

JOSEPH CARO AND THE SHULCHAN ARUCH:
A TEXT IMMERSION

GREG WEITZMAN

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Hebrew Union College – Jewish Institute of Religion
Graduate Rabbinical Program
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Advisor: Dr. Alyssa Gray

Greg Weitzman

Text Immersion – Introductory Chapter

Joseph Caro and the *Shulchan Aruch*

Halachic authorities are generally grouped together according to their historic period: Tannaim, Amoraim, Geonim, and Rishonim. The period of the Tannaim lasted about 150 years (70-220 C.E.) and is thought to have begun with the destruction of the Temple. The name "tanna" is derived from the Aramaic "teni" or "tena" ("to teach"), and designates in general a teacher of the oral law, and in particular, one of the sages of the Mishnah, or, those teachers of the oral law whose teachings are contained in the Mishnah.

The age of the Tannaim gave way to the Amoraim. An “Amora” comes from the Aramaic meaning “an expounder”. The relationship between the two is a bit clearer when we think about the Amora’s job as explaining the words of the Tannaim. The Amoraim are from both Palestine and Babylonia. The era of the Palestinian Amoraim ended around 360 CE and the Babylonian almost 200 years later, approximately 500 CE.

The periods of the Tannaim and Amoraim gave way to the period of the Geonim, which dates from 589 CE – 1038 CE. The Geonim saw themselves as the direct heirs to the *Hakhmei ha-Talmud*, to the Tannaim and Amoraim, and they exercised their authority for all of Israel that was within reach of the Abbasid caliphate, headquartered in Baghdad.

Geonim were appointed heads of the two major yeshivot of the time: Sura and Pumbedita. However, after the decline of Babylonia as the center of Jewish life in ca. 1038 CE, there was no one religious authority that held influence over all of Israel.¹

Following the Geonim came the period of the Rishonim, a period that is difficult to define but generally thought to have run from the 11th century until the 14th-15th century. Religious authority in the Middle Ages was confined to a leader's own community, or beyond, if the authority in question was considered a great scholar. During this period, Jewish communities enjoyed autonomy over their internal affairs and as a result, *halachic* literature throughout the known world became so vast that it necessitated the development of a compendium to collect the opinions of the Rishonim in an organized fashion.

These factors, and others discussed below, led to the composition of one of the greatest and most important Jewish legal codes: *Sefer ha-Halakhot*, which was composed by one of the early Rishonim, Isaac b. Jacob ha-Kohen Alfasi, known in Hebrew by the acronym, "RiF". Alfasi was born in 1013 and died in 1103 CE. He studied under Nissim b. Jacob and was appointed the head of a yeshiva in Fez. In his generation, Alfasi was regarded as the leading Talmudic authority, and *Sefer ha-Halakhot* supplanted many other books of *halachot* that were written during the time of the Rishonim.

Alfasi's approach to Talmud study and legal decision-making came to dominate the next generation of authorities. His *halachot* became a central source for deciding the law.² In his doctoral dissertation on the work of Alfasi, Levy notes:

¹ Brody, Robert, "The Talmud in the Geonic Period," 1

² Levy, Leonard, *R. Yitzhaq Alfasi's Applications of Principles of Ajudication in Halakhot Rabbati*. PhD. Diss., Jewish Theological Seminary, 2002 13

“The organization of Alfasi’s *halachot* is similar to that of *Halachot Gedolot* or R. Shimon Qayyara in that it organizes the laws according to the order of the Talmud. The main difference between the two works is in the presentation of the material. Whereas *Halachot Gedolot* brings mainly the legal conclusions of the Talmud while omitting most of the discussion leading to that conclusion, Alfasi includes the parts of the Talmudic discussion, which are necessary for understanding the basis of the legal decision. By including these selections from the Talmudic discussion, Alfasi’s *Halachot* became a text for learning how the law is derived from the Talmud, not just the code of laws derived from the Talmud.”³

The work had tremendous influence over other codificatory works such as Maimonides’ *Mishneh Torah*, Jacob b. Asher’s *Arba’ah Turim*⁴, and eventually Joseph Caro’s *Shulchan Aruch*. By the twelfth century, the Rif’s work was studied and taught by his students throughout Southern Europe and North Africa. Alfasi’s best student, Joseph ibn. Migash, was the teacher of a man named Maimon whose son Moses ben Maimon (1138–1204)--physician, philosopher, and rabbinic authority--was a towering figure in the world of medieval Jewish scholarship.

In his work on Maimonides, Isadore Twersky notes that, “Maimonides felt that it was ‘beyond human capacity to remember the entire Talmud,’ and because he was convinced that the study of the Talmud should remain comprehensive and not be

³ *ibid.* 17

⁴ The title of the work is an allusion to the High Priests breastplate described in Exodus 28:17.

fragmentized by the flimsy constraints of practicality and relevance, he wanted to facilitate such study.”⁵ As a result of this need and because of his belief that Rabbinic literature needed a code, Maimonides compiled his seminal work on *halacha* the *Mishneh Torah*.

The book was conceived as an all-inclusive halachic compendium, a guide to the entire system of Jewish law. Okay. In his Epistle of Maimonides⁶ to Jonathan ha-Kohen of Lunel, Provence, the Rambam writes:

“[His] intention in this work was none other than to clear the way and remove the stumbling blocks in the path of students, to keep them from being discouraged by the extensive [Talmudic] debates and thereby falling into error in determining the law”.⁷

Maimonides strove to present *halacha* in a “uniform and categorical character”. His fundamental premise was that the essential characteristics of a convenient and efficient code are clarity and brevity.⁸ However, because of his style hundreds of books were written to describe the arguments and counterarguments that the Rambam’s work neglected to include. Between the completion of the *Mishneh Torah* in 1180 CE and the

⁵ Twersky, Isadore, *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven: Yale University Press, 1980), 80

⁶ Also known as The Epistle to Yemen or Yemen Epistle (Hebrew: תימן אגרת Iggeret Teman, was an important communication written by Maimonides and sent to the Yemenite Jews. It is believed to have been written in 1172.

⁷ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1185

⁸ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1319

middle of the fourteenth century, a substantial number of codificatory works were composed.

Instead of the Six Orders of the Mishnah, and instead of following Maimonides' order of the *Mishneh Torah*, R. Jacob b. Asher divided the Tur into four major divisions, as follows: Good, but you already referred to Yoreh De'ah. You may need to move this discussion a little bit earlier in your treatment of the Tur.

1. *Orah Hayyim* or "Way of Life", comprising the laws of prayer, Shabbat, and Festivals.
2. *Yoreh De'ah* or "Instructor of Knowledge, comprising the dietary laws, *niddah* and *mikvah*, and the laws of mourning.
3. *Evan ha-Ezer* or "Stone of Help", comprising the laws of marriage, divorce, and *halitzah*.
4. *Hoshen Mishpat* or "Breastplate of Judgment, laws regarding the processes of courts and witnesses, and all matters concerning property such as contracts, loans, damages, etc.

Jacob b. Asher's method in compiling both the form and content of the Tur successfully concentrated the areas of *halacha* practiced at that time into a relatively convenient and well-organized form. The Tur classified and organized the law into clear and obvious subject areas, so that both students and judges could easily access the material for study or rulings. Each division was intended for a distinct audience: *Orah Hayyim* is for laypeople, *Yoreh Deah* for community rabbis, with *Evan ha-Ezer* and *Hoshen Mishpat* for rabbinic judges.

In his introduction to one of the *Arba'ah Turim*, the part *Yoreh De'ah*, Jacob b. Asher explained the factors that motivated him to compose the code:

“Since we are already a long time in exile, legal analysis has deteriorated, opinions have proliferated, and conflicts of authority abound. There is no longer any clear and undisputed law, so that many wander about to seek the word of the Lord by cannot find it. Therefore, my ideas and thoughts stirred me to consider the statements...and understand the books and the words of their authors...and I determined to compose a work on the subject of religious law and all the other matters needed at this time”.

Jacob b. Asher indicates how the lack of a binding code of Jewish law was apparent throughout Jewish communities in Israel and at first he sought to restore definitiveness to Jewish law, to express the law clearly and indisputably, and create a compendium of material available to him. Jacob b. Asher also tried to find an easy method of codification that would enable to law to be clearly and categorically stated, without “attribution of authority, yet, would maintain the continuity of the law, preserve the link with its sources, and keep alive the knowledge of the wide spectrum of opinions within it”.⁹

In another passage, Jacob b. Asher wrote that he “does not intend to include protracted proofs, but to set down the law as it has been authoritatively declared; when there are differing opinions, [he] will set them forth and then state [his] father’s

⁹ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print, 1283

conclusion”.¹⁰ On occasion, when Maimonides or others would disagree with Alfasi, Jacob b. Asher will discuss the various opinions and generally follow the decision of his own father, the Rosh.

Perhaps the most significant contribution of the Tur was that it “successfully achieved a middle course between a book of *pesakim* and a book of *halachot*”¹¹. On one hand it states the basic legal principles without reference to source or authority. On the other hand, it presents various opinions of the leading *Rishonim* on conflicting views. The work is “relatively convenient to use and definitively states the law, yet preserves the continuity of Jewish law and its link to the chain of tradition, and brings to the attention of the decision maker the whole range of relevant opinions”.¹²

The Tur was widely accepted throughout a large part of the Jewish world. For almost two centuries, it “remained the primary and most widely accepted code of Jewish law”¹³ and encompassed the totality of the law at the time, met the needs of judges, students, and most importantly, the community at large.

Between the eras of R. Jacob b. Asher and R. Joseph Caro, many Jewish centers in the Diaspora suffered decline and destruction. As some centers declined, others rose to take their places. Entire populations of Jews, the communities and their leaders, were forced to migrate and rebuild themselves. Communities such as those in Spain and Portugal went east to Turkey and Poland.

¹⁰ Introduction to Tur YD and OH

¹¹ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1301

¹² *ibid.* 1301

¹³ *ibid.* 1308

Joseph Caro, the author of the *Shulchan Aruch*, was born in Spain in 1488. At age four, Caro and his family were exiled from Spain and fled to Turkey. Throughout the thirty years that Caro lived there, he studied under his father Ephraim, a renowned Talmudist. In 1536, Caro left Turkey to spend time in Egypt before continuing on to Safed, Palestine. It was there that he met Jacob Berab, who strove to reinstitute the Sanhedrin. Caro himself, already a renowned rabbinic scholar, was ordained (again) by Berab in 1538, at which point he was seen as the leader of Safed. He served as the head rabbi of Safed until his death, writing responsa to *halachic* questions from all over the Diaspora.

It was in Israel that Joseph Caro was appointed to a *bet din* presided over by Jacob Berab, an influential rabbi and Talmudist best known for his attempt to reintroduce rabbinic ordination as a prelude to Jewish autonomy in Ottoman Southern Syria. Caro was one of the first whom Berab ordained. Upon Berab's death, Caro and "Moses B. Joseph Trani continued to head the *Bet Din* of Safed, which served as a leading tribunal for world Jewry".¹⁴

Caro's first *halachic* work, the *Bet Yosef*, a halakhic compilation appended to Jacob Ben Asher's *Arba'ah Turim*, was started in 1522 and finished twenty years later. However the *Beit Yosef* was not published until 1555. The *Bet Yosef* was composed as an extension of the *Tur* and followed the organization of the work. A concise version of the *Beit Yosef*, known as the *Shulchan Aruch*, has become Caro's most important work. Caro's main objectives in writing his *Bet Yosef* were to collect into a single work the different opinions concerning the rules of the *halacha*.

¹⁴ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1310

As time passed, the relocation and wandering of Jewish communities led to a number of social and *halachic* effects. Jews began to long for a final redemption and a restoration of a supreme *halachic* authority to consolidate the fractured Jewish communities. Jacob Berab's yearning to reinstate ordination in the land of Israel was one expression of this. The expulsions and wandering led to entire communities being uprooted and replanted in new locations with new customs and conflicting ideas regarding the laws between the established communities and the new ones.

Conflicting ideas between the communities that moved led to a wealth of responsa, legislative enactments and codificatory works. When the amount of work increased, so did the difficulty in wading through the material. In his introduction to the *Bet Yosef*, Joseph Caro describes the world and condition of Jewish law in the sixteenth century:

“As the years have lengthened, we have been tossed from country to country, scattering as we went...’the wisdom of our Sages has disappeared. Then too, the power of Torah and its students has been exhausted for the Torah is not expounded as if it were two *Torot* but *Torot* without number...The cause of this [calamity] is that everyone writes a book on his own, duplicating what has previously been written by those who preceded him; [or] he reverses a colleague’s ruling without citing his language”¹⁵.

