

**Volume**

**1**

PIRCHEI SHOSHANIM

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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 wide four by four; 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 as follows, 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 *passuk* 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 one who transports 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, for example 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*, *Taz* 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 *Taz* and *M”A*, but you are not expected to learn every *Taz* 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 Peirush Chai*, with the full permission of the author. It is a book of diagrams that accompanies *maseches Eiruv*. It is very worthwhile having.

## SIMON 345:2

## A Reshus Hayachid

One of the sources of this *halacha* is in the *gemora Shabbos* 6a.<sup>1</sup>

### 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 walls 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* – לחי – for the 4<sup>th</sup> wall.

לחי

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

#### Other Rishonim

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

See the 1<sup>st</sup> *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*.

<sup>1</sup> 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.<sup>2</sup> He adds that indeed there are *Rishonim* who hold that the walls are calculated together with the space, see *Sha'ar Ha'tsiun* 3.

He then quotes the *Elya Raba* who cites the *Rashba* saying 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 *Sha'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  $3\frac{1}{2}$  *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 מציצתא** – ‘the walls rise’. This means that we imagine as if 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 מציצתא**

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<sup>2</sup> *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.

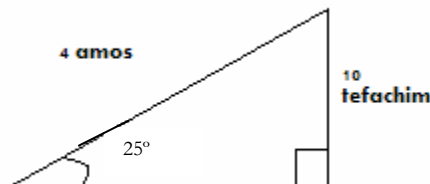
**A post box** A post box that is 4 by 4 and 10 *tefachim* high is a classic example of a *reshus hayachid*, and thus it is *ossur mid'oraissa* to raise an item from the ground (that is a *reshus harabim*) and place it on top of a post box.

**A car** The same could be said of a car. Although we are aware of the *halacha* that says that one may not transport an item in a *reshus harabim* over a distance of more than 4 *amos*, we might overlook this 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*.<sup>3</sup> 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 will also be a *reshus hayachid*. If the angle is shallower, the mound is not a *reshus hayachid*.



The angle is approximately 25°.

The reason for this 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 *Rashi* in *Shabbos* 100a ד"ה תל המתלקט.<sup>4</sup>

<sup>3</sup> 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.

<sup>4</sup> 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*.

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**SIMON 345:3**


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## Above The Walls

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

The reason is because they “cause” the enclosed space to become a *reshus hayachid* and therefore they קל וחומר – 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 for that matter, because it is considered as passing it from a *reshus hayachid* into a *reshus harabim* and is an *issur d'oraisso*.<sup>5</sup>

## Review Questions

1. Is הוצאה an *issur d'oraisso* and what is the punishment for הוצאה?
2. Which domains are *mid'oraisso* and which *mid'rabanam*?
3. Why is a *karmelis* only *mid'rabanam*?
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*?

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<sup>5</sup> 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 <sup>6</sup> 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* in order to be considered a *reshus hayachid*. The *Elya Raba* holds that when it is possible to place an item on the walls then 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 מחיצות 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.

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<sup>6</sup> 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

