

Volume

1

PIRCHEI SHOSHANIM

Shulchan Aruch Learning Project

Hilchos Eruvin

PIRCHEI SHOSHANIM SHULCHAN ARUCH LEARNING PROJECT

Hilchos Eiruvim Volume I

Shiur 1

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The Four Domains of Shabbos

Simon 345:1-3
A reshus hayachid
Above the walls

1 The four domains of Shabbos are a private domain, a public domain, a karmelis (*i.e. damp, neither dry nor wet, it is not a private domain due to the lack of walls and it is not a public domain due to its dissimilarity to the camp of B'nei Yisroel, as it is not a public thoroughfare*) **and a void space.**

2 Which is a private domain: a (1) space that is enclosed by 1) walls ten tefachim high and (2) is four tefachim by four tefachim or more; a ditch that is ten tefachim deep and four by four wide; a mound that is ten tefachim high and four by four wide. RAMA *Some say that these must be four by four plus their diagonal, like will be explained in simon 349.*

3 The top of walls that enclose a private domain are considered (3) a private domain even though they are not four tefachim wide.

Introduction

The *melacha* of הוצאה – transferring an item from one domain to another, is one of the 39 *melachos* and purpose violation of this *melacha* carries the death penalty.

Rambam The *Rambam* (12:8) writes, taking (an item) outside and bringing (an item) inside is one of the *melachos*. Although this was passed on from Moshe from Sinai together with the rest of the Torah, nevertheless the *posuk* says (*Sh'mos* 36:6) “Man and woman should cease from doing the *melacha* of donating to the Holy, and the people

refrained from bringing”. We see that ‘bringing’ is termed a *melacha*. It was likewise learned in the oral law that transporting an item from the beginning of four *amos* to the end of four *amos* is equivalent to carrying from one domain to another.

Mid’oraisso

Mid’oraisso one is only liable for transferring an item from a *reshus harabim* (a public domain) to a *reshus hayachid* (a private domain) and vice versa, and for transporting an item four *amos* in a *reshus harabim*. The *halacha* sets the parameters for the various domains, which is the subject of the present *simon*.

^{Modes} There are many ways to transfer an item, such as throwing, passing, carrying and rolling. These methods of transfer are discussed later.

Mid’rabanan

Chazal added two other domains, the *karmelis* and the *m’kom p’tur*. The *karmelis* is not a *reshus harabim* because it is not a thoroughfare and it is not a *reshus hayachid* because it lacks walls – מהיצות. (The terms מהיצה – singular and מהיצות – plural are defined in this *simon*. We will use the word partition).

^{Karmelis} One may not transfer an item – *mid’rabanan* – from a *reshus harabim* to a *karmelis* and vice versa. Nor may one transfer an item from a *reshus hayachid* to a *karmelis* and vice versa. The violation obviously does not carry the death penalty or necessitate a *korban* (sacrifice) because it is only a rabbinical violation.

^{M’kom p’tur} A מקום פטור is a space void of restrictions, and indeed one may transfer an item from a *reshus hayachid* to a מקום פטור and vice versa and from a *reshus harabim* to a מקום פטור and vice versa. *Chazal* though prohibited the transferring of an item from a *reshus harabim* to a מקום פטור and then to continue and transfer that very item to a *reshus hayachid*.

This *simon* deals with the definitions of the various domains.

Methodology

In our shiurim on Shabbos we would first learn the *sugya* and then follow it up with the *Tur*, *Bais Yosef*, *Shulchan Aruch*, *Taaz* and *Magen Avraham*. From there we would continue with the many *poskim* available to us. Eiruvim is more complicated and I do not think that in our capacity we can afford ourselves such a luxury.

We will therefore attempt to begin with the *sugya* in the *gemora*, as usual, and we will usually state the relevant *Taaz* and *M”A*. But you are not expected to learn every *Taaz* and *M”A*, unless explicitly stated. We will concentrate more on the *Mishna Berura* while

incorporating the *poskim* into his work. I hope that this will make learning this subject an easier task.

The diagram at the end of this shiur is taken from the *sefer Peirusb Chai*, with the full permission of the author. It is a book of diagrams that accompanies *maseches Eiruvin*. It is very worth having.

SIMON 345:2

A Reshus Hayachid

One of the sources of this *halacha* is in the *gemora Shabbos* 6a.¹

Definition

A *reshus hayachid* is a space surrounded by walls that are at least 10 *tefachim* high and has a minimum inner space of 4 *tefachim* by 4 *tefachim*.