¹⁵ Borowitz, Eugene B., “What Does the Halakha Say about...? Joseph Kayo’s Preface to the *Bet Yosef*.” *CCAR Journal* (Spring – Summer 1996): 52

In his introduction, Caro sought to describe the tribulations of exile that the Jewish people suffered. Also, a result of those problems was a tremendous volume of *halachic* disputes leading to, in Caro's words, "*Torot* without number". Joseph Caro was also concerned with the quality of this scholarship, as nearly anyone and everyone who wanted to write a book was doing so. Joseph Caro felt that "the need was great for a comprehensive as well as authoritative guide, which would stem the undesirable and almost uncontrollable proliferation of texts and provide a measure of religious uniformity in this period of great turmoil and dislocation".¹⁶

The need for such a comprehensive guide was necessary as a result of the sheer amount of *halachic* material found in that time period. Joseph Caro also describes a utilitarian need for such a work. He writes:

"For you can find that many decisors cite a certain law anonymously as if it were accepted with no one dissenting but when you research the matter you find that the Great Authorities differ over it...[Then, too,] should anyone desire to investigate the source and origin of a law in the text of the *gemara* [as well as in] all the commentators and the decisors, it will be very difficult for him".¹⁷

Eighteenth century Jerusalem born rabbinic scholar Chaim Joseph David Azulai, more commonly known as Hida, wrote, "the Jews of that generation needed a book such as this that collects all the laws and reveals their sources so that a correct conclusion can be

¹⁶ Twersky, Isadore, "The Shulhan Aruk: Enduring Code of Jewish Law," in Judah Goldin, ed., *The Jewish Expression* (New York: Ktav, 1970), 323.

¹⁷ Borowitz, Eugene B., "What Does the Halakha Say about...? Joseph Kayo's Preface to the *Bet Yosef*." *CCAR Journal* (Spring – Summer 1996): 52.

reached as to what the *halacha* prescribes”¹⁸ Joseph Caro’s statements and works reveal that he sought to create a single work that consisted of two parts or books, taken together, would achieve the overall objective.

Isadore Twersky wrote, “the function of this massive work is thus twofold: to flesh out the bare-bones codifications which are too brief and uninformative, but preserve their sinewiness and pragmatic advantage by unequivocally stating the *pesak*, the binding regulation”.¹⁹ Caro succeeded in the creation of his own great code: a single work made up of two parts – *Bet Yosef* and the *Shulchan Aruch*.

The *Bet Yosef* (House of Joseph) was Joseph Caro’s first and more extensive work. Caro began the *Bet Yosef*, a commentary to Jacob b. Asher’s *Arba’ah Turim*, in 1522 and finished it 20 years later. Caro consulted Talmudic and rabbinical sources and discussed every law, starting with its source in Talmud, tracing its development, discussing every different view and finally ruling on the law. The *Shulchan Aruch*, a concise version of the *Bet Yosef* cites only the final ruling on laws.

Caro clearly states his objective in the writing of the *Bet Yosef* in his introduction: “I have decided to write a book encompassing all the laws [currently] in effect with an explanation of their sources and origins in the Gemara together with all the diverse interpretations of the decisors (none will be lacking)”.²⁰ Caro’s objective was clear, but he needed to decide on what to base his work. He did not want to create an independent

¹⁸ Hida, *Shem ha-Gedolim*, Books Letter *Bet*, #59

¹⁹ Twersky, Isadore, “The Shulchan Aruk: Enduring Code of Jewish Law,” in Judah Goldin, ed., *The Jewish Expression* (New York: Ktav, 1970), 324

²⁰ Borowitz, Eugene B., “What Does the Halakha Say about...? Joseph Kayo’s Preface to the *Bet Yosef*.” *CCAR Journal* (Spring – Summer 1996): 54

work, for he saw himself as “the least among the ‘thousands’”; one more link in the chain of tradition.

As mentioned earlier, Caro decided to attach his work to the work of Jacob b. Asher, the *Arba'ah Turim*. This spared Caro the need of repeating opinions of the *halachic* authorities already collated in the *Tur*. Caro only needed “to indicate the Talmudic sources of the laws, explain and occasionally criticize the various opinions presented there, and occasionally correct errors that had found their way into the text”.²¹ Joseph Caro wrote:

“This is the structure of the book: it aims to explain the law as stated by the author of the *Turim*, [clarifying] whether it is [based on] a *mishnah*, or a *baraita*, or a *tosefta*, or a statement in the Talmud Bavli or Yerushalmi, or the Sifra, or the Mekhilta”.²²

After the thorough explanation of his objectives, Joseph Caro continues to discuss his methodology for accomplishing the objective of determining the law.

Logically, when Joseph Caro would find differences of opinions in the *halachic* authorities, Caro would see that the law should be determined by adducing the arguments and proofs and appraising the merits of each opinion. However, this tactic would have been too cumbersome and, in Caro's own words, “an exceedingly long journey.” As a

²¹ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print. 1314

²² Borowitz, Eugene B., “What Does the Halakha Say about...? Joseph Kayo's Preface to the *Bet Yosef*.” *CCAR Journal* (Spring – Summer 1996): 54

result, Caro chose a different method for determining the *pesak halacha*. In his introduction to the *Bet Yosef* Joseph Caro wrote:

“...I decided that since there are three pillars of [legal] instruction upon whose decisions the house – the House of Israel – rests (surely they are the Rif, the Rambam, and the Rosh, their memory is for blessing), it seemed to me that whenever two of them concur in a given ruling we should rule that their view is the *halacha*; except however in those few cases where all Israel’s sages disagree with that decision and as a result the contrary practice has spread.

[Then, too,] in a case where one of the three aforementioned pillars has not indicated an opinion on this law and the remaining two pills disagree on this matter, then behold, the Ramban, the Rashba, the Modecai, and the Semag...and teach that as *halacha*...[surely] this is a proper and reasonable ‘royal road’

[Yet] if in some countries the custom is to prohibit some few matters despite our ruling to the contrary, they should maintain their practice for they have already accepted the opinion of the authority [in their community]”.²³

Caro’s criterion for determining the law on a question was unique. It created “a technical and mathematical formula based on the number of proponents of a particular opinion among a preselected group of *halachic* authorities”.²⁴

²³ Borowitz, Eugene B., “What Does the Halakha Say about...? Joseph Caro’s Preface to the *Bet Yosef*.” *CCAR Journal* (Spring – Summer 1996): 56-57

²⁴ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1318

In essence, Caro created judicial tiers. The first tier was composed of Alfasi, Maimonides, and the Rosh; the second consisted of one or two of the first tier together with Nahmanides, Rashba, Ran, and the authors of the Mordekhai and Semag (Mordechai b. Hillel and Moses b. Jacob of Coucy respectively). If there was a question that the first tier could not answer, the second tier was brought into the conversation. Occasionally, there were internal inconsistencies in the law. As Menachem Elon notes:

“Although rulings of Maimonides on two different issues may be logically interconnected, if Maimonides and Alfasi agreed on the result on one issue and [the Rosh] disagreed, the law on that issue would be determined according to the result reached by Maimonides and Alfasi; yet if Alfasi and [the Rosh] agreed against Maimonides on the other issue, the law would not follow Maimonides’ view, although this result would be inconsistent with the theory of his ruling on the first issue”.²⁵

Regardless of such anomalies, Joseph Caro felt that his method was better than others. It fixed the problem in making a ruling based off of varying opinions and it cut the length of time it would take to explain each and every decision and ruling. The wealth of *halachic* material during Joseph Caro’s time would have made this task nearly impossible for one lifetime.

Joseph Caro viewed his *Bet Yosef* as only one part of the solution to the problem of codifying Jewish law. The *Bet Yosef* would function as a complete discussion of the

²⁵ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print. 1318

sources of law and the views of the various authorities, which Caro saw fit to include; a summation of the material was necessary too. Caro was a student of Maimonides, and appreciated the efficient and concise language of the *Mishneh Torah*, noted for its clarity and brevity. In fact, Caro originally considered attaching his *Bet Yosef* to the *Mishneh Torah* instead of the *Tur*. However, in his own words, Caro notes that he “changed his mind since he (Maimonides) does not present more than a single interpretation and [he] would need to spend a lot of time citing the reasoning”.²⁶ Perhaps in an ode to Maimonides, after composing the *Bet Yosef*, Joseph Caro provided us with a classic book of *pesakim*: the *Shulchan Aruch* to complement his compilation the *Bet Yosef*.

In his introduction to the *Shulchan Aruch*, Joseph Caro writes, “I realized that it would be beneficial to gather the lilies and the sapphires [i.e. the halachic conclusions] of its [*Bet Yosef*’s] discussion, [and present them], briefly, clearly, and comprehensively, in an elegant and pleasant style, so that God’s perfect Torah may be fluent on the tongue of every Jew. Thus when a scholar will be asked a matter of *halacha*, he will not need to hesitate”.²⁷

Caro believed that the *Shulchan Aruch* would serve the needs of a diffuse and varied group. Scholars will use it as a reference book, so that every matter of law will be perfectly clear and their ability to answer questions will be immediate and decisive. Additionally, students will benefit from committing the law within it to memory:

²⁶ Borowitz, Eugene B., “What Does the Halakha Say about...? Joseph Caro’s Preface to the *Bet Yosef*.” *CCAR Journal* (Spring – Summer 1996): 56

²⁷ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1321

“Practical *halachah* will thus become ‘childhood learning’ absorbed in the earliest years; and when they grow old, it will not depart from them”.²⁸

The *Shulchan Aruch* is divided into four parts in the same manner as the work it is based off of, the *Turim*. The sections are even named the same: *Orach Hayyim*, *Yoreh Deah*, *Even ha-Ezer*, and *Hoshen Mishpat*. This makes sense when we think about the relationship between the *Shulchan Aruch*, and Caro’s glosses on the *Tur*, the *Bet Yosef*. Again, I’m not sure that BY should be described this way. The *Shulchan Aruch* is divided even further into sections known as *halachot*, subdivided into chapters called *simanim*, and again into paragraphs called *se’ifim*.

Similar to the *Tur*, the *Shulchan Aruch* is arranged topically, however the sections within each part are somewhat different. In the *Shulchan Aruch*, Joseph Caro regrouped various subjects under a single heading. For example, in the *Tur*²⁹ the material in chapters 190-226 is divided into twelve separate sections (such as “Acquisition of Real Property,” or “Acquisition of Animals,”) whereas in the *Shulchan Aruch* all these laws are treated under the single heading, “Laws of Purchase and Sale”.³⁰

Caro gave a title to every chapter. This provides a quick overview of the contents of each chapter and allows a number of subsidiary topics to be dealt with in the same section. Furthermore, after the title of the chapter Joseph Caro writes the number of *se’ifim* (“paragraphs”) that one should expect to find that are included in that chapter. On a few rare occasions, Joseph Caro differs from the *Tur* in the classification of the material. Caro moved certain laws from one section to another, when he felt that logic

²⁸ *ibid.* 1321

²⁹ *Arba’ah Turim: Hoshen Mishpat*

³⁰ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1324

demanded it. Occasionally, Caro included a whole new area of law that was not dealt with in the *Tur*.

In his work on Jewish law, Menachem Elon writes that both “the *Tur* and the *Shulchan Aruch* set forth only those laws currently applicable”. While this was one major departure from Maimonides, who included the entire sweep of halakhah, whether currently in practice or not, another example can be seen in the language and style also. The Rambam often incorporated rationales and explanations into his states of the law, even occasionally adding applicable moral or ethical statements. R. Joseph Caro, in his desire for terseness of language and material, mostly, but not entirely, omitted and avoided any such statements. His writing is succinct.

Using the work of Menachem Elon we are able to observe the unique differences between the language of Maimonides, the *Tur*, and Joseph Caro’s *Shulchan Aruch*

Mishneh Torah

If one says to a woman, “Behold, you are betrothed to me “...on condition that I am a sage”-this does not mean [that he must be as erudite] as R. Akiva and his colleagues, but [the condition is fulfilled] as long as he can answer a question involving a “matter of wisdom” on any subject.

Turim

If he says to her, “Be betrothed to me”...on condition that I am a sage”-this does not mean [that he must be as erudite] as R. Akiva and his colleagues, but [the condition is fulfilled] as long as he can answer a question involving a “matter of wisdom” - *i.e.*, a matter where the answer can be reached by logical analysis – on any subject.

Shulchan Aruch

[If one says to a woman], “Behold you are betrothed to me with this “... on condition that I am a sage” –[the condition is fulfilled] as long as he can answer a question involving a “matter of wisdom” – *i.e.*, a matter where the answer can be reached by logical analysis – on any subject.

