forgot that God, may God be blessed, commanded the Israelites concerning the prohibition of activity on Shabbat [...]"

In other words, the essence of Shabbat is the prohibition of activity on it. Rabbi Menahem Ha-Meiri in the next century writes that "one who forgets the essence of Shabbat" refers to one who "is under the impression that there is absolutely no Shabbat prohibition." Conversely, one who knows the essence of Shabbat refers to one "who knows that forty less one activities are forbidden on Shabbat."

All the medieval readers agree that the essence of Shabbat in the Mishnah refers to prohibitions of activity on Shabbat. This is a theme which is repeated – almost as a chorus – over the course of the five folios which comprise the *Bavli's* discussions of this *mishnah*. The following text appears in three iterations between *bShab* 67b and 73a.

תנן: אבות מלאכות ארבעים חסר אחת. והוינן בה: מנינא למה לי? ואמר רבי יוחנן:
 שאם עשאן כולן בהעלם אחד, חייב על כל אחת ואחת. היכי משכחת לה? בזדון שבת,
 ושגגת מלאכות. בשלמא לרבי יוחנן, דאמר: כיון ששגג בכרת, אף על פי שהזיד בלאו,
 משכחת לה. כגון דידע לה לשבת בלאו. אלא לרבי שמעון בן לקיש, דאמר עד שישגוג
 בלאו ובכרת, דידע ליה לשבת במאי? (ב' שבת סט ע"א)

It is taught [in a mishnah]:

The categories of [forbidden] activity are forty minus one.

We raise a point concerning this: Why do I need the number? Rabbi Yohanan said: So that if one was to do them all [i.e. all the different forbidden activities] in one period of forgetting, one would be liable for each and every one. How might this happen? When one knows²² that it is Shabbat and does not know²³ the [forbidden] activities. This is fine according to Rabbi Yohanan who said: For example, if he did not know that there was a punishment for *shogeg* of *karet* even if he sinned knowing that

²¹ Further on in his commentary on *bShab* 69a, Rashi writes: "[One can only be considered as] knowing Shabbat if one knew at least one of its laws [i.e. the prohibitions of activities], for if one did not know one of them, Shabbat is not differentiated from the other days."

²² The Hebrew is *zadon*, which means 'premeditated,' its verb form *mazid* meaning doing something intentionally. In this context, as will become clear, *zadon* refers to knowing certain legal information.

²³ Again here the Hebrew is *shogeg* which means 'inadvertent' but here again, as with *zadon*, it refers to not having certain legal information.

there was a prohibition²⁴ [he is considered as having sinned inadvertently (*shogeg*)]. This might happen, then, if he knew about Shabbat [only] with the prohibition [i.e. “you shall not do any work” Exod 20:10] [but not the punishment of *karet*]. However, according to Rabbi Shime‘on ben Laqish who said: Until he sins not knowing either the prohibition or the *karet* [he is not considered as having sinned inadvertently [*shogeg*]]. In what then does he know Shabbat? (*bShab* 69a).

The starting point for this short text is *mShab* 7:2 and the first amoraic comment on that mishnah (*bShab* 73b). The mishnah lists the thirty nine types of forbidden labor under the heading: “The categories of [forbidden] activity are forty less one.” The mishnah also concludes: “These are the categories of [forbidden] activity, forty less one.” Rabbi Yohanan asks why, if the mishnah lists the categories themselves, is it necessary to write that there are thirty nine of them. Could we not count them ourselves?

Actually, it is not Rabbi Yohanan who asks the question, but it is the anonymous editorial voice (the *stam*) who poses the question and then quotes Rabbi Yohanan’s statement as an answer. Rabbi Yohanan maintains that if one transgresses all thirty nine forbidden activities on Shabbat, one is liable for each and every one.²⁵

This is the first layer of the exchange, and it appears this way in *bShab* 73b as the first comment on the mishnah which lists the 39 forbidden activities. The *stam*, who edited our series of *sugyot*, assumed that Rabbi Yohanan was referring to a case of *shogeg* or inadvertent transgression. This is a reasonable assumption since, if the transgression was premeditated, the punishment is death and one might only be put to death once. Our *stam* then attempts to understand Rabbi Yohanan’s statement within the principles laid out in *mShab* 7:1, quoted above, which govern transgressions.²⁶ The *stam* refers to a dispute cited earlier in the chapter²⁷ between Rabbi Yohanan and Resh Laqish in which Rabbi Yohanan had argued that if one had transgressed a Shabbat prohibition intentionally but was unaware that a liability of *karet* was attached to the transgression – this is

²⁴ That is, he knew that there was a verse prohibiting the specific act saying *lo ta-asenah/* “do not do it,” e.g. Lev 4:2: “When a person unwittingly incurs guilt in regard to any of the commandments of ‘*n* about things not to be done...”

