

# The Prohibited Labor of Gathering (*Me'amer*)

Is it permitted to gather oranges or nuts from under a tree?

May one make a string of dried fruit?

How may one collect fruit that has scattered in the home?

Is it permitted to gather candies that have been thrown at a groom in synagogue on Shabbat?

## Definition of the labor

After produce has been reaped, or after fruit has been picked, it is collected in piles, a process called **gathering**. Cut stalks of grain are typically tied in sheaves, while fruit is gathered into baskets and boxes.

The **mishna** (73a) lists Gathering as one of the thirty-nine prohibited labors. The **Meiri** (ad loc.) explains:

[With regard to the prohibited labor of] one who gathers sheaves into a pile, this is gathering the sheaves after the harvesters have left them in their place, piling them in a single place, and binding them together. The same applies if one gathers stalks one by one and makes sheaves out of them, and this is true of all similar actions.

The difficulty with regard to the labor of Gathering

Gathering with regard to items that are not grow from the ground

Accordingly, one who gathers stalks and makes them sheaves is liable due to Gathering.

At first glance, the labor of Gathering is puzzling. Generally, only a creative action, or one that improves an item, is defined as a labor. In the case of Gathering, no new action is performed with regard to the items; one merely moves them from one place to another and gathers them into one spot.<sup>1</sup> In order to understand the essence of the prohibited labor of Gathering, we will delve into the different aspects of this act.

The **Gemara** (73b) cites an amoraic dispute as to whether the prohibition of Gathering applies to items that do not grow from the ground:

Rava said: One who gathers salt from salt pools is liable due to the labor of Gathering. Abaye said: Gathering by Torah law applies only to produce that grows from the ground.

The **Gemara** is referring to one who gathers salt from a place where seawater evaporates and the salt is collected. **Rava** maintains that one who gathers the salt on Shabbat is liable due to Gathering, whereas **Abaye** contends that the prohibition of Gathering applies only to items that grow from the ground. Abaye reasons that since the labor of Gathering in the Tabernacle was performed specifically



Collecting fruit into boxes is prohibited by Torah law due to Gathering.

1. With regard to the labor of Taking Out from the private to the public domain, here too, there is no change to the actual item, as it is merely moved from one place to another. As discussed above (p. 11 note 6), the **Gemara** (96b) seeks a source for this labor and does not derive it from the labors in the Tabernacle. The *Rishonim* explain that the Tabernacle serves as a source only for creative, constructive labors, whereas Taking out is an “inferior labor” (*melakha gerua*) which involves no change or improvement to an item, and therefore it requires an independent source.

with items that grow from the ground, one is liable due to Gathering only in such cases.

With regard to the *halakha*, the *Or Zarua* (2:57) and the *Meiri* (73b) rule in accordance with the opinion of Rava, that one is liable for the labor of Gathering even when the items do not grow from the ground. By contrast, the *Rambam* (8:5) and the *Rosh* (7:2) accept the opinion of Abaye, that gathering items which do not grow from the ground is permitted by Torah law.<sup>2</sup> Nevertheless, the *Rambam* (21:11) writes that Abaye concedes that gathering items that do not grow from the ground is **prohibited by rabbinic law**, as this act is similar to Gathering.

The *Shulḥan Arukh* (340:9) rules in accordance with the opinion of the *Rambam*, that gathering items that do not grow from the ground is prohibited by rabbinic law:

It is prohibited to gather salt from the salt works, as this is similar to Gathering.

Therefore, it is similarly **prohibited by rabbinic law to gather eggs from a chicken coop** and place them into a vessel (*Eglei Tal*, Gathering, 6; *Ketzot HaShulḥan* 146, *Badei HaShulḥan* 49:22).<sup>3</sup>

Many *Rishonim* add another condition: One is liable due to Gathering **only for collecting the items in the place where they grew**. Some cite a proof for this from a *mishna* in *Beitza* (31a):

The *halakha*:  
Gathering items  
that do not grow  
from the ground  
is prohibited by  
rabbinic law

Gathering not in  
the place where  
they grow is  
permitted

2. The *Or Zarua* rules in accordance with the opinion of Rava, because in every dispute between Abaye and Rava the *halakha* follows Rava, except for six specific cases (as represented by the mnemonic “*yal kegam*”: *yod*, *ayin*, *lamed*, *kuf*, *gimmel*, *mem*). The *Maggid Mishne* and *Kesef Mishne* (ad loc.) explain that the *Rambam* rules in accordance with the opinion of Abaye because his version of the Gemara had “Rabba” instead of “Rava.” Nevertheless, some maintain that in a dispute between Rabba and Abaye, the *halakha* is in accordance with the opinion of Rabba, as he was Abaye’s teacher, and the *halakha* in such a dispute is in accordance with the opinion of the teacher).

