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Halachos Regarding a City Eiruv – 2

Vayechi 5784

316

Criteria of a Reshus Horabim

Setting Up an Eiruv

1. We wrote previously (Issue 315, par. 33) that an eiruv cannot be made in a reshus horabim. Part of setting up an eiruv is making halachic walls around a city's area to turn it into a reshus hayachid. Then, when an eiruv with bread belonging to everyone is made, one may carry throughout the entire area.
2. The Rishonim and poskim discuss extensively what is called a reshus horabim d'oraisa; which type of reshus horabim can be turned into a reshus hayachid and which cannot; and what type of partitions can be used to turn it into a reshus hayachid. We will now cite some basic principles on the topic.

16 Amos

3. The issur of carrying is derived from Klal Yisroel's encampment in the Midbar (Issue 315, par. 22). The reshus horabim between the camps, where the wagons passed through, was 16 amos wide. Thus, a street less than 16 amos wide is not a reshus horabim d'oraisa; it has the status of a karmelis (ש"ע סי' שמ"ה ס"ז ומ"ב סק"ח"י) (ש"ע סי' שמ"ה ס"ז ומ"ב סק"ח"י).
4. **16 amos.** 16 amos is either 7.68 meters [about 25 ft., 2 in.] (לפי הגר"ח) or 9.21 meters [about 30 ft., 3 in.] (לפי החזו"א). Here, we are machmir like Rav Chaim Naeh.
5. **Includes the sidewalk.** The 16 amos are measured from the wall of a building on one side of the street to the wall of a building across the street; the minimum width of 16 amos includes the sidewalk (ש"ת' אגרות משה אור"ח ח"ה סי' כ"ח ענף ג' אות ח'). All regular city streets today are wider than 16 amos. Just to illustrate this, the narrow section of **Rechov Meah Shearim** in Yerushalayim is slightly under 16 amos from wall to wall. Any street wider than this is already more than 16 amos wide and has the status of a reshus horabim d'oraisa according to many opinions, as will be explained.

600,000 People

Must There Be 600,000 People?

6. There is a machlokes among the leading Rishonim and Acharonim if, in addition to the criterion of 16 amos, an area must have 600,000 people to be called a reshus horabim. This has major ramifications for setting up eiruvim on today's streets: if they are reshuyos horabim d'oraisa, they must be set up accordingly, e.g., with doors (below, 42) or at least three partitions (30), depending on the opinion (see below). If an area can only be a reshus horabim d'oraisa with 600,000 people, many of our streets are not reshuyos horabim d'oraisa, and it is easier to set them up with the criteria for an eiruv.
7. Many Rishonim hold that we only learn from the encampment in the Midbar that a reshus horabim must have 16 amos, not that it needs 600,000 people. Thus, any street that is 16 amos wide has the status of a reshus horabim d'oraisa even if less than 600,000 people pass through (רמב"ן, ר"ת, רמב"ן, רשב"א, ריטב"א בשם רוב ראשונים). (מגיד משנה, ר"ן, הג' מרדכי, רשב"ם, יראים, ריב"ש, מאירי הובאו בבאיה"ל ד"ה שאין בשם הבה"ג, רש"י, סמ"ג, סמ"ק, ספה"ת, רוקח). They only (רבינו מאיר, תוס', רא"ש, אר"ז טור, רבינו ירוחם הובאו בבאיה"ל שם

take into account the number of people that is explicitly mentioned in the posuk (מ"ב סק"ג).

9. Most streets in the world today are wider than 16 amos but do not have 600,000 people, other than major streets in big cities. Thus, the above machlokes is relevant to most streets in the world. The machmir opinion (7) is that they are reshuyos horabim d'oraisa, while the meikel opinion (8) is that they have the status of a karmelis. The practical difference is what type of partition may be used to turn them into a reshus hayachid, as will be explained.
10. Often, the above machlokes is not explicitly mentioned by the poskim, but is expressed through various phrases, e.g., "We do not have a true reshus horabim," or "We do not have a reshus horabim d'oraisa," or "All reshuyos are like a karmelis." The intent of all these statements is that the criterion of 600,000 people is also required for an area to be a reshus horabim d'oraisa, and since most streets do not have 600,000 people, they have the status of a karmelis.

