



Parshas Mishpotim 5766

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What if a wallet is found on one's person when in the street on Shabbos?

In the previous shiur we cited the *Mishna Berura* ¹ saying that if one finds money or a purse in one's pocket when **indoors** it should be disposed of immediately. If however a loss might be incurred, there are precedents to rely on and one may continue with the valuables to a safe room and dispose of it there. When this scenario transpires **outdoors**, if there is no *eiruv*, additional complexities arise. Two fundamental rules apply when it is discovered that one is carrying outdoors without an *eiruv*:

- If stationary, do not continue walking.
- If moving, do not stop, continue walking.

What are the reasons for this?

There are two types of 'carrying' – carrying from a *reshus hayachid* (private domain) into a *reshus harabim* (public domain) and vice versa and carrying more than 4 *amos* ² in a *reshus harabim*. In this context, a *carmelis* ³ and a *reshus harabim* share similar rules.

Carrying as per above is not considered a complete violation unless a further circumstance is realized, identified as *akira* and *hanacha*. *Akira* means to lift or begin transporting and *hanacha* means to set down.

Akira is accomplished either by raising an item from the ground or if it is already on one's person, to walk with it.

Hanacha is brought about either by placing the item on the floor or ground or by standing still, when the item is already on one's person.

A violation of carrying incorporates *akira* of an item from a *reshus hayachid*, transferring it to a *reshus harabim* or *carmelis* and doing *hanacha* therein.

So if I'm stationary?

If, when outdoors, one realizes that one is carrying something in a pocket and one is **stationary**, if the item is insignificant like a tissue or a candy, it must be discarded within 4 *amos*. ⁴ Walking with it in one's pocket risks a violation of a biblical prohibition and is forbidden.

If the item is valuable or significant, one may walk and stop every 'less than four *amos*'. The *Mishna Berura* ⁵ cites an opinion who holds that standing motionless every 'less than four *amos*' is insufficient; rather one should either sit down or place the item on the floor. By doing so one is not transferring the item four *amos* at once in a *reshus harabim* and a biblical prohibition is avoided.

However, seeing that it is very risky to do so, as one is on the verge of violating a severe prohibition, *Chazal* were not in favor of this method unless one would incur a loss by leaving it in the street. ⁶

But what must I do when I reach my house?

It is indeed a problem, because transferring the item from the *reshus harabim* to the *reshus hayachid* involves an *issur*. Seeing that a loss is involved, *Chazal* permitted the transfer by throwing it with a *shinui* (a backhanded action) into one's private domain or any other safe place. A *shinui* would be turning around and throwing it over one's

¹ *Simon* 266:35.

² 57.6cm (*Chazon Ish*), 48cm (R' Chaim Na'eh).

³ A *carmelis* is a *reshus harabim* defined by *Chazal*.

⁴ *Simon* 266:12 in the *Rama*, *SS"K* 18:52.

⁵ *Simon* 266:18.

⁶ *M"B* 266:16.

shoulder. ⁷ Another way out is to place the item between one's shirt and body or in one's shoe or beneath one's hat and carry it into the *reshus hayachid*. ⁸ These are all methods of carrying *b'shinui*.

But why would Chazal permit an issur?

Chazal were masters of human nature and appreciated that if one was prohibited from safeguarding possessions, one would violate the Shabbos regardless. ⁹ They therefore devised a method by which it could be done with a minimum violation. Consequently, when the loss is minute it should be avoided altogether.

What if while I was in motion I realized I was carrying an item?

Don't stop!! By stopping dead in your tracks, an instinct born when realizing that one is carrying *b'issur*, one is putting *hanacha* into effect. Continue walking and plan the next move.

- If the item is insignificant and can be discarded, one should do so with a *shinui* (as above) in order to do *hanacha b'shinui*. If the item is in one's hand it should be dropped, not placed. If in a pocket, the pocket should be turned out. ¹⁰
- If the item is valuable and one does not want to discard it, one should continue (as above) until one reaches a safe place and throw it *b'shinui* into the designated place or placed beneath one's hat, as above. The *Mechaber* ¹¹ states that one runs towards one's house in order to remember that *hanacha* and *akira* is forbidden.
- One should not stop before one's house, as that is *hanacha*, rather while in motion one throws it into a safe place.

⁷ *M"B* 266:32.

⁸ *SS"K* 18:52 and footnote 230.

⁹ *M"B simon* 266:16.

¹⁰ *SS"K* *ibid*.

¹¹ *Simon* 266:11. See *SS"K* 18:52.

The *halacha* ¹² mentions other options, such as handing the item to a gentile or child or using two people to change every 'less than four *amos*', but in the scope of this shiur, justice cannot be done to the subject.

Vort on the Parsha

Re: the mitzvah of lending money. The *posuk* in *Tehilim* says Happy are they that keep justice, that do righteousness at all times (106:3), where 'that do' is singular and 'they keep justice' is in plural. The *K'sav Sofer* explains that *mitzvos* heeded are better performed together with others, as it demonstrates a *Kiddush Hashem*, hence the first part of the *posuk*. *Chessed* and *tz'dakah* should be performed in private, as it is done for the sake of the recipient and not for the donor.

Food For Thought

How is one to discard a muktze item?

Does the shirt with money in a pocket become muktze?

May I move hazardous items out of harms way?

Are there any restrictions as how to move it or them?

Answers coming be"H next week.

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¹² *Simon* 266.

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Note: The purpose of this series is intended solely for the clarification of the topics discussed and not to render halachic decisions. It is intended to heighten everyone's awareness of important practical questions which do arise on this topic. One must consult with a proper halachic authority in order to receive p'sak.