In this instance we can see how Maimonides included nearly all of the details within the Talmud. The *Turim* followed Maimonides in form and the inclusion of greater Talmudic details, but added an example of how one can complete the *halacha*. The *Shulchan Aruch* goes the farthest in terms of succinct language. Talmudic detail is removed, and a condensed statement is made only about the requirements for fulfillment of each condition.

Throughout the *Shulchan Aruch*, the law is stated briefly. The code routinely presents only the standard rule and it includes neither rationales nor theoretical material. Laws are stated without provenance and with no reference to conflicting opinions. Isadore Twersky notes that Joseph Caro was “concerned exclusively with what Max Weber called the ‘methodology of sanctification’...The *Shulchan Aruch* gives the concrete idea but omits...the experiential component”.³¹

The *Shulchan Aruch* was printed in Venice in 1565. It quickly found its way to Jewish communities throughout all of Europe. Even until the years of his death in 1575, Joseph Caro’s work was reprinted a number of times. One of the communities to which the code found its way was Poland.

Born on February 22, 1520 R. Moses Isserles, also known as the “Rema”, was renowned for his fundamental work of *halachah* known as the “Mappah,” or the “tablecloth” to the Shulhan Arukh. Isserles was the son of a communal leader and at one point was the son-in-law of the greatest Talmudic teacher in Poland: R. Shalom Shakna. Shakna, and his teacher Jacob Pollack, staunchly opposed the basic notion of halachic

³¹ Twersky, Isadore, “The Shulhan Aruk: Enduring Code of Jewish Law,” in Judah Goldin, ed., *The Jewish Expression* (New York: Ktav, 1970), 332

codification. Their reason was “that a judge should decide each case on the basis of his own examination of the halachic sources and his own analysis of the relevant opinions”.³²

Isserles, one of Shalom Shakna’s greatest students took a different approach. The Rema refused to accept the extreme position of his teachers as he rose to prominence serving as the Rabbi of Krakow for nearly twenty-two years. Isserles completed three major halachic works: the *Darkhei Moshe*, *Torat Hattat*, and his glosses to Joseph Caro’s *Shulchan Aruch*, known as the *Mappah*.

Darkhei Moshe was Moses Isserles’ version of Joseph Caro’s *Bet Yosef*. The two scholars were contemporaneous, and similar to Caro, Rema believed that a comprehensive work appended to an existing book was needed to compile all of the various halachic opinions floating around the Jewish world. In fact, Rema was aiming to do something similar to what Caro did with the *Bet Yosef*, but Caro beat him to it. The book he chose was also the *Tur*. While Rema had great esteem for Joseph Caro and the contents of the *Bet Yosef*, he felt as though Caro’s work was lacking for the needs of the Ashkenazi community. As a result, Rema continued with his writing of *Darkhei Moshe*, a commentary to the *Turim* even after the *Bet Yosef* came to him.

One of the reasons was that Isserles believed that Caro did not discuss a substantial portion of the opinions of the halachic authorities, particularly the late medieval Ashkenazi authorities, and that his conclusions were inconsistent with many of the accepted practices in Germany and Poland. Another reason for the Rema is that Caro based the majority of his decisions on Alfasi, Maimonides, and the Rosh – and not on the belief that the later authorities should prevail.

³² Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1348

Originally, Moses Isserles was satisfied with his work on the *Darkhei Moshe*. However, the fact that Joseph Caro wrote two works – *Bet Yosef* and the *Shulchan Aruch*, a much more concise version compelled Rema to pick up the pen again. If Caro's main objective in the *Shulchan Aruch* was to extract the simple conclusions within the *Bet Yosef*, Isserles would follow his example and do the same to his *Darkhei Moshe*. The resulting work is known as the *Mappah* or “the tablecloth”.

If Joseph Caro set the table in his *Shulchan Aruch*, the *mappah*, or tablecloth would be the perfect accompaniment. In the *mappah*, Isserles presented the conclusions found in *Darkhei Moshe* in a clear and concise manner, similar to the style of Joseph Caro. Isadore Twersky argues, “It is certain that the ‘table’ would never have been universally accepted if it had not been covered and adorned with the ‘tablecloth’.”³³ Menachem Elon writes, “Rema's glosses contributed to its acceptance and helped the *Shulchan Aruch* to become to definitive and authoritative code for all Jews throughout the world.”³⁴

Together with the work of Moses Isserles, the teachings of Joseph Caro and his work the *Shulchan Aruch* spread throughout the Jewish communities of Europe. The *Shulchan Aruch* was generally well received and highly praised. Yet there were certainly critics of Joseph Caro. Some objected to the method used to arrive at the rulings and others questioned the accuracy of the rulings.

The success of the *Shulchan Aruch* is because of its succinctness. Without excessive details and philosophical ponderings, Joseph Caro elevates the *halacha* to the

³³ Twersky, Isadore, “The Shulchan Aruk: Enduring Code of Jewish Law,” in Judah Goldin, ed., *The Jewish Expression* (New York: Ktav, 1970), 328

³⁴ Elon, Menachem. *Jewish Law: History, Sources, Principles = Ha-mishpat Ha-Ivri*. Vol. 3. Philadelphia: Jewish Publication Society, 1994. Print.1366

center of the work. As a result, the *Shulchan Aruch* is a pure example of a codificatory masterpiece. The glosses of R. Moses Isserles provided the acceptance that the *Shulchan Aruch* needed in the Ashkenazic communities to spread throughout all of Europe. After it spread to the western communities, the *Shulchan Aruch* became the ultimate code of Jewish law.

הלכות קריעה: Yoreh Deah 340

Chapter 340: The law of rending garments (קריעה), the amount that must be torn, the place [that must be torn], and for whom and when does one do קריעה: there are 39 seifim.

1. One who suffered a bereavement, specifically one of the dead for whom he is required³⁵ to observe mourning, must rend [his garments] for him. One needs to do קריעה while standing³⁶; if one has done קריעה while sitting, they have not fulfilled their obligation.³⁷ *[If they did this] they must do קריעה again.*³⁸ *In the first instance one must do קריעה before the face of the corpse has been hidden.*

2. The region for קריעה is along the neck or the garment in the front, but if one does קריעה in the back of the garment *or in the lower part of the garment*,³⁹ or on the side, [they] have not fulfilled their obligation.⁴⁰ *There are those that say that one has fulfilled*

³⁵ Moed Katan, 24a: “A mourner who does not do קריעה, is liable to death. as it is stated, “Do not let the hair of your heads grow long and do not rend your garments, and you will not die., implying that another mourner who did not let his hair grow long or who did not perform קריעה is liable to death.” The requirement for קריעה is Rabbinical and the rabbi’s gave it support by attaching it to a Biblical verse: Leviticus 10:6.

³⁶ Job 1:20, “וַיָּקָם אִיּוֹב וַיִּקְרַע אֶת מְעָלָיו” - Job arose, and ripped his clothes”.

³⁷ Moed Katan 20b: “It was taught in a Baraita that Rav Huna’s son died, Huna arrived and so a man tore his garment in his presence. However he remember that he had torn the garment while sitting, so he stood and tore his garment again while standing.”

³⁸ Tur citing *Ghayyat, Asheri, Hag* and *Beit Yosef* according to *Rabad*.

³⁹ The rema refers to the Tur

⁴⁰ Moed Katan 26b: “One who rends his garment on the bottom or on the sides has not fulfilled his obligation.”

their obligation if they have done קריעה in the lower part of the garment,⁴¹ therefore it is the common practice to adopt the more lenient view when one does קריעה for all other dead that one does not observe mourning rituals [for].⁴² However for close family that have died, which one must observe mourning rituals over, they have not fulfilled their obligation [this way], and one needs to קריעה in the neck of their garment. This is what they are accustomed [to practice].⁴³

3. The extent of the קריעה is one handbreadth.⁴⁴ If one does קריעה over the deceased person,⁴⁵ and he extends the קריעה for another bereavement, if the second death is after the seven days of mourning a small amount is enough. However if it is during the seven days of mourning a handbreadth is required. However for their father or mother⁴⁶, even after seven days, one does קריעה until their chest is bare.

4. Just like one does קריעה for a relative that one observes the mourning rituals over, so does one rend in the presence of his relative, when it is the relative that suffered a bereavement. In what respect? If his son's son dies, or his son's brother,⁴⁷ or the mother

⁴¹ The Rema notes: "These customs you will find in the *שם"ק, מהרי"ו, הידושי, ובכל בו*"

⁴² The Shak clarifies: "When one is present at the departure of the soul."

⁴³ Be'or Ha'grah references the Semak: "The one who does קריעה in the lower part of the clothes or on the sides of the clothes has not fulfilled his responsibility. R. Judah says, that he has fulfilled his responsibility. In the the case of other dead, where it is not family, we accept R. Judah's view."

⁴⁴ Moed Katan 26b: "The Rabbi's taught in a Baraita, 'the initial rent should be a handbreadth'."

⁴⁵ Moed Katan 22b: "R' Abahu said, 'What is the verse?' *Then David took hold of his clothes and rent them* (II Samuel 1:11) and 'taking hold' is not less than a handbreadth."

⁴⁶ Even after suffering a previous bereavement.

⁴⁷ i.e. if after divorcing his wife she remarried and had a son from her second husband.

of his son,⁴⁸ one is required to do קריעה in the presence of his son. Therefore, one does קריעה for their father-in-law and mother-in-law.⁴⁹ *Today we do not follow this practice as explained in YD 374 on the subject of mourning.*⁵⁰

5. One who is present at the moment of the departure of the soul of a Jewish man or woman is required to perform קריעה.⁵¹ Even if they occasionally transgressed because of a desire, or chose not to perform a mitzvah because of trouble.⁵² *However one who routinely transgressed is not mourned for,⁵³ and all the more so for one who is an apostate that worships idols. There are those who say that if an apostate was murdered by Gentiles, they are mourned over. So too one mourns for a minor who converts with*

⁴⁸ i.e. after a divorce one's ex-wife passed away.

⁴⁹ Moed Katan 20b - One only observes mourning when in the presence of a wife or husband for their in-laws.

⁵⁰ YD 374:6 "Whoever one mourns for he also mourns with if they suffered a bereavement. This applies only when in their presence, but when not in their presence, one is not obligated to observe mourning rituals except for his wife, although he mourns for her, he mourns with her only for her father or her mother out of respect for his father-in-law and his mother-in-law; but for her brother and sister or her son and her daughter of another man, he does not mourn with her...So too she mourns with him only when her father-in-law or her mother-in-law died, but for all other dead she does not mourn with him."

⁵¹ Moed Katan 25a: "If one was standing there at the time of the departure of the soul, he is obligated to do קריעה. For it was taught in a Baraita R. Shimon ben Elazar says, 'one who stands by a dead person at the time of the departure of the soul is obligated to קריעה. To what is this analogous? To a Torah scroll that was burned where the one who witnesses it does קריעה.'"

⁵² The *Tur* citing R. Meir of Rothenberg. See 2 Samuel 19 when King David wept over his son Absalom. Even if one committed a grave sin that would result in capital punishment but it was done out of an irresistible desire and not in the spirit of defiance, one does קריעה

⁵³ "Even if committed out of an irresistible desire." - ש"ך

his father and mother, since he is like one under duress.⁵⁴ There are those who say this is [the] fundamental [practice]. Those who separate themselves from the ways of the community, even though they are not mourned for, their children are.⁵⁵

6. For an upright individual that there is no suspicion [against] in regards to any sin,⁵⁶ or their neglect of any mitzvot, and does not have a bad reputation, although they may not be great in Torah, even if he was not present at the moment of the departure of the soul, he is required to do קריעה over them if he was present between the death and burial.

Scholars are exempt from this קריעה. *There are those who say that one is not required in קריעה for an upright individual unless he is present at the moment of the departure of the soul, but one is required to weep and mourn over them.⁵⁷ And thus they are accustomed to accept the lenient view.*

7. For a scholar or a disciple that is questioned on a matter of *halacha* [in any reference] and is able to answer it, one does קריעה on their account, even if it is after the burial on the day the death is reported,⁵⁸ if it is within the thirty days [from death],⁵⁹ and one does

⁵⁴ i.e. upon being captured, Shabbat 68b: “R. Yochanan and R. Shimon ben Lakish both said, ‘...but a child who was captured and raised among gentiles or a convert who converted and lived among gentiles is exempt from any sin.’”

⁵⁵ i.e. a child is not responsible for their parents decisions.

⁵⁶ Moed Katan, “For anyone who mourns over an upright person they forgive him for all of his sins because of the respect that he paid to that person.”

⁵⁷ Shabbat 105b, “But if the deceased was an upright person one is obligated to rend his garments.”

