

Makos Review Lesson 36 - Daf 8A:

WHERE WAS THE VICTIM KILLED?

Mishnah:

1. If Reuven threw a rock into Reshus ha'Rabim and it killed, he is exiled;
2. R. Eliezer ben Yakov says, if the victim stuck out his head after the rock left Reuven's hand, Reuven is exempt.
3. If Reuven threw a rock in his property and it killed, he is exiled only if the victim had permission to enter.
4. "Va'Asher Yavo Es Re'ehu va'Ya'ar" (or if one comes with his fellow into the forest) - Galus applies only when the killer and victim both were allowed to be there, like in a forest; This excludes the killer's property, where the victim is forbidden to enter.
5. Aba Sha'ul says, cutting wood is Reshus (optional, and not a Mitzvah) - Galus applies only to Reshus, and not to a father hitting his son, a Rebbi chastising a Talmid, or a Shali'ach of Beis Din (to lash)

THE CASE OF RESHUS HARABIM:

1. **Gemara: Question:** If Reuven threw a rock into Reshus ha'Rabim, he is (close to) Meizid, he is not exiled!
2. **Answer - Rav Shmuel bar Yitzchak:** The case is, Reuven destroyed his wall.
3. **Question:** Still (he is close to Meizid), he should have looked if anyone is around!
4. **Answer:** He destroyed it at night.
5. **Question:** Still, he should have looked!
6. **Answer:** He destroyed it into a waste area.
7. **Question:** What is the case? If people often use it for a privy, he is close to Meizid! If people do not normally use it for a privy, he is close to Ones!
8. **Answer - Rav Papa:** The case is, people often use it for a privy at night, but they do not *often* do so by day, but occasionally they do. Therefore he is neither Meizid nor Ones.

THE REASON FOR EXCLUDING STICKING OUT HIS HEAD:

Mishnah - R. Eliezer ben Yakov: (If the victim stuck out his head...)

1. **Beraisa:** "U'Motza" excludes a case in which the victim brought himself to be damaged;
2. R. Eliezer ben Yakov learns from here that if the victim stuck out his head after the rock left Reuven's hand, Reuven is exempt.
3. **Inference:** 'Motza' connotes finding something there from the beginning;
4. **Contradiction from a Beraisa:** "U'Motza" (he will acquire money) forbids selling a far-away or bad field (i.e. that he is not so eager to keep) in order to redeem (against the will of the buyer) a close or good field that he sold.
5. **Answer of Rava:** We learn from the context of the verses;
 - 1. There, "u'Motza" resembles "v'Hisigah Yado" (surely, he did not have money when he sold, he acquired it only now);
 - 2. Here, "u'Motza" resembles the forest. It was there from the beginning.