3. In a case of significant loss, the *Responsa Shevet HaLevi* (4:39) permits a Jew to **have a non-Jew** collect the eggs, as this prohibition applies only by rabbinic law, and a Jew may ask a non-Jew to violate a rabbinic prohibition on Shabbat in order to prevent such a loss.

One may bring wood from a field, but only from that which has been gathered. But if one brings wood from a *karpef* (enclosure), he may bring even from the scattered wood.

In other words, one may bring wood in from a field on a Festival only if it had been gathered before the Festival, whereas it is permitted to bring in wood on a Festival from an enclosure [*karpef*, an outdoor fenced-in area], even if the wood is scattered. *Tosafot* (s.v. *min hakarpef*) ask: Why isn't gathering wood from a *karpef* prohibited due to Gathering? They explain that the prohibition of Gathering applies only in the place where the items grew:



Gathering eggs from a coop is prohibited by rabbinic law due to Gathering.

This is puzzling, as it is Gathering, which is a primary category of labor (*av melakha*). One may say [in explanation] that Gathering applies only in the place where they grow.

The same limitation is cited by the **Rashba** (*Beitza* 33b, s.v. *uvilvad*), the **Ritva** (73b, s.v. *Abaye*), and the **Ran** (*Beitza* 19a, in the pages of the Rif, s.v. *umikol makom*). They add that it is for this reason that the aforementioned passage in tractate Shabbat refers to one who gathers salt from salt pools, a place in which water evaporates and the salt is naturally found, not from anywhere else.<sup>4</sup>

4. **Responsa Maharash Or Zarua** (214) rejects the proof from this Gemara: "Perhaps collecting stubble in a courtyard is not Gathering, as the labor must be similar to the gathering of stalks. In that case, one gathers them together and binds them, or lays them down together so that the wind will not scatter them and to prevent people and animals from trampling them, and [also because] they can easily be lost in a variety of ways when the stalks are left separate. By contrast, sticks in the courtyard, which are collected solely for immediate kindling, are not gathered; rather, [one collects them because] it is burdensome to kindle every stick and throw every stick individually into the flames; it is not for the sake of improving and maintaining the sticks that one gathers them. Thus, this is not Gathering."

Why should the labor of Gathering apply only in the place where the items grow? An answer may be found in the **Gemara** in *Beitza* (13b):

The reason for the leniency: Making a pile is not a creative labor

What is the equivalent of their granary, [i.e., the point at which the processing of various vegetables is completed so that one becomes obligated] to separate tithes? ... from when one assembles them in a pile. Whereas with regard to Shabbat, one who assembles produce in a pile is exempt [as] ... the Torah prohibited creative labor (*melekheth mahashevet*).

The Gemara here determines that gathering produce into a pile is considered determinative with regard to the obligation of tithes, but this action is not prohibited on Shabbat by Torah law, as it is not considered creative labor. **Rashi** (s.v. *ela mai*) explains:

Even though this is considered labor with regard to tithes, with regard to Shabbat the Torah prohibits creative labor, as the passage discussing Shabbat is juxtaposed to the passage discussing the construction of the Tabernacle in *Parashat Vayak'hel*, and there [with regard to the Tabernacle] the verse states “creative labor.”

In other words, it is derived from the juxtaposition of the passages of Shabbat and the Tabernacle (*Shemot* 35) that one is liable on Shabbat only for acts of craft and creativity (see introduction, p. 32).

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In other words, the labor of Gathering applies only when the gathering serves to keep the stalks from becoming lost or damaged, but if one gathers fruit or sticks together only because it is convenient to use them in a bunch, such an act is not included in the prohibition of Gathering. Maharam Benet also writes this in his analysis of the labor of Gathering in his work *Magen Avot*. According to this explanation, **the definition of the prohibition of Gathering is the improvement of the produce by gathering**, an act of collecting that helps it to be better preserved.