⁵⁸ Moed Katan 25a; a case of R. Safra for whom the Rabbis did not do rend their garments. Their reason was that they did not learn from him directly. When Abaye reported to them the teaching that when a scholar dies all are considered family, the Rabbis took the view that what is done is done. However, Abaye said that ‘we learn

קריעה at the moment of the eulogy.⁶⁰ *If one did not do קריעה at the moment it was reported, and the time of the eulogy has already passed and they have not done קריעה, it is too late to קריעה.* One does קריעה over him until their chest is bared. It is the accepted practice of *talmidai chachamim* everywhere to do קריעה for each other to the amount of one handbreadth, even though they are equals and neither is the teacher of the other.⁶¹ *There are those who say that they do not do קריעה over a scholar unless it is his teacher, or they know of his traditions that he innovated, that is [what] “his teacher” [means]. And thus they are accustomed to accept the lenient view in these countries.*

8. For one's teacher from whom he received most of his wisdom from, either in Bible, Mishna, or Gemara, one does קריעה for all of his clothes until he bares his chest. There are those who say that one only does קריעה for a handbreadth, and one never mends it.⁶² Even if he heard the news of the death thirty days after the death, one must always do קריעה over him. However if he did not receive most of his wisdom from him, one only does קריעה over him according to the law of other dead. Even if one learned only one thing from him, either small or large, one must do קריעה over him.⁶³ *There are those who say that one who does קריעה over a teacher that is not distinguished, he must not resew the rip. Regarding talmidai chachamim that sit together and debate this and that,*

that if a scholar dies, as long as they are still engaged in a lament for him one is obligated to do קריעה.”

⁵⁹ Moed Katan 20a

⁶⁰ Moed Katan 25a, “A scholar is honored at the time of the eulogy.”

⁶¹ Baba Metzia 33a

⁶² Moed Katan 26a, “These are the rents that may never be mended: one who rents over his father or mother, over his teacher who taught him Torah.”

⁶³ Baba Metzia 33a, “R. Jose said: ‘Even if he enlightened his eyes in a single Mishnah only, he is considered his teacher.’”

and study together, there are those who say that the law regarding them is not like the law of distinguished teachers, and there are others who say that the law regarding them is like the law of the distinguished teachers.⁶⁴ There are those who say that one does קריעה only for one's teacher that taught him most of his wisdom, but colleagues that study with each other, or for a teacher that enlightened him on a particular matter, doing קריעה is a mere stringency. If this is the custom, it is the practice, and if it is not the custom it is not the practice, but we do not rule [to practice in] this way.⁶⁵ Therefore it is the common practice in these countries to be lenient.

9. For all other dead, קריעה is done over them [to the extent of] a handbreadth in the upper clothes, and this is enough. But for one's father or mother, one does קריעה on all of his clothes, even if he is wearing 10 [garments], [he continues] until he bares his chest.⁶⁶ If one does not do קריעה over all of his clothes then he has not completed his obligation and he is rebuked. For the whole time the clothing is on him they say to him: "קריעה!" even after thirty days.

10. One is not required to do קריעה on his epikarsion.⁶⁷ There are those who explain that this is an undershirt that is next to his skin. Others explain that it refers to the uppermost

⁶⁴ *ibid.* The Sages arise before and rend their garments for each other in mourning.

⁶⁵ The Taz notes, "One observes mourning for a teacher who taught him wisdom for one day or one hour."

⁶⁶ Moed Katan 22b, "Rav Chisda said to Rav, 'for one's father or mother, he must separate the garment until the chest.' R. Yehudah says, 'any rending in which one does not separate beyond the border of the neck is no more than a useless rending'."

⁶⁷ The waistcoat, or epikarsion, used by both men and women, was brought round under one arm and then knotted over the shoulder of the other (Niddah 48b)

garment called the Kaffa.⁶⁸ The custom has spread not to do קריעה on the Kaffa for anyone who has died, not even over one's father or mother, but to rend for one's father or mother with a garment that is called a chemise.⁶⁹ *In these countries we do not follow this custom. Instead we do not do קריעה on the undershirt, or the top mantle, but for all other clothes one must do קריעה for his father or mother. And regarding other dead, one does קריעה over the top garment under the mantle.*

11. Both the man and woman are equal in regards to [the law of] קריעה. However only a woman does קריעה on her undermost garment [first] and turns it front to back, and then does קריעה on her outer garments.⁷⁰

12. For all [other] dead, if one wants, one leaves the edges [of the neck] of their clothes intact, and they do קריעה from under that edge to the bottom, but for one's father or mother they need to do קריעה for the whole edge [of the neck].⁷¹ *There are those who*

⁶⁸ The Kaffa is a rich silk cloth worn on the head over the shoulders reaching down towards the middle of the body. i.e. Kafiyah

⁶⁹ The term chemise or shift can refer to the classic smock, or else can refer to certain modern types of women's undergarments and dresses. In the classical use it is a simple garment worn next to the skin to protect clothing from sweat and body oils, the precursor to the modern shirts commonly worn in Western nations.

⁷⁰ Assume this practice was adopted in order to avoid a women from exposing her chest if men are present.

⁷¹ Moed Katan 22b, "Any rending in which one does not separate beyond the border is no more than a rending of uselessness."

say that even for other dead one needs to do קריעה on the edge⁷² and this is the accepted custom.⁷³

13. For all other dead one should do קריעה inside, [i.e.] not in front of anyone.

Therefore, one brings his hand inside, and does קריעה privately.⁷⁴ However, for one's father and mother one only does קריעה outside only, [i.e.] in the presence of everyone.⁷⁵

14. For all other dead, if one wants, one can do קריעה with a hand or with an instrument, but for one's father or mother one does it with their hand.⁷⁶ For all other dead, if one wants to change [their clothes] in the middle of the seven days, one changes [their clothes] but does not do קריעה. For one's father or mother, if one changes [their clothes] in the middle of the seven days, one does קריעה in all of the clothes that one changed into, and never sews them back up, just like the first [instance of rending].⁷⁷ For all other

⁷² *ibid.*

⁷³ Rema notes this is the practice of מהרי"ו; Jacob Weil, later known as Mahariv (Hebrew: יעקב בן יהודה ווייל) was a German rabbi and Talmudist who worked during the first half of the fifteenth century.

⁷⁴ With the least amount of publicity.

⁷⁵ Moed Katan 22b, "R. Chiya bar Abba said in the name of R. Yochanan: 'for all dead one does קריעה on the inside, but for one's mother or father, one must rend on the outside.'" One must express their grief over the loss of their parents in public.

⁷⁶ Moed Katan 22b, "When Ravin reported in the name of R. Yochanan he said, 'for all dead, if one wishes he may rend his clothes by hand, or with an instrument. For one's father or mother it must be done by hand.'"

⁷⁷ Moed Katan 24a, "Ravin bar Adda said to Rava, 'Your student Rav Amram said that it was taught in a Baraita that a mourner - all seven days of shivah shows the rent on the front. And if he wishes to change he may change and rend...with regard to the Baraita, only to honor one's father or mother.'"

*dead, one is able to turn the קריעה front to back during the seven days, but not for his father or mother.*⁷⁸

15. For all other dead one mends the קריעה - *meaning to sew with irregular stitches* - after seven days and resews⁷⁹ it after thirty days⁸⁰ - *it does not matter if it is during the Festival time or not*). But for ones father and mother, one makes opposing stitches after thirty days, and never sews it up.⁸¹ A woman may fix [her clothes] because of her honor. *For the whole time it is forbidden to fix it, it is also forbidden to fix the edges with a needle. There are places that the custom is to be even stricter for other dead, and not to fix the clothes in the middle of the thirty days, and it is forbidden to fix the edges [of the rent] after one has done קריעה.*⁸²

16. For all other dead, if one wants [to] he can bare his shoulder [in mourning].⁸³ For one's father or mother he is obligated to bare his shoulder⁸⁴ and walk this way in front of the death bed until it is buried.⁸⁵ Also, if the son is a great man and it is not respectful for him to walk with his shoulder bared, he is not [obligated] to do so.

⁷⁸ Rema refers to Rabbi Yeruham in the name of Rabad.

⁷⁹ The Taz notes - אחה - to fine regular stitches

⁸⁰ Moed Katan 22b, "For all other dead one may mend the rent after seven days of shivah and sew it up after thirty days."

⁸¹ *ibid.* "One may mend the rent after thirty days, but he may never sew it up.";

⁸² The opinion of מהר"ז

⁸³ Moed Katan 22b, "For all dead if one wishes to bare his shoulder he can, if he does not wish to do so he does not need to."

⁸⁴ *ibid.* "For one's father or mother he must bare his shoulder

⁸⁵ Baba Kamma 17a, "The Rabbis taught in a Baraita that it says 'and the did honor to him at his death (2 Chronicles 32:33) this refers to Chizkiah, King of Judah before whom thirty-six thousand men went out with bared shoulders.'" i.e. one observes the mourning rituals with parents, kings, heads of the Beit Din, etc.

17. A prince is similar to one's father in regards to baring the shoulder, to do קריעה in public, and resewing the edges.⁸⁶ For all of those who do קריעה for a Sage that died, [the law is] that as one soon as one turns away from the death bed they can sew it up, and then edges [can be re sewn] the next day. When one has heard about a Sage, one may fix the garment on that day⁸⁷ and the edges [can be re sewn] the next day. For a Prince or one's principal teacher, one may fix the garment that day but never the edges. For a sage, the right is bared, for the head of the school on the left, for the prince both sides.⁸⁸ For one's father, mother, or principal teacher, either side is okay if one wants, or both sides. *There are those who say that today it is not the custom to bare the shoulders at all.*⁸⁹ *There this is the custom today.*

18. For all other dead, if one did not hear about the death until thirty days [after the burial], they do not need to do קריעה.⁹⁰ If one does not have a garment,⁹¹ and one happened to arrive by chance to him, as long as it was in the middle of the seven days [of

⁸⁶ Moed Katan 22b, "Rav Chisda said, 'the same applies to a Nasi'."

⁸⁷ Assuming they have already done קריעה

⁸⁸ *ibid.* "For a sage one bares the shoulder on the right. For the head of a Beit Din on the left. For a Nasi, on both sides."

⁸⁹ Rema references כל בו בשם ר". This is the Ri of Dampierre. R. Isaac of Dampierre, the great 12th century Tosafist and nephew of Rabbenu Tam.

⁹⁰ In regards to a delayed report: see Moed Katan 20b, "R. Mani says, 'he does not rend his clothing'."

⁹¹ Explained in the Shakh, "if his clothes were torn or they were borrowed or he has only a linen undershirt which is not rent."

mourning] he does קריעה, but after the seven days of mourning he does not. However, for his father and mother one does קריעה always on *all*⁹² of his clothes.⁹³

19. Just as one is forbidden to stitch up a קריעה or sew it up, it is also forbidden to switch the upper side of the clothing with the lower side⁹⁴ to sew it up.⁹⁵ Even if one bought it, they are forbidden to resew it. Therefore if someone comes to sell it, they need to announce⁹⁶ it.⁹⁷ If he sold it to him without announcing it, it is forbidden to resew the קריעה until he knows that it is not from a קריעה that cannot be sewn up again.⁹⁸ It is forbidden to sell it to Gentiles.⁹⁹

20. One who does קריעה in the middle of a cut or loose-stitch, or gathered stitch, or laddered stitch has not fulfilled his obligation.¹⁰⁰ But if it is in the middle of an

⁹² The Shakh explains, “This refers to all his clothes that he wears at the time he heard the news, but not those he change into.”

⁹³ The Taz clarifies: “This refers to all garments that one wears at the time he received the death announcement, but not to those one needed to change into.”

⁹⁴ Moed Katan 26b, “The Rabbis taught in a Baraita that one is permitted to invert the rent portion to the bottom and then mend it. R. Shimon ben Elazar forbids mending it.” We follow R. Shimon ben Elazar.

⁹⁵ It is forbidden to turn the clothing upside down to resew the קריעה.

⁹⁶ Moed Katan 26b, “Just as the seller is forbidden to mend it, so too the buyer is forbidden. Therefore the seller must inform the buyer.”

⁹⁷ They need to tell the individual who is buying the clothing, that it was for קריעה and cannot be resewn.

⁹⁸ *Be'er ha-Golah* notes that this case is unique because if the rent was one that is unable to be resewn, the one who was selling the garment would have sewn it up anyways because a garment with a tear in it is worthless.

⁹⁹ i.e. for they will undoubtedly mend the rent.

¹⁰⁰ i.e. if one does קריעה in a part that is already ripped, cut, stitched, gathered, etc.

Alexandrian¹⁰¹ stitch¹⁰², meaning it is sewed evenly on the top and bottom,¹⁰³ they have fulfilled their obligation.

