

# HALOCHOSCOPE

This week's question:

A military base is surrounded by a security wall. It is an estate of a former ruler. On the enclosure he formed a very large man-made lake for recreational purposes. A Jew is based inside this compound. He must carry an ID card at all times. May he rely on the enclosure to carry there on *Shabbos*, or does the lake cause problems?

The issues:

- A) The *Reshuyos*, domains, for carrying on *Shabbos*
  - B) *Hekef Mechitzos*, the correct way to enclose a private domain
  - C) *Karpaf*, a space that is not used regularly
- A) *Reshuyos on Shabbos*

On *Shabbos* it is forbidden to move something from one *reshus*, domain, to another, or to move something within a public domain for the distance of four *amos*, cubits, or more. [A cubit is 19 to 24 inches, depending on whose view is followed.] This would violate the Scriptural *melacha* of *hotza'ah*, or of a Rabbinical precautionary extension of it.

There are four *reshuyos* with regard to carrying on *Shabbos*. Three are Scriptural and one is Rabbinical. The Scriptural ones are a private and public domain, and one that does not meet the criteria of either. The rabbis added some of the 'non-domains' to the list. In addition, according to many *poskim*, the Rabbis forbid moving things from one totally private domain to another. Others maintain that this is never forbidden. Rather they considered a domain that serves as a common area for two other private domains is given the characteristics of a public domain until modified by an *Eruv Chatzeros*.

The four *reshuyos* are: [a] the ***Reshus Hayachid*, private domain**. This is an enclosed area, with a minimum surface area, ideally, with fences on all sides of a minimum height. The fence or partition must be ten *tefachim*, fists (32 to 40 inches) high. It could be a mound, ditch, or thick post, separated from the surrounding area by a drop of the same height. The surface must be a minimum of 4 by 4 *tefachim*. Inside this *reshus* one may carry. There is no maximum size for a *reshus hayachid*, though the Talmud discusses whether entire continents could qualify. However, certain spaces within the *reshus* could be excluded. These could disqualify the entire enclosure. This will be discussed in the next section. The air space above and the depths below a *reshus hayachid* are treated as part of the *reshus*. Rabbinically, a *reshus hayachid* must also belong to one owner.

[b] ***Reshus Harabim*, public domain**. This is defined as an open unrestricted publicly owned area, that is, bounded by two parallel walls or less. The typical example would be a street or public square. The Talmud debates the definition of *Rabim*, based on the source for the *melacha*. Most of the laws of *Shabbos* are learned from the process of the construction of the tabernacle in the wilderness. The quintessential *reshus harabim* in the center of the encampment was accessed by six hundred thousand people. *Hotza'ah*

was done when the entire nation brought donations for the construction to the *Machane Leviya*, the Levites' section of the encampment, to Moshe.

Accordingly, the view generally followed nowadays is that a *reshus* that has less people frequenting it on a daily basis is not considered a Scriptural *reshus harabim*. The stringent view maintains that if an unenclosed *reshus* is sixteen *amos* wide it qualifies. When the tabernacle was dismantled and reassembled it was moved, in its parts, on and off wagons that were considered *reshuyos hayachid*. The 'road' in which the wagons were parked had to be sixteen *amos* wide to accommodate the load of the tabernacle beams. This view is recommended for those who feel able to follow it.

The Scriptural *melacha* is violated when moving an item from a *reshus hayachid* to a *reshus harabim*, or vice versa. It also applies to moving an item more than four *amos* within a *reshus harabim*. The act involves *akira*, picking the item up off the ground where it is stationary, moving it across to the other *reshus* or the four *amos*, and *hanacha*, setting it down in a stationary position in the new location. One of these without the other is still forbidden Rabbinically. Normal transportation, including carrying something in one's pockets, involves *akira* when starting from a standing position, and *hanacha* when coming to a stop (though this is not without Talmudic debate). Moving an item less than four *amos* in a *reshus harabim*, or incrementally over a larger distance, is forbidden Rabbinically. The air space up to ten *tefachim* is considered part of the *reshus harabim*.