Mechaber's Opinion

11. **Machmir.** The Mechaber first writes without quoting any name ["סתם"] that even without 600,000 people, any area that is 16 amos wide is a reshus horabim d'oraisa. Then he cites a "יש אומרים" that is meikel and requires 600,000 people (ש"ע סי' שמ"ה ס"ז) (ש"ע סי' שמ"ה ס"ז). Following the rule in the Mechaber's words that when there is a "סתם" followed by a "יש" the halacha follows the סתם (כה"ג אור"ח ש"ח) (בהג"ט, ש"ך י"ד פד סק"ב ועוד כנה"ג, ברכי יוסף סק"ב, תוספת שבת, א"ר, מאמר) to the machmir opinion (למרדכי, נהר שלום, הובאו בשע"צ סק"ב, ש"ת תורה לשמה סי' ק"ד, מ"ב סק"ג). (מ"ב סק"ג).
12. **Meikel.** However, some poskim infer from multiple statements of the Mechaber elsewhere that he is meikel like the יש אומרים (מג"א) (סק"ז, ט"ז סק"ו, מהריט"ץ, ש"ת מים רבים).

Rama's Opinion

13. The Rama writes, "All of our domains are karmelis" (רמ"א סי' שמו"ו ס"ג), implying he sides with the meikel opinion (based on 10 above).

In Practice

14. **Meikel.** Many Acharonim write that we do not have a true reshus horabim today [outside of big cities], and that there is already a widespread minhag to be meikel (מג"א, ט"ז שם, חיי אדם כלל מ"ט ס"ג), ש"ע הרב סי' י"א, סי' ש"ג קו"א סק"א, ש"ת חכם צבי סי' ה', ש"ת בית אפרים אור"ח סי' כ"ו באריכות, ישועות יעקב סק"ב, ש"ת שבות יעקב ח"ג סוף סי' כ"ח, ש"ת (מהרש"ם ח"א סי' קס"ב).
15. **Machmir.** In contrast, the Mechaber implies in some places that he is machmir, and some Acharonim also side with the machmir opinion (ש"ת משכנות יעקב סי' קכ"א).
16. **"בעל נפש יחמיר."** The Mishna Berura concludes that we do not have the power to object to those who rely on the meikel opinion, but any scrupulous person [בעל נפש] should be personally machmir (מ"ב סי' (ביאה"ל סוד"ה שאין) (ש"ת). Certainly anyone with yiras Shomayim should be personally machmir, as nowadays there are also reshuyos horabim d'oraisa (Yerushalayim would answer people who asked him if it was mutar to carry within the high-level Eidah Chareidim eiruv in Yerushalayim: even after the eiruv was set up properly according to halacha, we always have the rule that a scrupulous person should be machmir and that's what he did himself).

More Discussions about 600,000 People

600,000 on the Street or in the City?

17. Within the meikel opinion, that there must be 600,000 people for an area to be called a reshus horabim (above, 8), the poskim argue whether there must be 600,000 people traveling on a street to give it the status of a reshus horabim or whether the main streets that serve the public are considered reshus horabim even if the 600,000 people are spread throughout the city.
18. The Mechaber's wording implies that a domain is only a reshus horabim if 600,000 people pass through that domain (ש"י ש"י ש"י). Some use this in combination with another kula, e.g., when the gates of a city do not go all the way through the city, from gate to gate (ש"י דברי מלכאל ח"ד ס"ג).
19. However, it is clear from many poskim that as long as a city has 600,000 people in it, the main roads are considered reshus horabim (רש"י עירובין דף נ"ט הובא בשער הציון סי' שמה סק"כ, ריטב"א הובא בבית הלל' שם) ד"ה שאין, ש"ת אחיזרז"ד ח"ד סי' ח, חכמת שלמה סוף סי' שס"ג, תפארת ישראל הקדמה (לשבת, ש"ת אגרות משה ח"א סי' קל"ט ענף ה').
20. **Residential streets.** It is likely that only the main roads used for transportation by the 600,000 people are included in the areas factored into the count of 600,000. However, residential streets that primarily serve that neighborhood's residents but not the majority of the city's populace are not considered reshus horabim d'oraisa even according to the machmir opinion (הגר"נ קרליץ). [Nowadays that everyone uses navigation devices, e.g. Waze, which often direct cars into neighborhoods when the main roads are congested – something that did not used to be the case – it must be considered whether even residential streets, at least those that reach the reshus horabim at both ends, are treated as the reshus horabim since they also serve the general public.]
21. **People in houses do not count.** Even if we say it is 600,000 people in the city and not necessarily on any given street, there must be 600,000 people on the streets; people in houses are not counted. They estimate that a city with a population of close to 3 million likely has 600,000 people on the streets at a time, in which case it becomes a reshus horabim (אג"מ אור"ח ח"ה סי' כ"ה אות ה').