Other *Rishonim* do not understand the matter in this way. Those *Rishonim* permit gathering wood from an enclosure on Yom Tov only because it is not the place where it grows. It can be inferred that were it not for this reason, the act would be prohibited due to Gathering, despite the fact that one does not improve the wood by gathering it.

Assembling items in a heap is not an act of craft or creativity, and therefore it is not prohibited on Shabbat.

Yet, assembling a heap appears to be exactly what is performed in the labor of Gathering. What is the difference between the labor of Gathering, which is prohibited by Torah law, and making a pile, which is permitted because it does not involve improvement or creation?

**Rashi** (ad loc., s.v. *veshelo piksu*) adds a phrase that resolves this difficulty:

With regard to Shabbat, **once one has brought onions into his house**, making a pile is not a prohibited labor.

In other words, the labor of Gathering is performed **in the field**, and it is only there that making a pile is considered an act of labor. By contrast, the Gemara in *Beitza* is discussing one who gathers fruit or vegetables **in the house**, and in such a case it is not an act of labor. Accordingly, Rashi accepts the opinion of *Tosafot* that there is no liability for Gathering except in **the place the items grow**. Rashi's statement implies that Gathering not in the place where they grow is excluded from the prohibition, as there is no improvement to or alteration of the produce itself.<sup>5</sup>



Piling fruit in the house is not prohibited due to Gathering.

5. This is how the *Ketzot HaShulhan* (146; *Badei HaShulhan* 49) explains the fact that only the labor of Gathering is limited to the place where the items grow, not other prohibited labors which involve crops: "Gathering applies specifically to the place where the items grow, which is not so with regard to the labors of Threshing and Selecting, because Threshing and Selecting are actions that are performed to the actual grain. Threshing causes the husks to come apart, and through Sowing, Selecting, and Sifting, the waste part is separated and the item undergoes a change. This is not true of Gathering, in which one does not perform any action upon the item itself and one does not alter it, and what [kind of] labor is this? ... Rather, all labors that were

Gathering is considered a labor only in the field, not the house

Yet, this distinction still requires clarification: If making a pile in the house is not considered creative labor, as there is no improvement to or alteration of the produce itself, why is assembling a heap in the field considered creative labor? After all, gathering produce in the field does not involve improvement or alteration either.

One explanation is that gathering produce in the place where it grows has greater significance than doing so in the house because it is considered **the completion of the labor of Reaping**. Although one has already severed the stalks from the ground with a scythe, as long as they are scattered throughout the field they are of limited utility. Only after gathering them can one progress to threshing and milling the stalks. This is also true of fruit: Picking it becomes more significant after one has gathered the fruit into one place.

Gathering in the field is considered the conclusion of Reaping

If so, the essence of the labor of Gathering is gathering produce after reaping, thereby completing the process of harvesting.<sup>6</sup> Therefore, the prohibition applies only when the produce is located in the place where it grows, after the act of reaping. If the produce had previously been harvested and gathered, and subsequently scattered after it was brought into the house, gathering it there is not deemed significant enough to be included in the labor of Gathering.<sup>7</sup>

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performed for the Tabernacle are prohibited on Shabbat, and since it is the manner of a harvester to gather the crop afterward, and this is what was done for the Tabernacle, such gathering is classified as a labor that is prohibited on Shabbat. [A prohibited labor] must be similar to an act that was performed for the Tabernacle, where the gathering was in the place where the items grow, as is the manner of the harvesters. By contrast, gathering scattered fruit outside the place where it grows is not similar to what was done for the Tabernacle, and therefore it is not in the category of a labor at all.”

6. This explanation suits the opinion of **Abaye**, that Gathering applies only to items that grow from the ground. According to **Rava**, who holds that the prohibition of Gathering applies also to gathering salt and other items, but only in the place where they grow or originate (“from salt pools”), the labor of Gathering is not only the completion of Reaping. Rather, every gathering of an item from the place where it grows, which renders it significant and increases the opportunity for its use, is Gathering.