Number Of Walls

Rambam

There is a *machlokes Rishonim* as to the number of walls needed to define a *reshus hayachid*. The *Rambam* holds (*Shabbos* 14:1) that it requires 4 walls to be considered a *reshus hayachid*. These can be 4 full walls (including openings in the walls and many other issues, which do not detract from the validity of the wall) or 3 full walls and a *lechi* – להי for the 4th wall.

להי A להי is a stick of any width at least 10 *tefachim* high, which is placed adjacent to the 3rd wall, jutting into the space of where a 4th wall would be. When certain conditions are met a להי has the status of wall.

Other Rishonim

Most other *Rishonim* (*Rashi*, *Tosefos*, the *Ra'avad*, the *Rosh*, *Rashba* and *Ritva*) hold that 3 walls define a *reshus hayachid*, or even 2 walls and a להי for the 3rd wall.

See the 1st *Bi'ur Halacha* in *simon* 363 ד"ה אסרו חכמים, who discusses this *machlokes* in greater detail and adds several clauses.

Space Between The Walls

The *Taz* 2 discusses at length the issue of the space between the walls and holds (based on many *Rishonim* according to his understanding) that the thickness of the walls is taken into account. Accordingly, for example, if the space between the walls is 3 *tefachim* and the thickness of the walls is $\frac{1}{2}$ a *tefach* each, it is considered a *reshus hayachid*.

¹ Center of the *amud* after the colon.

The *M" A* 1 plainly says that the empty space must be 4 *tefachim*, see inside.

The *M" B* 3 says that most *Rishonim* hold that the empty space must be 4 *tefachim*, and *se'if* 19 proves that.² He adds that indeed there are *Rishonim* who hold that the walls are calculated together with the space, see *Sba'ar Ha'tsiun* 3.

He then quotes the *Ehya Raba* who cites the *Rashba* that if the walls are sufficiently wide to enable items to be placed on top, the thickness will then be calculated as part of the space to make up the 4 *tefachim*.

The *M" B* concludes, in the name of the *poskim* – see *Sba'ar Ha'tsiun* 5, that the debate regards the wall itself but in order for the space to be considered a *reshus hayachid* it must be at least 4 *tefachim* wide.

TO SUMMARIZE

For the space to be considered a *reshus hayachid* it must be 4 *tefachim* wide. Therefore if one were to throw an article from a *reshus harabim* into a space that it is 3½ *tefachim* wide, regardless of the thickness of the walls, one would be *pottur*. (Possibly it is even permitted to do so if that space is defined as a *מקום פטור*).

In a case where the space between the walls is 3 *tefachim* and the thickness of the walls makes up the 4 *tefachim*, and it is possible to place items above the walls, if one were to throw an item into the space between the walls one would be *pottur*. But if one threw it and it rested on a wall, one would be *chayav* (obviously we are referring to a case where the walls are 10 *tefachim* high).

Ditches And Poles

A ditch that conforms to the measurements of 4 by 4 by 10 *tefachim* will be a *reshus hayachid*, as mentioned in the *gemora*. The *M" B* 4 adds that a pole with similar measurements, even when situated in a *reshus harabim*, is a *reshus hayachid*.

In order for the space above the pole to be considered a *reshus hayachid* we must use a term called *גוד אסיק מהיצתא* – ‘the walls rise’. This means that we imagine that the walls of the pole rise and surround the space above the pole, thus forming a *reshus hayachid*. Without that we cannot say that the space above the pole is a *reshus hayachid* because it is not surrounded by walls. Indeed there are cases when we will not say *גוד אסיק מהיצתא*

² *Se'if* 19 says that if the space between the walls is less than 4 *tefachim* it is a *m'kom p'tur*, and the *Mechaber* does not discuss the thickness of the walls at all.

because there is for example a certain ledge above the pole “preventing” the sides from rising.

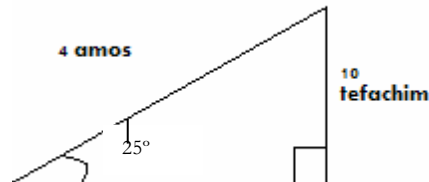
A post box A post box that is 4 by 4 and 10 *tefachim* high is a classic example of a *reshus hayachid*, and thus it is *ossur mid'oraissa* to raise an item from the ground (that is a *reshus harabim*) and place it on top of such a post box.