**[c] Karmelis.** This area is neither *reshus harabim* nor *reshus hayachid*, because it fits the guidelines of neither, but could be confused with both. It is unbounded and passage is generally not restricted, but it is not frequented by *rabim*. An example is the sea. Rabbinically, one may not move things within it (four *amos*), into it or from it to one of the true *reshuyos*, as though it is the opposite type of *reshus*. If unenclosed, it is really not a *reshus* at all. Therefore, scripturally one could never violate *hotza'ah* through it. [This usually only applies when looking for a dispensation.] If enclosed on three sides, it is Scripturally considered a *reshus hayachid* with regard to a true *reshus harabim*. An expansive enclosed area with no dwellings inside is also considered a *karmelis* (see section C), relative to other *reshuyos*. However, carrying within it is permitted.

**[d] Mekom Petur.** This area is so insignificant, due to its uselessness under normal circumstances, that it is not considered a *reshus*, even Rabbinically. It is inside the space of a *reshus harabim*, separated from it by height, and with less than four *tefachim* surface area. It could be a post standing between three and nine *tefachim* off the ground or above ten *tefachim*. The air space above ten *tefachim* over a *reshus harabim* is also a *mekom petur*. Moving things between it and a *reshus harabim* or a *reshus hayachid* is permitted. Rabbinically, the same person may not move something from a *reshus* of one type to a *reshus* of the other type by way of a *mekom petur*. [See shabbos 2a-6a-9a 96b-101a, Eruvin 6a 59a 97b-101a, Poskim, Tur, Sh Ar OC 345-347 349:1 5, commentaries.]

### **B) Hekef Mechitzos**

To be considered a *reshus hayachid*, the area must be enclosed and owned by one person. The typical enclosure would be a fence or wall of the correct dimensions. However, if the area is bounded on three sides, it is a Scriptural *reshus hayachid*. Rabbinically the fourth side must also be walled in. Thus, the area must be enclosed. If a part is invalid, the area is no longer enclosed.

To qualify as a wall, the material used must be stationary for the duration of *Shabbos*. It must have the minimum height mentioned. Breaches more than ten *amos* invalidate the enclosure. A break of up to ten *amos* is considered an opening, and is permitted. However, there should be no more breaks than there are standing partition pieces. If the breaks are more than the walls, in most cases nowadays, the enclosure is invalid. Walls need not be built as partitions. A ditch, moat, side of a mound or embankment and the like also qualify. However, we shall see in the next section that natural walls do not always help. A fence need not be solid, but may have small spaces, up to three *tefachim*. The Talmud debates whether an entire enclosure based on these sparse 'walls' would qualify in every situation. Certainly a partial enclosure with these is fine.

For specific types of streets, the open end or ends may be 'enclosed with a post at the side or a beam across the top. Nowadays, streets do not generally meet these requirements. An enclosure may be made with a *tzuras hapesach*, shape of a doorway. A walled in area needs a door. Since every wall could have a doorway, and there is no maximum size of a doorway, any 'wall' with such a 'doorway' could still be considered a wall. Thus, if one makes the shape of a doorway, he has a 'wall' with its 'doorway' in the middle. This is constructed by erecting two upright side-posts, with a horizontal top post laying over the tops of the side posts. The upright posts must be strong enough to remain standing and the top post must be strong enough that it does not blow around too far in regular wind. Some place restrictions on the application of these 'walls'.

The common application of these unusual walls is for a large area. This would typically be a farm, estate, encampment, or a city or settlement. In some cases, an additional qualification must be met. A common area is not fully considered a *reshus hayachid*. To remedy this, an *eruv chatzeros* is made. Residents combine their residency into one residency by contributing their meals to one 'host'. For military compound, the issue does not arise. The army owns the entire compound and controls it with full authority. It is enclosed properly, for obvious reasons. The openings, while often wider than ten *amos*, are closed with gates. [See Eruvin 2a-23a etc., Poskim, Tur Sh Ar 360-365, commentaries.]

