The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שמ"ה סעיף י"ד

Overview

<u>Siman 345 Seif 14:</u>

What is a *karmelis*? An area that is not used by the public for travel. For example, a sea, an open area shop front (where the merchants sit) **or a shop ledge** (where the merchandise is placed) **that is in front of the posts of the public domain and the area is at least four *tefachim* wide and between three and ten *tefachim* tall. A corner that is close to the public domain** (alleyways that have walls on three sides but do not have a *lechi* or *korah* on the 4th side). **Similarly, a public domain that has a roof, a mound that contains four *tefachim* but is not ten *tefachim* tall or a ditch that is four *tefachim* wide but is not ten *tefachim* deep are all categorized as a *karmelis*.**

- The same is true concerning a river provided that the bank does not slope to a height of ten *tefachim* over the course of four *amos*, It would, however, be considered a *karmelis*. Meiri explains that a sea is not a private domain since the walls are far apart so that they do not combine the area in between into a private domain, therefore, even if the slope is deep it would not constitute a private domain. If there is a puddle in the public domain that is less than ten *tefachim* deep and people jump over it rather than through it, it is nevertheless, categorized as the public domain. Rashi implies that it is not public domain unless many people pass through it. If the puddle is ten *tefachim* deep and four *tefachim* wide it is a *karmelis* similar to a sea. Pri Megadim contends that as a stringency it is treated as a *karmelis* so that it is prohibited to transport something from it to a private domain but Biblically it is a private domain. (M.B. 48)
- A field that is not surrounded by walls. (M.B. 49)
- Since Shulchan Aruch did not mention anything related to the area between the posts, the implication is that that area is categorized as part of the public domain. However, most *Poskim* maintain that it is considered a *karmelis* since it is not easy to walk there. (M.B. 50)
- If it is not four *tefachim* wide it is a *makom petur*, if it is not three *tefachim* it is part of the public domain and if it is ten *tefachim* tall it is a private domain. (M.B. 52)
- Shulchan Aruch refers to where people do not unload their loads on it. (M.B. 53)
- A *lechi* serves the function of a partition. Even a *korah* that serves as a reminder, nevertheless, it is considered a private domain and one who throws an object from a public domain into such an area is liable but carrying within the area is only Rabbinically prohibited, similar to a *karmelis*. (M.B. 55)

Halacha Highlight

A house set back from other houses

Shulchan Aruch Siman 345 Seif 14
וקרן זוית הסמוכה לרשות הרבים
A corner adjacent to the public domain

In this *seif* Shulchan Aruch presents examples of a *karmelis*. Previously (סעי' א') it was explained that the term *karmelis* is a contraction of words that indicate that it is a domain that does not have the characteristics of a public domain (i.e., it is missing characteristics of the encampment in the desert which is the prototype for a public domain) nor does it have the characteristics of a private domain (e.g., it is not surrounded by partitions). In our *seif* Shulchan Aruch elaborates on the characteristics of a *karmelis* and writes that it is an area where the public does not commonly traverse. An example is the sea or an open field.

One of the examples of a *karmelis* is a קרן זוית הסמוכה לרשות הרבים which translates literally as a corner that is adjacent to the public domain. Rema explains that this refers to an alleyway that has three partitions but on the fourth side there is neither a *lechi* nor a *korah*. Mishnah Berurah (ס"ק נ"ד) presents two alternative explanations of Rashi. The first explanation is that the case refers to where a house in a row of houses is set back from the public domain so that the public can easily walk over the area between the house and the public domain. However, since it is off to the side of the remainder of the public domain, it is categorized as a *karmelis* rather than a public domain. Chazon Ish (או"ח סי' ק"ז סק"ט) questions why such an area is not considered Biblically, a private domain, being that it has three walls, i.e. the front of the house and the sides of the adjacent houses. In his first answer he suggests that since there is a fair amount of traffic that enters this area we invoke the rule אתו רבים ומבטלי מחיצתא—the public comes and nullifies the partitions. Alternatively, since there is public traffic over this area it becomes subordinate to the adjacent public domain and thus loses its categorization as a private domain.