²⁵ There is an additional problem with Rabbi Yohanan’s statement as it appears in the sugya on *bShab* 69b. It appears from the continuation that Rabbi Yohanan might be contradicting himself. One possible solution to this problem is that Rabbi Yohanan is actually citing a statement from the Tosefta (*tShab* 8:3): “All categories of forbidden activity in the Torah, if he did them all within one period of forgetting, he is liable for each and every one.” See HALIVNI, *Sources and Traditions*, 300 and WALD, *BT Shabbat Chapter VII*, 93-94, 155-159.

²⁶ It is plausible that Rabbi Yohanan’s statement was not originally connected to this *mShab* 7:2 at all since it also appears in connection with *mKer* 1:1 (*bKer* 2b), as an answer to the same *stammaitic* question about the necessity of writing a number when there is a list (there – thirty six activities for which one receives the punishment of *karet*).

²⁷ *bShab* 69a.

still considered an inadvertent transgression. This reasoning supports the possibility that one could be considered as having intentionally transgressed Shabbat, while inadvertently transgressing the activities prohibited on Shabbat.

However, Resh Laqish in that earlier dispute avers that one is only considered as having transgressed inadvertently if one was mistaken in relation to both the prohibition and the *karet* liability. How then is it possible for Resh Laqish to agree with Rabbi Yohanan's undisputed statement that "if one was to do them all in one period of forgetting, one would be liable for each and every one." The only way for Resh Laqish to agree with this statement would be in a case where a person knew it was Shabbat but did not know that the activities were forbidden. However, according to Resh Laqish's own definition of what it means to not know (that is to be *shogeg* or to transgress inadvertently), one must have forgotten everything about the prohibition of the thirty nine activities. What then, the *stam* asks, would he know of Shabbat? In other words, if one does not know these prohibitions, one then does not know that it is Shabbat. Shabbat is defined by the categories of prohibited activity, not by any commanded activity. Shabbat is the territory of "do not do."

Just to reiterate, the bottom line of this very technical talmudic discussion, as relevant to our larger discussion, is that Shabbat is not defined by any positive ritual, but rather by knowing the categories of prohibited activity.

What of the positive ritual actions that are performed? What of those activities which Gruenwald describes as "procedures involved in entering a holy space," or "special ritual that is aimed at guaranteeing the peaceful beginning and completion of these actions?"²⁸ What of "lighting candles" and "reciting blessings over wine"?²⁹ Why does the *stam* not suggest that one can know Shabbat by way of these positive rituals?³⁰ This brings us back to the poor soul we briefly mentioned above who is wandering in the desert and has no clue as to what day it is. In this context the *Bavli* cites the following dispute:

אמר רב הונא: היה מהלך (בדרך או) במדבר, ואינו יודע אימתי שבת, מונה ששה ימים ומשמר יום אחד. חייא בר רב אומר: משמר יום אחד ומונה ששה (ב' שבת סט ע"ב).

²⁸ GRUENWALD, *Rituals*, 23.

²⁹ GRUENWALD, *Rituals*, 23. He also cites "reciting special prayers in synagogue. This is even less convincing since the prayers are not, in and of themselves, special; they are the regular prayers that are recited. The difference is that the middle section of the prayer is Shabbat oriented. The truly unique Shabbat prayer service on Friday night, the so called *kabbalat Shabbat* , which is the recitation of Psalms and a liturgical poem, dates from the sixteenth century and is thus obviously later than the rabbinic Shabbat.

³⁰ Even the medieval commentators (e.g. Tosfot *ad locum* s.v. *deyada lab bi'bumin*) who question why he could not have known Shabbat with a positive commandment, do not suggest the candle or wine rituals; rather they suggest the positive commandment of resting (Exod 23:12 and 31:14), that is, doing nothing.

Said Rav Huna: One walking (on the road or) in the desert and does not know when it will be Shabbat, counts six days and keeps³¹ one. Hiyya bar Rav says: He keeps one day and [then] counts six (*bShab* 69b).