### **C) Karpaf**

Certain areas are truly *reshus hayachid*, but due to various considerations are Rabbinically disqualified from the category. The common term for these is *karpaf yosair mibais sasayim shelo hukaf ledirah*. *Karpaf* is a large general purpose area that has no regular use. As a small enclosed area it would be considered a *reshus hayachid* automatically. Due to its size, it can be confused with an open space, and it is treated as a *karmelis*. *Yosair mibais sasayim* means larger than an area of fifty by one hundred *amos*. If it had dwellings inside it, it could still qualify as a *reshus hayachid*, with a large yard. *Hukaf ledirah* means that the enclosure was made with the intent of attaching this *karpaf* to a dwelling, or place for regular use by dwellers. Such enclosures could not all be natural. Some must be man-made with this intent. Installing dwellings after the fence is built would not help. If the unusable area is less than a *bais sasayim*, but covers the majority of the yard, it makes the surrounding yard a *karpaf*. Due to a technicality, this forbids carrying between the yard and the house, but does not forbid carrying within the yard.

It is possible for an enclosed area to lose its *reshus hayachid* status if part of it is disqualified. If a *bais sasayim* of the enclosure is unusable due to its condition, it is deemed

a *karpaf shelo hukaf ledirah*. Unless it is itself sealed off from the rest of the area, it invalidates the entire enclosure. The typical example of this would be a farm with a field that was sown. Nobody would walk through it regularly. Another example would be a lake or any body of water. If one has a well or pool for drinking in his courtyard, it would never disqualify the enclosure. However, if the body of water was not for human use, and was more than *bais sasayim*, the enclosure would be invalidated. There is no difference whether the lake was made before or after the enclosure. Some bodies of water have steep banks, or a steep drop from the sides to the bottom. If this is the case, one could rely on the *mechitza* aspect of this to separate it from the rest of the enclosure. However, there may be no 'breaks' in the form of gentler slopes wider than ten *amos*. Furthermore, the sides must be visible from the banks. Otherwise, if silt builds up along the sides and degrades the slope, one could not see this on *Shabbos*. [A minority view considers any water within a *reshus* as an automatic *mechitza*. This is based on the impassibility, which is usually cited when water passes under a *mechitza* and disqualifies it.]

Human use is understood to include water fit to drink (or laundry), especially if the pool was made for this purpose. Muddy, murky or smelly water or swampland would not qualify. A fenced swimming pool raises an interesting issue. Assuming swimming is a human use, one should be permitted to swim in the pool, with no concern for carrying water in the hair. [There is an additional concern for squeezing the hair.] However, some point out that since the only 'dwelling' is this use, it is not considered *hukaf ledirah*. One would need a real dwelling to which to attach this *karpaf*. [See Eruvin 12a-b 15a 23a-25b 87a, Poskim. Tur Sh Ar OC 356 358, commentaries. Minchas Yitzchok VI:32.]

In our case, the recreational uses of this lake include swimming and other activities. The lake was purpose-made for this. The compound was built with various mansions in it. It is unknown when the lake was made, the area was enclosed and the mansions were first built. Some poskim maintain that it is normal to make the dwellings before the enclosure, so if it is not known we rely on this. Others say that this is clearly not meant as a hard and fast rule. In this case, especially, it is entirely possible that the compound was fortified before any building took place. Nonetheless, since this is a doubt, and the fortifications have been modified since then, and the need to carry the ID card is paramount, in this situation, the Jew may rely on the likelihood that it is considered *hukaf ledirah*.

*On the Parsha ... Moshe said, "The people are unable to ascend Mt. Sinai, for You have warned us 'bound the mountain and sanctify it!'" ... [19:23] Why are the people 'unable' to ascend, merely because they have no permission [Rashi], or because of the threat of death [Sforno]? Perhaps the people marked a boundary or even actually erected a fence. Hashem was concerned that they would break the fence. Moshe replied that Hashem had charged them with bounding the mountain and sanctifying it. They built the fence themselves. Its entire purpose was to show that the other side was not for their use, but was sanctified. They would not cross this fence. It was not a natural boundary, but was built with intent.*



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