21. If one does קריעה over a bereavement, and then they suffered another bereavement, [assuming] it is in the middle of the seven days of mourning one does another קריעה,¹⁰⁴ if it is after seven days, one adds onto the first קריעה. If there is a third bereavement after the seven days of the second death, one adds an amount of any size to the קריעה.¹⁰⁵ And thus he continues adding until he reaches his navel. Once he reaches his navel, he moves away from this area three fingers and does קריעה again.¹⁰⁶ If the front is full, he turns it from front to back.¹⁰⁷ If the upper part is full, he turns it upside down.¹⁰⁸ If the whole [garment] is full [of tears], he is like one that does not have any clothing and is unable to do קריעה.

22. If one says to a man that his father has died and he did קריעה, and then after seven days his son died and he added [to the rend],¹⁰⁹ the lower part may be fixed but not the upper. If one says to a man that his son died and he did קריעה, and after seven days his

¹⁰¹ Moed Katan 26b, “Rav Chisda said, ‘and [what is forbidden is to repair] with the Alexandrian mending’.”

¹⁰² The Alexandrians would sew the fabric from the inside of the garment, so that the exterior would appear even and the torn ends would protrude on the underside.

¹⁰³ The *Bi’urei Ha-gra* notes that Nahmanides does not accept this interpretation.

¹⁰⁴ The Taz notes, “Or he may add to the original rent one handbreadth.”

¹⁰⁵ Moed Katan 26b, “R. Jose says ‘the initial rent is one handbreadth, and the extension any size.’”

¹⁰⁶ One must make do קריעה where there has been no previous rend.

¹⁰⁷ i.e. the back becomes the front and he can start again.

¹⁰⁸ The Shakh notes, “He makes the bottom for the neck and then rends.”

¹⁰⁹ Meaning he added to the original קריעה from his father. See 340:21

father died, he does not add [to the rip], rather does קריעה¹¹⁰ in another spot for one does not add for his father or mother.¹¹¹

23. For one that suffered two deaths at the same time, or the announcement of the two [deaths] came to him at the same time, one does קריעה for both. If one has done קריעה and afterwards there is another death *in the middle of the seven days*,¹¹² one does a קריעה by itself¹¹³ between the same קריעה that he has added to, or he does קריעה one handbreadth away, or three handbreadths away. If one's father or mother and another relative died, he does קריעה for his father or mother down to the heart and moves away three fingers and does a handbreadth for the other dead. If one's father died and he did קריעה and then after seven days one of his relatives died, one adds to the first קריעה, and the lower part may be sewn but not the upper part. If one of his relatives died and he did קריעה, and then his father or mother died, as long as it is between the seven days of mourning he moves away [a distance] of three fingers and does קריעה on the side in the border [of the garment] to make a new border. One does קריעה until the chest is exposed. If one's father and mother die at the same time, he does קריעה for both.¹¹⁴

¹¹⁰ "If when rending the first time for his son, he rent the border, it is enough to add to it."
- ב"ח

¹¹¹ When a father or mother passes away, one is unable to extend the previous קריעה for a child. In nearly every case for קריעה, parents take precedent and one always does a new rip for them.

¹¹² Tur

¹¹³ Meaning it is a separate tear.

¹¹⁴ There are two separate rents only when one suffers the loss of his father or mother and another family member, but when it is the parents together, one rent is enough.

24. If someone said to him that his father died and he did קריעה, and then afterwards it was found out that it was his son,¹¹⁵ he has fulfilled his obligation in [the law of] קריעה if he found out about him in the amount of time it takes to give a greeting.¹¹⁶ But if he did not find out until after that time, he has not fulfilled his obligation. But if someone said to him that there was a death, and he thought that it was his father and then he did קריעה, and then afterwards he found out that it was his son he has fulfilled his obligation even if he did not know about it until after the time it takes to speak.¹¹⁷

25. If one knows someone who is sick and they fainted, and he did קריעה over him, and afterwards the person died, if he died in the midst of the time it takes to give a greeting from the moment of קריעה he does not need to do קריעה again. But if not, he needs to do another rip.¹¹⁸

26. If someone is informed that his father died, and he did קריעה, and he practiced a few days of mourning¹¹⁹, and afterwards someone said to him that he did not die and he

¹¹⁵ If he was told it was his father, but it was actually his son who passed away.

¹¹⁶ Regarding כדי דיבור Nazir 20b asks: “What is the definition of ‘within the time it takes to make an utterance’? The time it takes to give a greeting. How long is the time that it takes to give a greeting? The time it takes for a student to greet his teacher”. i.e. to say *shalom aleicha rabbi*.

¹¹⁷ Nedarim 87a, “It was taught in a Baraita that if someone said to him that his father had died and he tore his clothes and later it was discovered that it was his son, he has not fulfilled the obligation. But if they told him that someone close to him died and he thought it was his father and he tore his clothes, but later found out it was his son, he has fulfilled the obligation of tearing.”

¹¹⁸ *ibid.* “R. Shimon ben Pazi said that R. Yehoshua taught in the name of Bar Kappara, ‘only where the sick person died after the time required for an utterance’.”

¹¹⁹ i.e. one observed a few days of mourning

stopped. And then someone came back and said to him that he had died in the first place like he had originally said he has fulfilled his obligation for קריעה.¹²⁰

27. If there is a minor who lost someone to a death, they do קריעה for him.¹²¹

28. The one who does קריעה on Shabbat over the death, even though he has desecrated Shabbat, he has fulfilled his responsibility for קריעה.

29. One who does קריעה on a stolen garment has not fulfilled his responsibility for קריעה.

30. For a child that it cannot be certain has finished his months,¹²² that died within the thirty days [of birth], or even if it was on the thirtieth day, we do not do קריעה over him.¹²³

¹²⁰ Based upon the same principle that another rip is required only if the death did not take place within the period of an utterance from the time of the original rip.

¹²¹ Moed Katan 26b, “We rend the garment for a minor because of grief.” So that everyone should weep and lament over the loss, but not because the child is obligated to mourn.

¹²² i.e. the nine months of pregnancy.

¹²³ Shabbat 136b states: “Rav Ashi visited the home of Rav Kahana. During his visit, and unfortunate thing happened to Rav Kahana within thirty days of his birth. Ashi observed that Kahan was sitting and mourning for it. Ashi Said to Kahana: Does the master not accept that which Rav Yehudah said in the name of Shmuel: “The law is in accordance with the view of Rabban Shimon ben Gamliel who says that an infant that died within thirty days of its birth is suspected of not being viable. Hence you are not obligated to mourn its death.”

31. One does not do קריעה on Yom Tov, even if it is the second day of Yom Tov for the Diaspora, even those closest to the dead. However during *chol ha-moed* one does קריעה over everyone according to what is proper. If one is present at the moment that the spirit departed, or if he is a worthy man or Sage, for everyone according to what the law as has been explained [to him].¹²⁴ *There are those who say that their custom is to do קריעה during chol ha-moed only for their father or mother, and for all the other dead they do קריעה after the festival.*¹²⁵ *But in the place where there is not the custom, one must do קריעה for everyone.*

32. If on a festival one heard a “recent report” [someone had died within the previous thirty days],¹²⁶ they do קריעה, even if after the festival the news becomes distant [that is, more than thirty days old].

33. One who processes in clothes that have been ripped before the dead, i.e. one that shows himself having done קריעה, but has not actually done קריעה, is like one who has robbed both the living and the dead.

34. If one says to his friend, “May I ask to borrow clothes to visit my sick father,” and he went and found out that he was dead, he does קריעה and then sews it up, and he returns

¹²⁴ O.H. 547:3

¹²⁵ Terumath ha-Deshen 288; Israel Isserlin (ישראל איסרלין; Israel Isserlein ben Petachia; 1390 in Maribor, Duchy of Styria – 1460 in Wiener Neustadt, Lower Austria) was a Talmudist, and halakhist, best known for his *Terumat HaDeshen*, which served as one source for the Mapah, the component of the Shulkhan Arukh by Moses Isserles.

¹²⁶ Hebrew ברגל refers to the pilgrimage festivals: Sukkot, Pesach, and Shavuot

the clothes and pays him for the קריעה.¹²⁷ If he did not inform him, then he may not touch it.¹²⁸

35. If one lends clothing to his friend to go into the house of mourning, he is not allowed to take it from him until the days of mourning have passed. *In Hoshen Misphat 341:2 he does not rule this way.*¹²⁹

36. One does קריעה after hearing bad news, for example [a situation] when most of the community gathered for war and it was heard that they were killed before their enemies, even if a few of them were killed. *And this is [also] the rule if they went into captivity.*¹³⁰

37. If one heard blasphemy of the Divine Name, even if it was a Divine nickname *even in a foreign tongue it is a nickname* one is obligated to do קריעה, if he heard it from an Israelite.¹³¹ *There are those who say at this time that an apostate is like a Gentile.* Even if one hears it from a witness that a person blasphemed, he is obligated to do קריעה.¹³²

¹²⁷ Pays his friend for the damage done to the clothing.

¹²⁸ If he did not tell his friend that he was going to visit his sick father, he is not allowed to do קריעה on the clothing.

¹²⁹ HM 341:2

¹³⁰ Moed Katan 26b cites a verse from II Samuel I, 11-12: "Then David took hold of his clothes and rent them; and likewise all the men that were with him. And they wailed and wept and fasted until even, for Saul and for Jonathan his son and for the people of the Eternal and for the house of Israel, because they had fallen by the sword."

¹³¹ The Taz refers to Sanhedrin 60a, "For if we should rend garments on hearing this blasphemy from Gentiles, our garments would be reduced to shreds."

¹³² Sanhedrin 60a, "Our Rabbis taught: He who hears [the Name blasphemed], and he who hears it from the person who first heard it [i.e., from the witness who testifies], are both bound to rend their garments."

The witnesses do not need to do קריעה a second time.¹³³ If one sees a *Sefer Torah* or *Tefilin* or *Megilah* or *Prophets* or *Writings* that was burnt, one does קריעה twice only if they burned it with force and violence and according to the incident that occurred.¹³⁴

38. If one sees the cities of Judah in ruin or Jerusalem or the Temple Mount, he is obligated to do קריעה.¹³⁵

39. For all of these examples of קריעה one is allowed to mend by hemming or chain stitches, to gather together by ladder stitches the following day, but they are never to be re sewn.¹³⁶

¹³³ *ibid.*

¹³⁴ Jeremiah 36:23, “And it came to pass, when Jehudi had read three or four columns, that he cut it with the penknife, and cast it into the fire that was in the brazier, until all the roll was consumed in the fire that was in the brazier.”

¹³⁵ Moed Katan 26a cites Jeremiah 41:5, “that there came certain men from Shechem, from Shiloh, and from Samaria, even fourscore men, having their beards shaven and their clothes rent, and having cut themselves, with meal-offerings and frankincense in their hand to bring them to the house of God.”

¹³⁶ Moed Katan 26a, “These are the rents that are not to be sewed up: One who rends [his clothes] for his father or mother; or his master who taught him wisdom, for a Nasi, or Ab Beit Din, or on hearing evil tidings or [hearing] God’s name blasphemed, or when a scroll of the law has been burnt; or at the [sight of the ruined] cities of Judea, the Holy Temple or Jerusalem.

Orach Hayim Chapter 625: The Laws of Succot

Note: REMA in italics

1. It is written, “You shall dwell in succot for seven days etc.” “I caused the Children of Israel to dwell in succot¹³⁷; these refer to the clouds of glory who protected them from all the intense heat and the sun of the desert. *It is a Mitzvah to begin building the succah immediately after Yom Kippur. For a Mitzvah that comes to one's hands, should not be delayed.*¹³⁸

Orach Hayim Chapter 626: One who makes a Succah under a tree or a roof.

1. *One does not build a succah under a house or under a tree.* Regarding one who builds a succah under a tree, there are those who say that if the tree's shade is greater than the sun it is invalid. Even if the succah's shade is greater than the sun[shine], but if the trees [allow for] sunlight [that] is greater than the shade; if the succah's shade is greater than the sun[shine], but not the tree's it is valid even if he did not lower the branches

¹³⁷ Leviticus 23:42-46

¹³⁸ The Rema shares a teaching from the Maharil, Yaacov ben Moshe Levi Moelin. Yaakov ben Moshe Levi Moelin (Hebrew: יעקב בן משה מוילין) (c. 1365 – September 14, 1427) was a Talmudist and *posek* (authority on Jewish law) best known for his codification of the customs of the German Jews. He is also known as *Maharil* - the Hebrew acronym for "Our Teacher, the Rabbi, Yaakov Levi" - as well as *Mahari Segal* or *Mahari Moelin*. Maharil's *Minhagim* was a source of law for Moses Isserles' component of the *Shulkhan Arukh*.

downward [in order] to blend them with the schach of the sukkah. However if the shade that the succah [casts] is not greater than the sun[shine] with the tree limbs, one needs to lower the branches and mix them with the schach so they cannot be recognized and there is more schach neutralizing it.¹³⁹ There are those who say that even if the schach's shade is greater than the sunlight, but they can't see it is a [tree] limb, or the tree's shade is greater than the sunlight, if the branches of the tree are recognizable [when they are mixed] with the valid schach it is [still] invalid; between the former limbs and the former schach, so that the branches are directed into the valid schach. *So if one bends the branches of the tree down and mixes them with the schach in order that one is not able to see a difference between the two they are nullified and the sukkah is valid. Similarly, if one takes valid schach and places it on top of invalid schach, the succah is called "mixed" and it is valid.* If one builds a succah under a tree with branches that let most of the sun through, and the tree's branches are above the schach with air between them, then the succah is valid since if one would remove the tree, there would still be enough schach to make it valid. *Or if one has a lot of schach [so] that even if one removed the tree, enough is left to be valid.* It does not make a difference if the tree was put on first or the schach was put on first, the same rule applies.