The dispute is first embedded in a theological debate about whether the week should be counted from the creation of the world,³² or from the creation of the first Adam³³. It is quickly resolved, however, in favor of Rav Huna – counting six and then keeping Shabbat. A statement of Rava's then generates an interesting exchange.

אמר רבא: בכל יום ויום עושה לו כדי פרנסתו [בר מההוא יומא]. וההוא יומא לימות?
דעביד מאתמול שתי פרנסות. ודילמא מאתמול שבת הואי? אלא: כל יום ויום עושה לו
פרנסתו, אפילו ההוא יומא. וההוא יומא במאי מינכר ליה? בקידושא ואבדלתא (ב)
שבת סט ע"ב).

Said Rava: Every day he labors to sustain himself, except that day [which he has designated as Shabbat]. So should he die on that day? He procured a double portion on the previous day. But perhaps the previous day was actually Shabbat [and he should not chance working more than the minimum lest he be abrogating the real Shabbat]? Rather, every day he should labor for his sustenance, even that day [i.e. his designated Shabbat]. If so, with what is that day distinguished [as a Shabbat]? With *Qiddush* [sanctification over the wine] and *havdalah* [the ending ritual] (*bShab* 69a).

The concern that Rava is addressing is, now that there is no certainty regarding the time of the real Shabbat, how does a person, even in a token fashion, “keep” Shabbat. Rava's solution is that on the day that she designated as Shabbat, the person does not labor to sustain herself. One assumes that this involves some manner of scrounging, gathering, cooking, etc. – all of which are forbidden activities on Shabbat. This is only a token observance of Shabbat since it is unknown whether or not the designated Shabbat day is actually Shabbat.

A number of interesting things come out of this short text. First, the concern of the text is inappropriately doing forbidden activity. There is no concern about inappropriately not doing prescribed activity. Second, there is a concern that one would be liable for forbidden activity, even when it is perfectly obvious that one did not know that the day was Shabbat. In other words, no framing rituals were needed to designate a time as Shabbat, in order to incur liability to whatever degree. Finally, the positive rituals are only introduced as a last ditch effort to distinguish the day. They are not, here, seen as prescribed,³⁴ but rather

³¹ The Hebrew *meshamer*, literally preserves or guards, is best translated here by the *Yiddishism* “keeps.” Since the point of Rav Huna's statement is that the person does nothing on that day, other translations such as “celebrates” are misleading.

³² The rationale for counting six, then Shabbat.

³³ The rationale for Shabbat, then counting six.

³⁴ Ha-Meir claims that this is not “הלכה” but rather לזכרון בעלמא שיהא לו יום חלוק משאר הימים. This does not mean that they are not prescribed in the larger sense. My point here is

as a solution to the problem: How would the lost wanderer know that this day is Shabbat?

In sum, Shabbat as a ritual poses a challenge for Gruenwald's theory of ritual. The Rabbinic Shabbat, as found in the Mishnah and in the *Bavli* is not enacted by framing rituals. It is not comprised of positive ritualized actions. Rather, it is a landscape created by interlocking prohibitions upon which any and all activity (which is not prohibited), conventionally defined as sacred, profane or neutral *is* Shabbat activity. The "ritual" of Shabbat, is the quotidian on the background of the Shabbat landscape.

The point here is that Shabbat as framed by the opening mishnah of Tractate *Shabbat* is not something that is "done"; it is a space within which everything that is done is Shabbat. Certain things must not be done. There is, of course, a stylized list of thirty nine categories of forbidden activities. However, looking at the Mishnah, the overwhelming bulk of the discussion is about reinforcing the map itself. Seven of the first eleven chapters discuss carrying objects from domain to domain. Then chapter sixteen picks it up again. One third of the mishnayot of *Shabbat* are devoted to the cartography of Shabbat in its various forms,³⁵ and this does not even count *Erubin* which is in whole dedicated to just this issue. On the other hand, another third of the chapters is given over to the discussion of the other thirty eight forbidden activities.³⁶

That which one does on Shabbat, that is, the quotidian social and ritual activities that do take place are defined by the space in which they are performed – private or public or medial. Shabbat as seen through the Mishnah does not prescribe actions – and the only action mentioned, though not prescribed – lighting candles – occurs by definition before the onset of Shabbat. The mishnaic Shabbat proscribes actions. Shabbat then is framed as a space of negative commandments. On this background of negative commandments, everything that happens, whether sacred or mundane, is a Shabbat activity. That space, the space of negative commandments, we will now see, is a gendered space.

