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Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שמ"ו סעיף א'-ב'

Overview

Siman 346 Seif 1:

Biblically, one is liable if he takes out, takes in, throws or hands something from a private domain to a public domain or vice versa. Chazal prohibited one from doing one of those activities from a karmelis to a private or public domain or from them to a karmelis. However, it is permitted to transfer something from a private or public domain to a makom patur or vice versa. If someone standing in a private domain and takes out or takes in an item or hands or throws something to a public domain through a makom patur or vice versa, he is liable. Similarly, one may not stand in a makom patur and take something from someone standing in a public domain and hand it to someone standing in a private domain or vice versa. There is a debate whether it is permitted for one standing in a makom patur to transfer something from one domain to another that is only Rabbinically prohibited (see below siman 372:6).

- In other words, one is standing in one domain and hands something to someone standing in another domain. (M.B. 1)
- Since it was lifted from one domain and deposited in another, we disregard the fact that it went through a makom patur in the interim. This assumes that he did not stand in the makom patur but if he did he is exempt since the item was at rest in the makom patur, but it is nevertheless, Rabbinically prohibited. (M.B. 5)
- The word וכן is not specific since there is no liability in this case. (M.B. 6)
- In other words, he is standing on a makom patur and takes something from someone standing in the private domain and hands it to someone standing in a karmelis. The same is true if he takes an item from a private domain and places it in a makom patur and then transfers it from the makom patur to a karmelis. (M.B. 8)

Siman 346 Seif 2:

Biblically, one is not liable until he transfers it four *amos* in the public domain but Chazal prohibited transferring items four *amos* in a *karmelis* as well. The sea and an open field are examples of a *karmelis* and it is permitted to transfer from one to the other within four *amos*.

- The item must be lifted and deposited. Rabbinically, it is prohibited even if he did not lift and deposit but did only one of those activities. (M.B. 11)

Halacha Highlight

Transporting items from a public domain to a private domain via a *makom patur*

Shulchan Aruch Siman 346 Seif 1

אבל מקום פטור מתר להוציא ולהכניס ממנו לרשות היחיד

It is permitted to transfer something to and from a *makom patur* to a private domain

Shulchan Aruch (סע' א') presents the Biblical prohibition of transporting as well as the Rabbinic prohibition against transferring an item. He writes that Biblically, one is not liable unless the item is transferred from a public domain to a private domain or from a private domain to a public domain. Chazal prohibited even transferring an item from a *karmelis* to a private domain or a public domain or from one of those two domains to a *karmelis*. Mishnah Berurah (סק"ב) explains that Chazal were concerned that transporting items from a private or public domain to a *karmelis* could lead to violating the Biblical prohibition. However, Chazal did not include a *makom patur* in their injunction and thus it remains permitted to transport items from a *makom patur* to a private or public domain as well as from a private or public domain to a *makom patur*. However, if one transports something from a public to a private domain and in the process it passes through a *makom patur*, he is liable. Since the object was lifted from one domain and deposited in another domain, he is liable and the fact that it went through a *makom patur* is inconsequential.

Mishnah Berurah (סק"ה) writes that if one transports an item from a public domain to a private domain and in the process he passes through a *makom patur* and stands still for a moment, he is exempt. The reason is that by standing it is considered as if the item was deposited in the *makom patur* and thus the item was not transferred directly from the public domain to a private domain. However, it is prohibited to intentionally transport something from a public domain to a *makom patur* and then subsequently transport it from the *makom patur* to a private domain. The reason is that Chazal were concerned that if this were permitted people may transport items directly from a public domain to a private domain. Shulchan Aruch HaRav (סע' ב') adds that even if this process was performed by two separate people it is prohibited since this could also lead to a breakdown of Shabbos. Chazon Ish (או"ח סי' ק"ד סק"ה), however, is uncertain whether the Rabbinic injunction applies if the transfer was performed by two people.