2. If one cuts the tree's limbs to make it valid, meaning for it to be valid schach, it is valid; if one mixed up the collected schach together and placed it [on top of the sukkah], and then returned to gather up the remaining part and place [it on top of the sukkah] that it is valid. But if not, it is invalid because of *תעשה ולא מן העשוי*, [i.e.] it must not be made

¹³⁹ Joseph Caro is now talking about a case where the tree's branches are lying directly on top of the schach. This will be followed by a case where there is air between the branches and the schach.

from something that is already made for a different purpose. *However one is permitted to build a succah under a house or another structure and later remove that structure and it is not called תעשה ולא מן העשוי¹⁴⁰ since the thing that is invalid is not the schach itself.*¹⁴¹

3. If one builds a succah under a house and [then] removes the roof, even if one leaves the support beams and puts schach on top of them it is still valid. *It is also permitted to build a succah under a roof that is made to open and close. It is permitted to close the [roof] because of the rain and come back later to open [it] up. Even on Yom Tov it is permitted to open and close [the roof] if it has gears that operate the opening and closing. One is not liable for destroying or building a tent on Yom Tov and תעשה ולא מן העשוי does not apply as well. However, one must be careful to not sit under the succah while the roof is being closed, because then the succah is invalid.*

Orach Hayim Chapter 627: The laws of sleeping in the succah (4 seifim)

¹⁴⁰ There is a rule in tractate Sukkah that the Sukkah must be made by a person and cannot be made from something by itself. For example, one cannot put the schach up first before one builds the walls. Rema notes that this example is not תעשה ולא מן העשוי, because a structure that can be removed means the structure is not permanent thus fulfilling the mitzvah of Sukkah

¹⁴¹ The Rema references: כל בו והג"א פ"ק דסוכה: *Kol Bo* (Hebrew: כל בו) is a collection of Jewish ritual and civil laws, the meaning of the title being "all is in it"; who its author was has not yet been ascertained. Dated 14th century.

1. *One needs to sit in the atmosphere of a succah.* In a case where one sleeps under a bed in the succah; if it was higher than 10 handbreadths¹⁴² he has not fulfilled his obligation.
2. One who sleeps under a hammock in the succah, if it is not higher than 10 handbreadths or it does not have a roof that is one handbreadth wide, it is valid.
3. One may not spread a sheet from [any of] the four bed posts at the corners of a bed and sleep under it even if they are not higher than 10 handbreadths. However if one builds a beam in the middle of the [sukkah] and spreads a sheet from it in such a way that the entire roof is not wider than one handbreadth it is valid. This is [assuming] it (the sheet) is not higher than 10 handbreadths. There are some who say it is valid it even if it was higher than 10 handbreadths.¹⁴³
4. If one decides to hang a sheet under the schach for decoration, as long as it is within 4 handbreadths from the schach then it is valid; however if it is beyond 4 handbreadths from the schach it is invalid (to sit under). If the sheets are not for decoration, then even

¹⁴²Handbreadth: The size of the handbreadth is described in the Talmud (Bekharot. 39b: “It was taught in a Baraita the fingerbreadth stated by the Sages is equivalent to one-quarter of a handbreadth of the average man”) as equal to four thumb’s; and in the passage from Menachot. 41b: “Rav Pappa said: the Biblical handbreadth is equal to four fingerbreadths measured with the thumb, six fingerbreadths measured with the little finger, and five fingerbreadths measured with the third finger or the index finger.”

¹⁴³Taz to SA OH 627:3, note dalet; 17th century commentator David HaLevi Segal, the Taz, notes that this is the opinion of the Rif and Rambam. David ha-Levi Segal (c. 1586 – 20 February 1667), also known as the Turei Zahav (abbreviated Taz) after the title of his significant *halakhic* commentary on the *Shulchan Aruch*, was one of the greatest Polish rabbinical authorities.

if they are within 4 handbreadths, it is invalid. *One must be careful to only hang decorations within less than 4 handbreadths of the schach.*¹⁴⁴

Orach Hayim Chapter 628: The laws of a succah that is built under a succah (3 seifim)

1. If one builds a succah under a succah, the succah on top is valid, but the succah on the bottom is invalid. This is only if one is able to put the provisions that one needs in order to eat and sleep (in the succah), even if it fits tight, and [there are] 10 handbreadths of free space remain on top. But if there are not 10 handbreadths between them, or if the lower succah does not have enough space for ones provisions, the lower one is valid (and the upper one is invalid) as long as it is made according to the law. Even if the top succah is higher than twenty cubits and it was built invalid, the lower one is valid. But in order for the lower succah to use the schach of the upper succah, the upper succah cannot be higher from the ground more than twenty cubits.

2. If one builds a succah on [top of] a wagon or on a boat, if it is not able to stand [up to] normal wind [gust] that occurs on land then it is invalid. But if it is able to stand up to a normal wind on land then it is valid; even if it cannot stand [up to] a normal sea wind.

¹⁴⁴ The Rema quoting Maharil.

3. If one builds a succah on the back of a camel or on the branch of a tree, it is valid.

However one is unable to enter it on Yom Tov. If part of it was built in a tree and part of it was built on something else, it is permitted to enter the succah on Yom Tov [as long as] that succah is able to stand on its own should the tree be removed, if not, one does not go into it on Yom Tov.¹⁴⁵

Orach Hayim Chapter 629: From what the schach needs to be made

1. The schach must be made out of something that grew from the earth, it must be detached from the earth and it must be something that is unable to become ritually impure¹⁴⁶ (אנוס).¹⁴⁷ However, something that did not grow in the earth but came from the earth, although though it might have come from the ground, it still does not become ritually impure. Some examples include the raw skins of animals, which do not become ritually impure, or types metal that do not become ritually impure - we do not make schach out of them, *also dirt*.¹⁴⁸

¹⁴⁵ Taz to SA OH 628:3, note gimme!; The Taz notes that on Yom Tov it is forbidden to use animals or whatever is connected to them. However, if the succah is able to stand on its own without the help of the animal, one may enter it on Yom Tov.

¹⁴⁶ Taz to SA 629:1, note bet: Meaning that it cannot become ritually impure.

¹⁴⁷ The Hebrew noun *tum'ah* (טִמְאָה) "impurity" describes a state of ritual impurity. A person or object which contracts *tumah* is said to be *tamei* (Hebrew adjective, "ritually impure"), and thereby unsuited for certain holy activities or use until undergoing predefined purification actions that usually include the elapse of a specified time-period.

¹⁴⁸ The Rema brings in a ruling from the Ran: "Therefore we do not make schach out of dirt." Nissim ben Reuven (1320–1376, Hebrew: נִסִּים בֶּן רֵאֲוֵן) of Girona, Catalonia was an influential talmudist and authority on Jewish law. His best-known work is his commentary and explanation of Alfasi's "Halakhot";

2. Similarly, objects which are able to become ritually impure are invalid, [i.e.] skewers and bed frames and all vessels. Even if they were broken so thoroughly so that not enough remains of them to be ritually impure, they are [still] invalid for schach.¹⁴⁹
3. One may use a wooden shaft¹⁵⁰ that, as long as they no longer have any area to hold anything, are valid. If they have a space to hold anything, they are invalid.¹⁵¹
4. One can make schach out of flax that is not fine and not pressed since [then] it is considered like regular wood, but if not it is invalid.¹⁵²
5. Rope made from flax is invalid¹⁵³. Rope made from rubber is invalid, but rope of fibrous roots such as those found in radishes is valid.¹⁵⁴

¹⁴⁹ Even broken into something unrecognizable, invalid objects such as skewers, bed frames, and vessels are still unable to be used.

¹⁵⁰ Which can be used to fasten arrows

¹⁵¹ One must be able to see through the schach. Lattice work appears to be acceptable, so long as the structure cannot be closed up. If the arrows were able to hold anything, it would block out the sky, and the structure would be seen as permanent.

¹⁵² “Even though it may not become ritually impure, it is possible to become ritually impure by something else” - Atarat Zekanim”.

¹⁵³ Magen Avraham notes: בחבלים פסולה - “The rope is invalid.” Abraham Abele Gombiner (Hebrew: אברהם אבלי הלוי גומבינר) (c. 1635 – 5 October 1682), known as the Magen Avraham, born in Gąbin (Gombin), Poland, was a rabbi, Talmudist and a leading religious authority in the Jewish community of Kalish, Poland during the seventeenth century. He is known to scholars of Judaism for his Magen Avraham commentary on the Orach Chayim section of Rabbi Joseph Karo's Shulchan Aruch, which he began writing in 1665 and finished in 1671.

¹⁵⁴ Translate סיב as “fibrous substance; bast”. In botany, bast is the phloem or vascular tissue of a plant.

6. A mat made from branches, straw, rubber, or grass, whether it is smooth so that it is suitable for one to lie down upon it, or whether it is not smooth enough so that one may not lie down upon it, or if it is occasionally utilized for one to lay down upon it and thus becomes ritually impure, one still does not make schach out of it unless it was [purposely] made to be used for schach. *Thus if most of the people in that city make that mat for the purpose for schach then it is valid.* If it is often utilized for schach, and they made schach out of it only after it was already made for one to lie down upon it is invalid. *Assuming that the custom of that city is to make such a mat for lying upon.*¹⁵⁵ This only applies if the mat has no trimmed border. However if it had a trimmed border then it is able to become ritually impure and we don't make schach out of it even if one took out the trim. *Even in the place where it is the custom to declare mats are able to be placed on the roof, one does not make schach out of them (Kol-Bo).*

7. There is a doubt about whether one is able to put a ladder (horizontally) on the roof in order to put schach on top of it. *One may not put schach over it. It is also forbidden to put the ladder on top of the schach in order to strengthen it.*¹⁵⁶ *The same rule applies to any vessel able to become ritually impure like a bench and chair which can.*

¹⁵⁵ In the cities where it is the custom to sleep on mats, one cannot use those mats to make schach.

¹⁵⁶ Caro makes no ruling whether one can place a ladder on top of a roof to act as a beam, in the same manner of other lattice work. However, the Rema declares that one may not place schach over it. The ladder is enough in this instance. Also, one may not use the ladder to add strength to the sukkah. The structure must not become permanent. The Rema cites the Maharil for his ruling.

8. To attach the poles of the succah with iron nails or to tie them with garments [*worn garments*] which may become ritually impure does not matter.¹⁵⁷

9. All foods may become ritually impure and one cannot make schach out of them.

10. The branches of dates which [might] include some dates or grape branches that [might] have some grapes on them, if there is more branch than food one can use them for the schach. Otherwise, one may not use them. If one cut the branches to be used for food,¹⁵⁸ there is the part by which you can hold the branch that can become ritually impure, yet as long as there is more branch than food, it is valid. However if one cut the branches for the purpose of schach, then one cannot use the branches for food.

Rather, the opposite is true, they become like branches which become ritually impure. If one cuts the branches for use as food and also to make them into schach, the intention to make them into food does not apply until he does something to the branches that makes them into schach, i.e. he threshes them.¹⁵⁹

¹⁵⁷ “So long as one does not place the schach on it” - באר היטב; written by Zechariah Mendel ben Aryeh Leib (18th century) (Hebrew: זכריה מנדל בן אריה ליב) a Polish Talmudist, native of Cracow, and in later life chief rabbi and head of the yeshivah at Belz, Galicia. He was the author of *Be'er Heitev*, a well-known commentary on the *Shulchan Aruch*, *Yoreh De'ah*, and *Hoshen Mishpat* (first edition of the first part, Amsterdam, 1754; of the second, ib. 1764).

¹⁵⁸ Harvest

¹⁵⁹ One may use branches of grapes or dates that they have harvested for food, so long as they have been threshed (beaten so the seeds and fruit has fallen off) before they have been used for food. If one has already used some of the branch for wine or food, they have become טומאה and are unable to be used for schach.