that insofar as *mShabbat* and *bShabbat* are concerned, *qiddush* and lighting candles are not the immediate level of ritual enactment of Shabbat, and do not carry the same weight as Shabbat – articulated by the distinction between a *de-orayta* or "of the Torah" commandment and a *de-rabbanan* or "of the Rabbis" commandment. For the *qiddush* obligation see MekbY, *babodesh* 6, *bPes* 106a. For a traditional summary of the halakhic discussion see EPSTEIN, *Aruch Hashulchan: Orach Hayyim*: section 271, 93-102. For candle lighting see the dispute in *bShab* 25b concerning whether candle lighting on Shabbat is a *mitsvah*, a commandment, or a *hovah*, an obligation. Again a traditional summary of the sources is found in EPSTEIN sec. 263.

³⁵ Chapters 1, 5, 6, 7 (after the first two mishnayot), 8, 19, 11.

³⁶ Chapters 3, 4, 12, 13, 14 (first mishnah), 15, second half of 16, 22. The other nine chapters deal with *muktseh*, *umdah de-hol*, and completely tangential stuff (e.g. Chapter 9).

The Space of Negative Commandments

The territory of negative commandments is outlined in the Mishnah (*mQid* 1:7):

כל מצות עשה שהזמן גרמה, אנשים חייבין ונשים פטורות, וכל מצות עשה שלא הזמן גרמה, אחד אנשים ואחד נשים חייבין, וכל מצות לא תעשה, בין שהזמן גרמה, בין שלא הזמן גרמה, אחד אנשים ואחד נשים חייבין.

All commandments Do! caused by time – men are accountable and women exempt.
 All commandments Do not caused by time – both men and women are accountable.
 All commandments Do not! whether caused by time or not – both men and women are accountable.

This mishnah seems to serve a normative function. This is an easy shorthand for determining which commandments also obligate women (men are obligated in all). Men are obligated to perform any positive commandment (a command to perform an action, a commandment “Do!”) which kicks in at or during a certain time frame, while women are not. Both men and women are obligated to perform positive commandments as long they are not tied to a certain time-frame. At the other end of the spectrum, the widest category is negative commandments (commandments to refrain from some action) whether or not they are connected to a certain time-frame, men and women are equally obligated and accountable.

However, the exceptions to the rules,³⁷ the dismissive statements in the Talmud about this rule (“Said Rabbi Yohanan: We do not hew to rules, even those that are formulated with specific exceptions.” *bQid* 34a), and the difficulty with which commentators both traditional and scholarly, medieval and contemporary have in justifying, rationalizing or understanding how the rule fits in with the laws it is supposed to describe,³⁸ suggest that it functioned more to name and differentiate men and women, than to help in distinguishing between commandments. The rule functions to gender a certain type of activity (“commandments to refrain from specific activities”), since those are the commandments in which both women and men are equally and unproblematically obligated.

This linguistic and cultural usage parallels the naming of the largest court in the Temple, the court where all Jews, male and female, were allowed to enter (if

³⁷ E.g. women are exempted from Torah study (*SifDeut* 46 and *tQid* 1:11), redemption of the firstborn son (*tQid* 1:11), circumcising one’s son (*tQid* 1:11), and “be fruitful and multiply” (*mYev* 6:6) even though these are not time bound, while they are obligated to fulfill the commandments of *hakhel* (Deut 31:12), the *simhah* offering (Deut 15:14 and *tHag* 1:4), eating *matsah* on Passover (*tPes* 1:34), *kidush ha-yom* (*bBer* 20b), lighting of Hanukkah candles (*bShab* 23a), drinking the four cups of wine on Passover (*bPes* 108a–b), and reading the *megilah* on Purim (*bMeg* 4a) even though they are all time bound.

³⁸ For a recent review see ALEXANDER, “From Whence the Phrase ‘Timebound, Positive Commandments?’” 317–346, especially notes 3 and 5.

they were pure) as the Women's Court. The next court up was named the Israelites court. The latter was only open to men.