600,000 Including People from Outside

22. The poskim discuss what the halacha is when a city itself does not have 600,000 residents, but people come from outside the city. Do those people count as part of the 600,000?
23. Some say visitors count as part of the 600,000 (ריטב"א עירובין דף נ"ט) (הובא בבית הלל' ש"י שמה ד"ה שאין).
24. Others say that even if we count visitors, it is likely that only streets used by visitors are considered reshuyos horabim d'oraisa, not streets they don't use (עמק החכמה סי' ו' חכמת הלב) (עמק החכמה סי' ו' אות ג' בשם פוסקי זמנינו).

Counting People in Vehicles

25. The poskim discuss whether people in vehicles count as part of the 600,000 or only pedestrians. Some want to be meikel and say people in vehicles do not count since there were only pedestrians in the encampment in the Midbar, and also because cars are enclosed by walls ten tefachim high and have an area of four by four tefachim, so a car is treated as a reshus hayachid (ש"ת משנה הלכות ח"ה סי' קמ"ד).
26. However, most poskim argue with this logic. They hold that people in cars also count as part of the 600,000 (פמ"ג סי' שס"ג א"א סק"ל, ערוך) (אג"מ אור"ח ח"ה סי' כ"ה, הגר"א קוטלר, בעל השלחן סי' שמה סק"כ, אג"מ אור"ח ח"ה סי' קל"ט, ח"ה סי' כ"ה, הגר"א קוטלר, בעל ויזאל משה הובא בס' יציאות השבת סי' ו', ש"ת שבט הלוי ח"ה סי' נ"ג).

Big Cities

27. Because of all the uncertainties we've mentioned about the status of a reshus horabim d'oraisa, many poskim and gedolei hador refrained as a rule from setting up eiruvim in big cities with large populations, as doing so involves d'oraisa uncertainties.

Number of Walls Needed for a Reshus Hayachid

D'oraisa

28. If there is a reshus horabim one wants to turn into a reshus hayachid, the Rishonim argue how many walls it takes to make the enclosed area into a reshus hayachid d'oraisa.
29. **Four walls.** Some Rishonim hold that an area is a reshus hayachid d'oraisa only if it is enclosed by four walls [or three plus a lechi on the fourth side]. With three walls, it is a karmelis, not a reshus hayachid d'oraisa (רמב"ם פ"ד שבת ה"א, ר"ת עירובין דף י"ב ע"ב).
30. **Three walls.** However, most Rishonim hold that if an area has three walls around it [or two walls and a lechi on the third side, which is also like three walls], it is a reshus hayachid d'oraisa, even if there is no wall or tzuras hapesach on the fourth side (רש"י עירובין דף י"ב ע"ב, תוס' בכמה מקומות, רא"ש פ"ק דסוכה, רשב"א בעבוה"ק, ריטב"א ועוד).