A car The same could be said of a car. Although we are aware of the *halacha* that says one may not transport an item in a *reshus harabim* over a distance of more than 4 *amos*, we might overlook the simple *halacha* that one may not (*mid'oraissa*) raise a slice of bread from the floor and place it on a car that is right by the bread, because one is raising it from a *reshus harabim* and placing it atop a *reshus hayachid*.

A Mound

A mound that is 10 *tefachim* high and has a surface area of 4 by 4 *tefachim* is a *reshus hayachid*.³ See the diagram on the last page.

The sides need not be vertically upright. If the sides are at an angle such that they rise 10 *tefachim* over a surface area of 4 *amos* or less, the mound is a *reshus hayachid*. If the angle is shallower, the mound is not a *reshus hayachid*.



The angle is approximately 25°.

The reason is that an angle so steep is not easily traversed and thus the mound cannot be considered a part of the *reshus* that it is in. If the angle is shallower it is easily climbed and the mound is part of the *reshus* it is in. See *Rasbi* in *Shabbos* 100a ד"ה תל המתלקט.⁴

³ We will come across the exact method of measuring the surface area because sometimes a certain portion of the sides, usually when diagonal, will be included in the surface area.

⁴ 29 lines from the bottom of the *amud*.

The same approach is to be taken when estimating the steepness of the sides of a ditch or pit. The sides need not be perpendicularly straight down, it is sufficient if they drop ten *tefachim* within 4 *amos* to consider the pit a *reshus hayachid*.

SIMON 3 4 5 : 3

Above The Walls

The walls enclosing a *reshus hayachid* have the status of a *reshus hayachid* and therefore placing an item above the walls is similar to placing it within the *reshus hayachid*.

This because they “cause” the enclosed space to become a *reshus hayachid* and therefore they קל והומר – all the more so are a *reshus hayachid*.

This is not to be confused with the discussion in *se'if 2* regarding the thickness of the walls, because the above refers to a space that is 4 *tefachim* **together** with the walls, whereas here the space is 4 *tefachim* wide without the thickness of the walls.

- One may not raise an item from a *reshus harabim* and place it on a fence that encloses a *reshus hayachid*, even if the fence is less than 4 *tefachim* wide, because the fence itself is a *reshus hayachid*.
- One may not remove an item from such a fence and place it on the ground of a *reshus harabim*, or even hold it in one’s hand, because it is considered passing it from a *reshus hayachid* into a *reshus harabim* and is an *issur d’oraisso*.⁵

Review Questions

1. Is הרוצאה an *issur d’oraisso* and what is the punishment for הרוצאה?
2. Which domains are *mid’oraisso* and which *mid’rabanan*?
3. Why is a *karmelis* only *mid’rabanan*?
4. What are the basic parameters of a *reshus hayachid*?
5. Is the thickness of the walls taken into account?
6. When does a pit become a *reshus hayachid*?

⁵ We have to learn to the intricacies of passing where certain requisites apply such as raising, putting down or holding stationary, however the purpose is to demonstrate the practicality of the *halacha*.

7. How is a pole measured?
8. How high must the sides of a mound be to consider the mound a *reshus hayachid* and must they be perpendicular?

Review Answers

1. הוצאה is an *issur d'oraisso* and the punishment is death ⁶ for purposely violating it, and a *korban* when done so unintentionally.
2. A *reshus hayachid* and a *reshus harabim* are *d'oraisso*; a *karmelis* and a *m'kom p'tur* are *mid'rabanan*.
3. A *karmelis* is not a *reshus hayachid* because it lacks the required walls, and it is not a *reshus harabim* because it is not a thoroughfare.
4. A *reshus hayachid* is surrounded by walls that are 10 *tefachim* high and has a space that is 4 *tefachim* by 4. The *Rambam* holds that there must be 4 walls and most other *Rishonim* hold that 3 are sufficient.
5. The *M"B* concludes that the space must be 4 *tefachim* to be considered a *reshus hayachid*. The *Elya Raba* holds that when it is possible to place an item on the walls they are taken into account, but the *M"B* holds that it will only make a difference to the wall itself but not to the space within.
6. When it is 10 *tefachim* deep and 4 *tefachim* wide.
7. A pole must also be 10 *tefachim* high and 4 by 4. We say that the *מהיצות* rise and form a *reshus hayachid* above the pole.
8. The sides of a mound must be 10 *tefachim* high but they need not be straight. It suffices that they gather the height of 10 *tefachim* within a slope of 4 *amos* long.

⁶ If there were two witnesses and the person was forewarned, the punishment is stoning – סקילה. If he purposely violated the *issur* and there were no witnesses he is *chayav* כרת, which is a form of death from heaven.

A Mound