7. The *Tosafot Rid* (73b) writes:



Gathering does not  
apply to processed  
items

The *Arukh HaShulḥan* (340:3) adds that there is no prohibition of Gathering with regard to items that have already been processed, e.g., ground or cooked items:

It is clear that Gathering applies only to grain or produce that has not been baked, cooked, or ground, so that it is still in the

Gathering after  
gathering

“And one who gathers, this means one who gathers stalks after the harvester and forms them into a sheaf... And if you ask: If so, one should be liable due to Gathering, for collecting scattered fruit in one’s own courtyard. The answer is that Gathering applies only **at the time they are detached from the ground**, as this is the beginning of its collection. Gathering fruit which has already been collected and later scattered is not Gathering.”

This statement implies that even when fruit is still in the place where it grew, if it had already been collected and subsequently scattered again, collecting it at this stage is not considered Gathering. The opposite can be inferred from the statement of Rashi: It is only inside the house that there is no prohibition of Gathering, but the prohibition of Gathering remains in force in the field even if the fruit had been gathered already and was then scattered again.)

What is the reason for this? The *Eglei Tal* (Gathering 2:3) maintains that just as there is no grinding after grinding, i.e., once a substance has been ground, there is no significance in grinding it again, so too, **there is no gathering after gathering**. This interpretation is extremely novel. With regard to Grinding, it is reasonable that once an item has been ground, when it later becomes a mass again, it does not return to its initial state. Therefore, the labor of Grinding does not apply to it. (If the original act is entirely voided, and the material actually returns to its original state, the labor of Grinding may indeed apply; see pp. 1018–1019). With regard to Gathering, by contrast, when fruit is gathered and then scattered, the scattering seems to nullify the previous gathering entirely. In light of this, it stands to reason that the *Rid* actually means that the essence of the labor of Gathering is **the conclusion of the labor of Reaping**, and therefore the prohibition applies only to the initial collection of the fruit, just after reaping. Once the fruit has already been gathered, the labor of Reaping is complete, and from this point onward, if the fruit is scattered and collected again, this is not considered a continuation of reaping even if the fruit is still in the field. The *Eglei Tal* himself suggests a similar idea, *ibid.* 8; see the *Shevitat HaShabbat*, *Maaseh Hoshav*, 14b, for a somewhat different suggestion.



same state as when it was harvested or detached. Were this not so, it would be prohibited on Shabbat to put loaves together in a given location or to place different types of fruit next to each other. Rather, this prohibition applies only when the items are being picked from a field, gardens, or trees, not when they are in the house, and certainly not after grinding, baking, or cooking.

The novel idea here is that even if, for example, one cooks fruit in the field where it grows, there is no prohibition of gathering it after cooking. In light of the above explanation, the logic is that the prohibition of Gathering applies only to the act of gathering that immediately follows and completes the harvesting process. Certainly, one cannot speak of completing the harvesting after the produce has already been ground, baked, or cooked.

One common practical ramification of the labor of Gathering involves fruit that has fallen off a tree. The area under a tree is considered the place where the fruit grew, and therefore one who gathers the fruit into a pile there, or collects it there into a vessel, has transgressed the prohibition of Gathering by Torah law. Therefore, the *Mishna Berura* warns (340:37):

One may not collect fruit and pine nuts under the tree

Watchmen in gardens and orchards must be very careful about this even with regard to fruit that fell off the tree before Shabbat,<sup>8</sup> not to collect the fruit on Shabbat, even a few, as this results in an obligation to bring a sin offering [*ḥatat*], since the labor of Gathering applies even to a very small amount.

Nowadays, a situation of this kind is common not only for those guarding orchards and gardens. Anyone who has a fruit tree in his yard must take care not to gather the fruit there. The *Arukh HaShulḥan* states (340:2) that it is prohibited to gather together even **two pieces of fruits** (two single items) to a single spot, and comments, “this prohibition is entirely unknown to the masses.”

8. In any case, it is prohibited to consume fruit that has fallen from a tree on Shabbat, as stated above (p. 667).

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## GATHERING

Instead, on each occasion one should take a single fruit. This prohibition applies, for example, to collecting **pine nuts** from under their tree. One must be careful not to collect a few pine nuts together, but to take them one by one (and even then, only if they fell from the tree before Shabbat).