D'rabanan

31. Everyone agrees that d'rabanan, three walls are not enough to make a reshus hayachid – there must be four walls (ש"י סי' ס"א). This is because if there is no fourth wall, it somewhat resembles a reshus horabim, and one may come to carry in a reshus horabim (מ"ב שם ס"ב). But for the fourth side, Chazal say a partial wall is enough, e.g., two very small sections of wall at the ends which face each other or a four tefach wide wall on only one end with a lechi, kora, or a tzuras hapesach (ש"י שם ס"ב).
32. **Only setting it up with a tzuras hapesach.** Although, as mentioned, there are multiple ways to set up a reshus hayachid's fourth wall, each has its own prerequisites. Setting it up with a tzuras hapesach, though, is the best way and takes care of most scenarios. Thus, the poskim say that today, we only set up our alleys and streets with a tzuras hapesach where permissible (רמ"א סי' שס"ג ס"ב). This is the minhag today – to use tzuros hapesach as walls.
33. **Three full walls.** To satisfy a high standard, some neighborhood eiruvim have three full walls so that the area is a reshus hayachid d'oraisa (above, 30). Then, the fourth side is closed with tzuros hapesach, as that is only a d'rabanan requirement.
34. **Eiruv of Tottenham, London.** The eiruv established in the Tottenham neighborhood of London approved by the union of chareidi communities, Kedassia, has three full walls, so they only established their eiruv there. One full wall goes along the park and houses on Crowland Road; the middle wall is the bank of the River Lea; and the third wall goes along Springfield Park up until Spring Hill. This way, the entire area is a reshus hayachid d'oraisa. Then, by closing the fourth side with tzuros hapesach, they made a high-level eiruv. [Egerton Road and half of Ravensdale Road are outside the three walls, so they did not include them within the eiruv. The notices announcing this should be prominently displayed to passersby.]

Areas Where Tzuros Hapesach Work

Tzuras Hapesach

35. A tzuras hapesach consists of two upright poles spaced apart from each other with a beam on top of them or a string stretched from the top of one pole to the top of the other one. A tzuras hapesach is viewed as a wall (ש"י סי' ס"א). The specific halachos will be discussed later in the series, בעזרה ש"ת.
36. **A final full wall.** A tzuras hapesach can be used as a full wall to complete the required number of walls.
37. **Closing a gap.** A tzuras hapesach can also be used to close a gap in a wall, even if the gap is wider than ten amos (ש"י סי' ס"ב).
38. According to the Rambam (גם דעת הסמ"ג והסמ"ק), a tzuras hapesach cannot be wider than ten amos. However, if there is a wall which is "עומד מרובה על הפרוץ," i.e., the majority of the wall's length is full, proper wall, a gap may be closed with a tzuras hapesach even if it is wider than ten amos (ש"י שם). For example, if that side is one hundred amos long, and there are seventy amos of full, proper wall, the wall may be completed with a thirty-amah tzuras hapesach even according to the Rambam. The Acharonim hold it is proper to take the Rambam's opinion into account (מ"ב שם סק"ט).

Full Walls or Tzuros Hapesach?

39. **All the walls.** Most Rishonim hold that an entire area, even a large one, can be enclosed by tzuros hapesach without any full walls. In other words, poles can be erected around an area with string stretched across the tops of the poles. This makes the whole area enclosed, giving it the status of a reshus hayachid. This is how eiruvim around cities are usually made.
40. **Rambam's opinion.** However, the Rambam holds that only when there are two walls facing each other do tzuros hapesach help to close the other two sides, but all four sides cannot be closed using tzuros hapesach.
41. **Neighborhood eiruv.** Thus, many neighborhood eiruvim are made on a high level with at least two full walls (above, 40) consisting of more wall than gap (38) so that they are kosher even according to the Rambam. The other two sides are closed with tzuros hapesach.

Fixing a Reshus Horabim with Doors

Doors

42. In a reshus horabim d'oraisa – i.e., a 16-amah-wide street according to the machmir opinion (7) or a place with 600,000 people even according to the meikel opinion (8), on that street (18) or in a city where the main road serves them (19,20) – the only way to enclose the area to give it the status of a reshus hayachid is with doors. In other words, doors must be installed in the reshus horabim (ש"י שס"ד ס"ב). [We will explain the details of these halachos later in the series, א"ה.]

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