Shabbat and Temple

This comparison with the Temple itself is not made lightly. *mTamid* (and, to a large extent, its companion *mMiddot*) begins in a fashion which is structurally similar to *mShabbat* – with walls and boundaries. *mTamid* starts with a discussion of the places where the priestly honor guard stood watch around the walls of the Temple. These walls were meant to actually and symbolically signify the distinctions between Israelite and non-Israelite; priests and non-priests; men and women. The walls symbolized the exclusion while the mechanism of exclusion was purity and lineage.

The focus in *mShabbat* is on the boundary itself and what crosses it or may not cross it. The boundary is a part of the mapping of Shabbat – however, it is not only that which transpires inside the boundary which is considered Shabbat. The opposite is also the case; it is the boundary which – if respected – enables everything that happens inside it or outside it to be a Shabbat activity. On the other hand, the Temple is completely bounded by its walls and dimensions (*mMid* 2:1), and only inside the walls are the very specific and specifically choreographed Temple activities permitted. A sacrifice can only be slaughtered, skinned, disemboweled and laid upon the altar by a priest. The incense can only be introduced into the *sanctum sanctorum* by the High Priest and only once a year on Yom Kippur, the Day of Atonement.

The Temple is defined by its physical space and its actions. The space is defined by walls of stone, and subdivided by stairs and gates and walls. The actions are minutely choreographed and supervised from before sun-up (“He that wished to clean the Altar of ashes rose up early and [ritually] immersed himself before the officer came. At what time did he come? Not always at the same time. Sometimes he came at cockcrow and sometimes a little sooner or later” (*mTam* 1:2) and through the day.

Shabbat is defined by the prohibition of action. Shabbat is a field upon which any action which is not prohibited is, thereby, a Shabbat action. The mapping of Shabbat allows it to be everywhere, while the mapping of the Temple defines and confines the sacred to a very specific place.

There is then a direct confrontation between Shabbat and Temple. This is played out in two ways. On the one hand, the thirty nine activities that are forbidden on the Shabbat are, at least nominally, forbidden because they were activities which were required for the building of the Temple.³⁹ Second, the Tem-

³⁹ The general principle “All categories of work were derived from the Temple” appears in Hebrew in the *Yerushalmi* (כל אבות מלאכות מן המשכן למדו) (*yShab* 7:2, 9d) and in Aramaic in

ple service overrides many of the Shabbat prohibitions. So, for example, the Shabbat sacrifices are brought, slaughtered, burnt, etc. despite the fact that these activities are forbidden outside the Temple (or even outside the Temple ritual).⁴⁰

Shabbat, then, is a space of “not doing,” while Temple is the space of “doing.” To this extent Shabbat equalizes between men and women (though it distinguishes between Jew and non-Jew), while Temple stresses the differences between men and women (and between Jews and non-Jews and between different classes of Jews).

It is, then, regarding Temple law, rather than regarding Shabbat law, that Gruenwald’s observations about ritual would be apt. Every act in the Temple, from the most quotidian (i.e. cleaning the ashes and burnt bones from the altar, or discarding the burnt wicks from the candelabrum each morning) to the most sublime (e.g. the high priest introducing the burning incense into the *sanctum* once a year on the Day of Atonement), is carefully and painstakingly scripted and choreographed. Each part of each ritual has an opening and a closing, as does the ritual as a whole, as does each day (the Temple is locked each night with an honor guard of priests sleeping inside the gate).

This contrast between the Shabbat ritual (which is almost an anti-ritual according to Gruenwald’s and Bell’s understandings of ritual) and the Temple ritual brings me to suggest that the differences are intentional and reflect or construct the gendering of the two practices. In distinguishing between Shabbat and Temple, Rabbinic law distinguishes not only the practices but the method of practice. Whilst Shabbat law in the Temple (with regards to the Shabbat *tamid* sacrifice, for example) is indistinguishable in most ways from a weekday sacrifice in the Temple (with some exceptions),⁴¹ rabbinic Shabbat ritual outside the Temple is diametrically opposed to Temple ritual. There is no choreography, there is no opening or closing ritual, the blank space that is created by refraining from certain activities actually opens the space of Shabbat to ritual which is ritual by definition or context or happenstance rather than by design.