11. One can make schach from fennel stalks, called in Arabic "*shoomar*". *It refers to food for animals and not something that people eat; it is also used for medicinal purposes.*¹⁶⁰

12. If one made schach with vegetables that quickly dry out, even though they are invalid because they can contract ritually impurity, they do not follow the other טומאות forms of schach which invalidate within 4 handbreadths.¹⁶¹ However, they are considered like air and invalidate within only 3 handbreadths.¹⁶² But if they do not dry out quickly then they count as other invalid forms of schach and [therefore] are invalid within 4 handbreadths.¹⁶³ *Anything that usually dries out after 7 days is considered like air.*¹⁶⁴ *It is invalid for use even for the walls of the succah.*¹⁶⁵

13. Anything that is fastened¹⁶⁶ may not be used to make schach and has the same laws as the laws of a tree.

¹⁶⁰ Food used for other purposes. Rema notes that it is something used for medicine and not for eating;

רבינו ירוחם נ"ח ח"ב וכל בו.

¹⁶¹ See OH succah 627:4

¹⁶² Dried vegetable stalks can become ritually impure, and become invalid after 3 handbreadths.

¹⁶³ The healthy vegetable stalks are considered like decorations: 627:4

¹⁶⁴ Rema: ר"ן פ"ק דסכה

¹⁶⁵ Rema: הגהות מיימוני פ"ד דסוכה - Hagahot Maymoniot: Written by Rav Meir the son of Yekutiel HaKohein, these glosses on the *Mishneh Torah* of Rambam stress the views of the Tosafists and other Ashkenazic scholars. Rav Meir lived in Rothenburg, Germany, and died during the Rindfleisch massacres in 1298. He was the student of Maharam of Rutenberg.

¹⁶⁶ From the Pi. חיבר, the word מחובר is whatever is fastened to an object that can become ritually impure.

14. There are things which the Sages prohibit from making schach out of in an ideal situation. They are species of grass¹⁶⁷ that one cannot eat and are unable to become ritually impure. However they have a bad smell and their leaves fall¹⁶⁸ off of them.¹⁶⁹ Therefore one [should be] afraid that because of the bad smell or the leaves will fall off that one will leave the sukkah.¹⁷⁰

15. It is also prohibited to make schach out of rope. Because it might happen that a man may spread out his freshly made rope on the sukkah in order to dry it out and after this he may decide to use it for the schach and it would be invalid since it violates the rule of תעשה ולא מן העשוי.¹⁷¹ Therefore all rope is invalid so that one does not make this mistake. Only for rope that normally dries out did they make this decree. This does not apply to rope with less than 25 strands. So if the rope has less than 25 strands it is permitted to use it as schach. If one has a rope that is 25 strands or more, one should tie one end over the other end and then one can use it as schach because it is not called a rope anymore since it is bent.¹⁷² However if you tie another branch with it, then it will have 25 strands.

¹⁶⁷ The מגן אברהם notes: לכתחלה - "If the schach has already been placed it is Kosher. So much so that Maimonides has said it is permitted to sit in it. But the Rosh notes that one may leave during the benediction in accordance with the Rambam".

¹⁶⁸ Connected to the word נשר: to drop

¹⁶⁹ Regarding the word שנושרים - In the same manner (as the smelly grass) one does not use something whose leaves might fall, "however if they only fall during the moment of wind, it is valid - באר היטב -

¹⁷⁰ If the smell is so terrible from the grass, or the leaves are falling off, one may be forced to vacate the Sukkah. As a result, the use of those certain grasses is prohibited even in an ideal situation.

¹⁷¹ See SA OH Sukkah 626:3

¹⁷² One may not tie a rope from one end of the Sukkah to the other and consider it schach. The rope must be bent over itself and rendered unable to be used as rope in order for it to be considered usable for schach. This would not violate the law תעשה ולא מן העשוי because the rope in this instance is only ever considered usable as schach, not for

*Any rope that is not tied at the first end is necessary in order to use is not considered rope and one may use it for schach.*¹⁷³

16. Rope that is not tied to itself, rather it is only tied in order to sell similar [ropes] in a bundle: i.e. when the buyer unties it, it is still not called rope.¹⁷⁴

17. If one made the schach out of rope for the purpose of schach and this is permitted, it is valid, because of a Rabbinical decree.¹⁷⁵ However if one put rope on top of the succah in order to dry out and then decided to use it for schach, this is invalid from the Torah and it must be removed.¹⁷⁶

18. One is also forbidden from using planks of lumber that are wider than four handbreadths. Even if one placed those planks wider than 4 handbreadths¹⁷⁷ on their side so that they no longer were wider than 4 (handbreadths) looking up it is invalid. However, if they are less than 4 handbreadths wide it is valid. Even if they were made to look like vessels they are valid, but our custom is to not use them for schach.

another purpose while on top of the Sukkah of drying out fruits as in the previous example.

¹⁷³ If there is a defect in the rope so that it might never be used as rope, it is valid to use as schach.

¹⁷⁴ Twine or rope used to bundle goods or products together may be used as schach because it is not considered rope.

¹⁷⁵ One may use rope that is purposely created for use as schach.

¹⁷⁶ This would violate the law *תעשה ולא מן העשוי*. The *באר היתב* comments that this means that the ropes should be loosened and untied.

¹⁷⁷ The Rabbinic maximum width is 4 handbreadths. See footnote on 627:4

19. If one spreads a sheet because of the heat or places it under [the schach] because of dropped fruit for it is written that one should not spread a sheet, it is invalid. But if one built them because of its beauty, it is valid.¹⁷⁸ Only as long as it is within 4 handbreadths of the schach. There are those who say that if one has a succah [built] according to the law and one built sides for it so that the schach doesn't dry out or to straighten the branches in order that the sunshine is greater than the shade, since the sides cause the sunshine to be more than the shade, it is invalid.¹⁷⁹ But if one builds the sides so that they might shield them from the sun or for its beauty it is valid as long as it is within 4 handbreadths of the schach.¹⁸⁰ However, from the beginning one should not do this unless it is clear that their intention was only to use it for balance or if one soaked them in water; then it is recognizable that one only built it in order to dry out the schach.

Orach Hayim Chapter 631: A succah in which the sun is greater than the shade and other laws of the schach (10 seifim)

1. A succah that has the same amount of sunshine and shade above¹⁸¹ is invalid because the sun spreads out for a distance and below the succah will be greater than the shade. However, if the sun and the shade are equal below then it is valid.¹⁸²

¹⁷⁸ This falls under the concept of *הדור מצוה*, to “make the commandment beautiful”. We want to make our succah as beautiful as the tabernacle or mishkan as we bear witness to God’s clouds of glory (625:1). Therefore it is acceptable to place sides of the roof that make our succah all the more beautiful.

¹⁷⁹ See Succah 10a

¹⁸⁰ The importance of space and distance is mentioned again here - 4 handbreadths is the maximum distance allowed.

¹⁸¹ i.e. one sitting below looking in the sukkah is overcome by the amount of sun coming through the schach.

2. If parts of the succah¹⁸³ have more sun shining through them then shade, or if parts of the succah have more shade than sun; if you put them together and the shade is greater than the sun combined then it is valid.¹⁸⁴ *However, there are those who are strict that would say that if it is a large succah, and there is a place which is 7 X 7 handbreadths of sun greater than shade even if when you combine everything the shade would be greater.*¹⁸⁵

3. The preferred way to build the schach is thin¹⁸⁶ in order that one can see the large stars. Yet if one made it thick, like for a house, although they may not be able to see the stars it is still valid.¹⁸⁷

4. If there ever was one that made the schach so that there was a lot of air between it. So long as there is not a space of 3 handbreadths between one spot and another. And as long as the shade is greater than the sunshine it is valid.

¹⁸² An equal amount of sun and shade must be seen through the schach while sitting in the succah. The schach must be arranged to allow for equal exposure of sun and shade.

¹⁸³ The succah must be quite large with a number of rooms inside to allow for different “parts”.

¹⁸⁴ When we combine the different parts of the schach, or the different rooms and there is more shade than sun, it is still considered valid.

¹⁸⁵ Rema quotes the ״ר״ who suggests that if one is more strict, they would never allow there to be such a succah. In some ways this ruling contradicts the more lenient position that Caro has taken.

¹⁸⁶ Hebrew says קל meaning “simple”. But one should understand this as thin.

¹⁸⁷ The Magen Avraham notes regarding thick schach which is invalid: “the schach is not valid if rain is unable to fall down through it” לבוש פוסל כשאין המטר יכול לירד בה.

5. If the schach was tangled (*meaning, disorganized*¹⁸⁸) so that some parts are higher than others it is valid. As long as there is not 3 handbreadths between upper and the lower. If the width of space between the upper (schach) is one handbreadth or more, as long as it is no more than 3 handbreadths of height¹⁸⁹, we view it as if the upper schach has moved to the lower schach, thus it is considered one level as opposed to separate.¹⁹⁰ *This means that if there is air of between the upper and lower pieces of schach that is 1 handbreadth this would bring down the higher and it is valid. Even if the sunshine is greater than the shade, as long as the sunshine is greater between the space.*

6. If there are branches that protrude from the back of the succah, so that they stick out from the middle wall into the schach, it is considered a kosher succah as long as the shade is greater than the sun. Even the third wall is kosher, regardless if this middle wall was not built for structure¹⁹¹ but for adorning the succah that is around it.

7. If there are branches protruding from the schach that breach the side of another wall that is between them. As long as one made the side of the wall more than seven¹⁹², and then it is revealed that his opinion is such that he makes all of his succot with long walls (like this) [it is valid]; Yet if another wall has branches that extend into the schach, this is not a succah; rather it stands on its own. [But] let us not find that another wall extends, even if it is deemed valid.

¹⁸⁸ Rema clarifies Caro: “פירוש מבולבל”

¹⁸⁹ Between the upper and lower section of the schach.

¹⁹⁰ As long as the schach has not separated more than 3 handbreadths, the schach is kosher.

¹⁹¹ Magen Avraham notes: כיון שהיא מחיזה שלימה - “because this would completely divide the succah”.

¹⁹² i.e. handbreadths

8. Schach that protrudes is invalid.¹⁹³ As long as there is not 4 handbreadths of invalid schach between them. If one places between the protruding pieces¹⁹⁴ valid schach, it is invalid because it is not possible to decrease the space and fill all of the air with valid schach, because one can still find more invalid schach. However, if one mixed a lot of valid schach with invalid schach; or one weaved it together so that there is an more of valid schach, then it is a valid. This is as long as the space is filled with valid schach.¹⁹⁵

*This only applies for a large succah, but for a small succah, a 3 x 3 area of invalid schach makes it invalid.*¹⁹⁶

9. A roofed house made out of wood planks that is unable to be removed *meaning mortar and pebbles were placed on them*¹⁹⁷, and then one came to make this roof valid for a succah, i.e. one can remove all of the boards of the roof to make a succah, or grab two of the boards and place valid schach in its place, it is completely valid. It is okay even if the planks are wider than four handbreadths. There are those that say that one needs the boards to not be wider than 4 handbreadths.¹⁹⁸

¹⁹³ Causing the succah to be invalid

¹⁹⁴ Assuming the pieces are invalid schach greater than 4 handbreadths.

¹⁹⁵ There has to be a greater ratio of kosher schach than invalid schach. Clearly, it was not possible every year to create a succah from scratch. Sometimes pieces of the previous years schach were reused. Imagine if there was a large amount of dried schach that was deemed invalid, but the community was able to pool together enough kosher schach and mix it with the invalid schach. The community would still be able to erect kosher succot so long as the ratio of valid to invalid schach was appropriate. This would extend the life of each families succot greatly.

¹⁹⁶ If you only have the ability to create a small succah, one should be able to acquire the appropriate amount of schach.

¹⁹⁷ Rema clarifies: פירוש, טיט וזרורות שמימין עליהם

¹⁹⁸ For the succah to be kosher.

10. If there is a succah that has no roof, for example, the tops of all four walls are attached like a triangle or if one leaned the top of the walls of the succah against a wall, it is invalid.¹⁹⁹ However, if the succah had a roof, even if it was as small as a handbreadth \ and one leans the walls of the succah against another wall it is valid. *There are those who say that a handbreadth²⁰⁰ not above the air, on from the walls or the schach. And there also needs to be seven x seven handbreadths.²⁰¹ The walls also must be at least 10 handbreadths high. But if all of the walls are counted with schach, it is permitted to sleep even under the walls.²⁰²*

Orach Hayim Chapter 632: Things that are invalid for the schach (4 seifim)

1. Invalid schach invalidates in the within four handbreadths or more.²⁰³ But less than that it is valid and one is permitted to sleep under it. However if the schach is four cubits from the side²⁰⁴ it is invalid. If there are fewer than 4 cubits of valid schach, we say the wall is curved, but let us not say that we are unable to see if the wall has been twisted, therefore the invalid schach is on the body of the wall, in fact this is the law from Moses at Sinai!²⁰⁵ For this reason if in the middle of the house there is a hole and a little bit of

¹⁹⁹ The succah must be a free standing structure and have an open roof.