The Temple is the Other of Shabbat. It is a masculine domain in which all the ritual (aside from, perhaps, *semikbah*, the designation of the sacrifice by the placing of the hands on its head) is performed by men. It is a domain which is populated in its core exclusively by men. It is a domain which is defined by action – burning, sprinkling, singing. Moreover, the proscriptions of the rabbinic Shabbat – those 39 categories of activity mentioned earlier – are, as mentioned above, at least theoretically modeled on those activities which were deployed in the Tabernacle. The Tabernacle is the place of those actions; Shabbat is the space in which those actions are prohibited.

the *Bavli* כל מלאכות ילפינן להו ממשכן (ממשכן) *bShab* 31b). cf. e.g. *MaRiY va-yabel*; *bShab* 96b on the etiology of “throwing.”

⁴⁰ *mMen* 11:3.

⁴¹ cf. *mMen* 11:3.

Shabbat, as constructed in *mShabbat*, is negative space. It is the background upon which all actions, actions exactly the same as those performed on any other day, become ritual because they are performed on the map, the negative space of Shabbat. One only rubs up against the negative space by doing that which is forbidden. If one does nothing all Shabbat, according to Mishnah, one is fine.

That space, the space of negative commandments, is a space of a necessarily failed attempt to transcend gender. On the one hand, there are no gender distinctions within the space created by the prohibitions of specified activities and the cartography of Shabbat. On the other hand, and this is slightly beyond the scope of this paper, the gender that is left when gender is transcended on Shabbat is masculine. This latter becomes obvious whenever there is an attempt, and here for the most part I am referring to the *Bavli* rather than the Mishnah, to prescribe positive actions.

When the *Bavli* details the preparations for Shabbat, for example, where one might have expected to find women engaged in the food preparation, and the list includes preparing wicks, making firewood, searing a goat's head, frying fish and so on, it is only male rabbis who are doing the preparation.⁴² I will only note here as an aside, that some of this list (especially the activities that have to do with preparations for preparing food) overlaps with the activities that the priests have to do in preparation for preparing the sacrifices.⁴³

The same is true (that men are almost exclusively mentioned) in discussions of preparing and eating food⁴⁴, or discussions of warming and serving food (and here I am thinking of both the *Bavli* and the *Yerushalmi*).⁴⁵ It is perhaps notable that the only time a woman is mentioned in Tosefta in connection with food preparation has to do with soaking a vetch over Shabbat – and this is presumably for the purpose of animal feed and not human consumption.⁴⁶

⁴² *bShab* 119a.

⁴³ *mTam* 1-2. On a comparison of the high priest to a woman after the destruction of the Temple see also the contribution of Christiane Tzuberi in this volume: TZUBERI, "And the Woman is a High-Priest."

⁴⁴ *bShab* 119b. The one story of a woman baking in *bShab* 63b does not occur on Shabbat and she does not actually succeed in reaching her apartment in order to bake because she is attacked by a dog and gives birth early.

⁴⁵ E.g. *bShab* 38b mentioning Rabbi Hoshayah serving Rabbi Hiyya the Great. *yShab* 3:1, 5c with Rabbi Yoshiyya bar Gizurah serving Rabbi Zeira. However, in *yShab* 4:1, 6d Rabbi Yannai's unnamed daughter serves him and engages with him in a discussion (parallel to the one in 3:1) about the proper way to keep food warm on Shabbat. Tamara Or has astutely summarized the evidence that women were central to food preparation in late antiquity and has also shown that the same is true in the culture represented by Rabbinic literature, especially *mBetsab* and *bBetsab* (OR, *Masseket Betsab* (FCBT II/7), 25-28). In light of this, the fact that women are almost totally absent in connection with food preparation in *mShabbat* and *bShabbat* is even more striking.

⁴⁶ *tShab* 3:1.

I would suggest that in this regard, unlike Ha-Meiri's statement which I quoted as the epigraph "*Women are like men in regards to Shabbat...*" the opposite is true. Men are like women in relation to Shabbat. Men cook, men prepare, etc. Gender is transcended. However, the gender that is left is masculine since when the men are like women, women are elided.⁴⁷

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⁴⁷ This is similar to, and based in part on the argument of YINON and ROSEN-ZVI, "Men's Ornaments – Women's Ornaments." Tamara Or makes a related but slightly different point: "In some cases ... the halakhah was clearly based on the actions of women, the justification for which, however, was the notion that the women knew and adhered to the halakhah, but only because they were the daughters or wives of famous and observant rabbis." OR, *Massekhet Betsab (FCBT II/7)*, 16.