²⁰⁰ Oh schach

²⁰¹ The schach must be 7 x 7

²⁰² Rema refers to Yerucham ben Meshullam (Hebrew: **ירוחם בן משולם**, 1290-1350), was a prominent rabbi and posek during the period of the Rishonim. Yerucham was born in Provence, France. In 1306, after the Jewish expulsion from France, he moved to Toledo, Spain. During this time of his life, he became a student of Rabbi Asher ben Yehiel. In the year 1330, he began writing his work Sefer Maysharim. He completed this work in four years. At the end of his life, he wrote Sefer Toldot Adam V'Chava.

²⁰³ Four handbreadths or more wide.

²⁰⁴ Four cubits from the wall.

²⁰⁵ There has to be clear separation between the schach and the walls of the sukkah.

schach is placed in it, and there is valid schach that is placed over it within 4 cubits of the wall, it is valid. Yet, one may not sleep underneath it for the time that is not within the four handbreadths. Regarding these words, in a great succah, one with schach that is seven by seven. But a small succah that is no bigger than seven by seven, in the middle of the two walls, there should be three handbreadths or less for it to be kosher, and one can sleep underneath it. One may add on to the succah to make it valid.

2. Air between the upper (schach) and the lower (schach) are equal. Between the middle and between the side, it is invalid if it is within three handbreadths. Less than three handbreadths it is valid, and one can add the three²⁰⁶ to a succah, however one may not sleep underneath it. *This law is about the space of the succah, if one is able to stand or fit most of themselves in it, then one is permitted.*²⁰⁷ *It is not a succah if there are no small spaces.*²⁰⁸ *Regarding the schach that is invalid with three handbreadths of air and four handbreadths*²⁰⁹, *this is only if it divides the sukkah into two and there does not remain enough of the valid schach. However, if there remains qualified*²¹⁰ *(schach) in another part of the succah, then the area is valid. This is true outside, if it is attached with the walls.*²¹¹

3. Schach is invalid if it has greater than 4 handbreadths, and the air is invalid if greater than 3 handbreadths do not combine to invalidate. Therefore, if there are exactly 3

²⁰⁶ Handbreadths

²⁰⁷ i.e permitted to sleep in it

²⁰⁸ Literally “pinhole” size spaces in between the schach. The schach has to have space between it.

²⁰⁹ i.e. invalid schach

²¹⁰ If there is enough kosher schach in another part of the succah.

²¹¹ טור

handbreadths of air in one place with a little invalid schach then the succah is valid. This only applies to a large succah. However, a small succah with only a size of 7x7 handbreadths, one can combine (the schach) together to invalidate [it] if it's only 3x3 handbreadths.

4. If there is one patch of invalid schach two handbreadths in size plus another patch of invalid schach two handbreadths in size and a patch of air between them less than three handbreadths, then it is in doubt if the two join together to make the succah invalid.

Orach Hayim Chapter 633: The laws of the height of the succah (10 seifim)

1. A succah that is greater than twenty cubits in height is invalid. Whether it is big or small or the walls touch the schach or do not touch the schach.²¹² However, if it²¹³ is twenty cubits then it is valid. Even if all of the schach is higher than twenty cubits, regardless it is not invalid if the walls are not higher than twenty cubits.²¹⁴

2. If there is a succah that is higher than twenty and they have gone (*meaning they brought upper branches to mix with the lower ones*) to lower them down below.²¹⁵ If the shade they²¹⁶ cast is greater than the sunshine then it is valid, but if not then it is invalid.

3. A succah that has space²¹⁷ greater than 20 cubits, and one hangs decorations, and they go into the space²¹⁸, it is not considered a reduction. Similarly, if one hangs vines and blankets, it is not a reduction even if they annul it.²¹⁹

²¹² i.e. whether the walls are too short to reach the schach. Perhaps there is a succah built under a carport with short walls.

²¹³ The succah

²¹⁴ A succah is still deemed kosher even if the schach is higher than twenty cubits, so long as the walls of the sukkah are not higher than the twenty cubits.

²¹⁵ Because the succah is so high, one wants to bring down the roof so that there is a lower level of schach made of secondary material the Rema explains is: ענפים קטנים עמ העלין שלהם.

²¹⁶ The branches

²¹⁷ The vertical space: שחללה translates literally into a space; or cavity.

²¹⁸ i.e. one hangs beautiful things from the roof that dip lower into the succah.

²¹⁹ If one hangs vines or blankets from the schach, there is the possibility that they have literally brought the roof down lower than 20 cubits. However, even if you had a succah that was greater than 20 cubits, they could not hang vines or blankets to make the succah seem smaller. A succah may not be reduced in size by what one hangs from the schach.

4. One who reduces (the space in the succah) by straw²²⁰ and negates it²²¹ then it is a reduction.²²² One also does not need to say that with dirt it is a reduction²²³, but other things do not cause a reduction until one reduces the height of the door.²²⁴

5. If there is a succah higher than 20 cubits and one built a small shelf opposite the wall around the succah.²²⁵ If the size is large enough²²⁶ to be a valid succah then the whole succah is valid even the part not under the enclosure.²²⁷

6. If one built this structure²²⁸ against a side wall, if the distance from the shelf to a second wall is less than 4 cubits then it is valid but only the space on the shelf. If not then it is invalid.²²⁹

7. If one built the shelf in the middle of the succah²³⁰, if there is less than four cubits to the second wall, it is valid.²³¹ The shelf is valid even if it is higher than ten cubits. If

²²⁰ Adding straw to floor of the succah to make the overall height of the succah seem smaller.

²²¹ The schach is now lower than twenty cubits.

²²² The roof may not be reduced, but the floor may be raised so that the overall height is less than 20 cubits.

²²³ If straw may cause a reduction, then clearly dirt may also cause a reduction.

²²⁴ A very interesting note in עטרת זקנים: “There is a mistake in all of the written literature that one may not reduce the size of the door even though they know that there is no way in the future to reduce the height except by dirt”.

²²⁵ A smaller succah within the larger succah.

²²⁶ No more than four handbreadths.

²²⁷ Perhaps the larger succah is deemed an accessory to the smaller one.

²²⁸ The structure is a shelf: האיציטבא

²²⁹ The Magen Avraham notes “Whatever is outside of the shelf does not need schach, because it can be perceived that the schach is like a crooked wall” - רא"ש

²³⁰ Read the middle of the succah - באמצע

there is less than four cubits between the wall and the shelf then it is invalid, even if the shelf is higher than ten cubits.²³²

8. A succah that is not ten handbreadths high is invalid.²³³

9. If there was a succah that is higher than ten handbreadths but something came down below the ten handbreadths. Even if the gourds are greater than the sun, so there is more shade, it is invalid.²³⁴ But, if decorations²³⁵ reach below ten handbreadths then they do not invalidate the succah.

10. If there is a succah that is less than ten,²³⁶ and someone carved enough²³⁷ out so now that it is ten (handbreadths), it is a kosher succah. If there is not three handbreadths between it, it is not valid²³⁸ but if there is, it is a kosher succah.

²³¹ A shelf in the middle of the succah needs at least four cubits between it and the next wall for the succah to remain kosher.

²³² The size or height of the shelf does not matter as much as its relation to the succah walls.

²³³ This would amount to about forty inches or three and a half feet.

²³⁴ It would be very hard for a person to sit in this succah.

²³⁵ See OH 627:4

²³⁶ Handbreadths

²³⁷ If there is a succah less than ten handbreadths, and someone piled the schach on top so that it was higher than ten handbreadths. However, they then carved an area within the schach so that the succah is ten handbreadths.

²³⁸ Magen Avraham writes “So that no one can say that it is a curved wall, nor a decorative wall because it is not ten handbreadths high”.

Orach Hayim Chapter 634: A succah cannot be less than 7 x 7 (4 seifim)

1. A succah that is not seven by seven²³⁹ is invalid. Regarding the size, there is no maximum height.
2. If one makes a succah in a wagon, there needs to be enough space in it for the succah to be 7 x 7.²⁴⁰
3. If the succah was 7 x 7, and one placed clothes for beauty²⁴¹ but it reduced the size of the succah to less than 7 x 7, it is invalid.²⁴²
4. If one has his head and most of him inside the succah, but his table is outside the succah and he ate there.²⁴³ It is like he did not eat in the succah even if it is a large succah. A decree was made so that he does not continue to sit at the table.

²³⁹ Handbreadths: About 3 feet by 3 feet.

²⁴⁰ Handbreadths

²⁴¹ From the word נאה meaning pleasant or beautiful.

²⁴² Even if the intention was to decorate the succah, if the inside area is less than 7 x 7 the succah is invalid. This seems to contradict an earlier ruling (627:4) that says decorations hanging from the schach do not affect the status of the succah. However, clothing or drapery hanging from the inside walls that decreases the overall area seem to change the status.

²⁴³ If it is a small succah that is not large enough to fit a table, one cannot sit inside the succah and eat from the table just outside of the opening. One must do everything completely inside of the succah.

Orach Hayim Chapter 635: The law of a Succah made for shade

1. If one builds a succah, however it was not built for the purpose of the mitzvah it is kosher if he built it to be used for shade. Regarding a gentile succah²⁴⁴, for women, or beasts, or material, shepherds, or summer, or the city guards, or one who watches the fields; but if one built the succah to fill it with such things, it is invalid since it was not built for shade. If one makes a heap and puts it in a pile to make a succah, this is not a succah, since the heaped²⁴⁵ pile is not shade (*and what one does afterwards is “תעשה ולא י”מן העשוי*²⁴⁶). Also if one originally made a pile, and then created a cavity in it that was seven handbreadths²⁴⁷ for a succah, and later came to hollow it out and finished it so that it was ten handbreadths²⁴⁸, it is kosher because the schach made from it created shade. However, if the large pile did not have a space of one handbreadth dug out, and then returned to carve out a large amount and created a large succah, this is not a kosher succah unless one originally makes it seven handbreadths.²⁴⁹ If one dug out from two sides four cubits or more up until seven handbreadths, even if it is seven handbreadths it is invalid, since the schach is invalid because it is not 4 cubits from the walls.²⁵⁰ *One may not make schach before one builds the walls, for if one built one handbreadth near*

²⁴⁴ Booths that belong to idolaters.

²⁴⁵ Read עומר as עומר: a bundle of grain

²⁴⁶ See 626:2

²⁴⁷ Fulfills the commandment of a 7 x 7 succah.

²⁴⁸ The succah has to be ten handbreadths high.

²⁴⁹ One cannot create a succah out of a random pile unless they originally made the pile 7 x 7 handbreadths.

²⁵⁰ See OH 633:7

*the schach, it is permitted to use the schach before the walls, for this is like the pocketed pile.*²⁵¹

Orach Hayim Chapter 636: The Law of an old succah (2 seifim)

1. An old succah, one that was built and entered into thirty days before the festival is kosher. Only if one reintroduces something new²⁵² on the body in the name of the festival. Even one handbreadth by one handbreadth is sufficient if it is in one place. But if one reintroduces something new on the whole face, it is enough even if it is a little bit.²⁵³ If one builds a succah for the festival, even if he began it in the beginning of the year it is kosher, and it needs nothing new.²⁵⁴

2. If one creates clay vessels²⁵⁵ so that they have two succots inside of the outer²⁵⁶ one. If one makes a kettle inside and sells the outer part, the inside does not fulfill the obligation of the succah. However, if one only stays in the outer succah then one does fulfill his obligation because one cannot live there all year.²⁵⁷

²⁵¹ As in the previous example.

²⁵² Translated from דבר עטה: “A thing from today”

²⁵³ An old succah can be recycled as long as one adds something new to it. Even if one added a small little piece of new material, it is enough.

²⁵⁴ The Jerusalem Talmud (Ber. 9:4, 14a) allows for one to begin building a succah immediately after the new year and complete it after Yom Kippur. However, the Babylonian Talmud disagrees and says we must begin to build a succah immediately after Yom Kippur.

²⁵⁵ Literally “Clay Vessels” - כלי חרש

²⁵⁶ Literally the outsider - מזר

²⁵⁷ A succah cannot be a permanent dwelling that one routinely lives in. The mitzvah of the succah means that one must be seen going from the inside of their permanent dwelling into the succah by their neighbors See OH 639:2