

# לוקוטי ופסקי הלכות "חוקי חיים"

ותלמוד  
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Please do not read during davening or Krias HaTorah

Halachos Regarding a City Eiruv – 3

Shemos 5784

317

## Some Halachos of Eiruv Walls

### Walls

1. We mentioned previously (Issue 315, par. 33) that an eiruv chatzeiros can only be made in an area considered a reshus hayachid. When an eiruv is made in a reshus horabim, e.g., in a city, the area must first be enclosed by kosher walls, thereby giving it the status of a reshus hayachid. Then, an eiruv with bread can be made. However, not every wall helps in a true reshus horabim, as we will explain after an introduction with several rules.

### Gap

2. A real wall with a gap in it more than ten amos wide [about 5 m/16 ft] is posul; it is not considered a wall. Mid'oraisa, if an area is enclosed on all four sides and the walls have wide gaps, they are not posul since the gaps are viewed as entrances, provided that there is a certain amount of wall on either side of the entrance. Mid'rabanan, though, any entrance wider than ten amos should be fixed with a צורת הפתח. If it was not, the entrance is considered a gap which makes the wall posul (ערוך השלחן סי' שס"ב סכ"ו). Some hold a gap of ten amos makes a wall posul d'oraisa.

### עומד מרובה על הפרוץ

3. "פרוץ", "עומד". When there are gaps in a wall or between sections of a wall, the sections of standing wall are called "עומד", and the spaces between the sections of wall – which are just airspace without any actual wall – are called "פרוץ" [credit for the pictures goes to Rav Dovid Hirsch, שליט"א, author of הלכה].



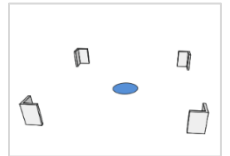
4. **Majority wall.** A wall with gaps is kosher if, in total, the open parts are smaller than the closed parts. A gap smaller than three tefachim is not counted as part of the open space. It is considered closed, based on the halachic concept of lovud.
5. Mid'oraisa, gaps that serve as entrances are not calculated as פרוץ even if they are very wide (ערוה"ש שס"ב סכ"ו). Mid'rabanan, though, an entrance wider than ten amos should be closed with a צורת הפתח. Only then is it not counted as a gap for the calculation of "פרוץ מרובה על העומד", even if it is very wide (ערוה"ש שס"ב סכ"ב).
6. **On that side or on all sides?** Some poskim say we calculate the amount of wall on each side individually against the amount of open space on that side (חוד"א סי' ע"א סק"ג ויה"ו). Others say we consider the entire perimeter of the wall all together: if, in all four walls total, there is more עומד than פרוץ, it is considered a wall, even though on one side there might be more פרוץ than עומד (ערוך השלחן סי' שס"ב סכ"ג).

### Types of Walls

7. **Full wall.** There are multiple types of walls. The simplest is a full wall, i.e., there is an actual wall that even in people's eyes is considered a wall, e.g., a stone wall, wooden gate, chain-link fence, etc.
8. **Wall via a kora or lechi.** There are other structures which Chazal gave the status of walls even though they do not look like walls to a person viewing them, e.g., a kora or lechi at the entrance of an alley, which, in certain circumstances, can be erected in place of a wall. However, these are considered low-level walls [מחיצה קלושה].

9. "פסי ביראות" ["Well partitions"]. There is another type of wall that only has a bit of wall on either end, but we view the middle as if there was a complete wall there. Chazal allowed this for wells of water in a reshus horabim or karmelis that were there for the olei regalim to use on their way to Yerushalayim. They needed to drink water from the wells, which had the status of reshus hayachid, from which one may not take something out into the reshus horabim.

10. **Four corners.** Chazal allowed turning the area around the well into a reshus hayachid via minimal walls, even though there was more open space than wall. They consisted of four L-shaped partitions, one at each of the corners of the enclosed space, such that at each corner there was a partition going in two directions, each direction with a section one amah wide and a minimum height of ten tefachim, with no more than  $13 \frac{1}{3}$  amos of airspace between the partitions. The poskim call this "שם ד' מחיצות".



11. **צורת הפתח.** A צורת הפתח consists of two poles set apart with a beam, or even a string, extending across the tops of the poles. Since the space within a צורת הפתח is considered an entryway, not a gap, the entire length between the two poles is considered a wall. A צורת הפתח is used as a full wall on one side. It is also used to close a gap in a wall so that it can be considered a wall, and it even turns the gap into part of the wall's עומד, not part of its פרוץ.

## Is a "Wall" Nullified by People Walking through It?

### פסי ביראות

12. With respect to ביראות, פסי ביראות, which are not full walls but are considered walls according to Chazal (above, 9), the Tannoim, Rishonim, and Acharonim argue about the halacha when a public path goes between the partitions around the well that constitute the "walls." Does this remove their status of walls, leaving the area as a reshus horabim, or do they still have the halachic status of a wall even if many people walk through, making the area within them a reshus hayachid?
13. "אתו רבים ומבטלי מחיצתא." R' Yehuda holds "many people come and nullify the wall." The purpose of a wall is to demarcate an area and separate it from another domain. When many people walk through something that is not actually a wall but that Chazal gave the status of a wall, it is not called a wall anymore. Thus, if many people walk through the "walls," they are no longer considered walls, and the area has the status of a reshus horabim.
14. The Chachamim hold people walking through do not nullify the wall. Even if many people walk through the halachic walls on a public path, they still have the d'oraisa status of walls, and the area within the partitions has the status of a reshus hayachid.

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## Halacha

15. **Rishonim.** Some Rishonim pasken like the Chachamim, that people coming through ביראות פסי do not nullify the walls (רמב"ם פי"ז שבת ה"ג, הג' מיימונית שם). Other Rishonim pasken like R' Yehuda, that many people coming through ביראות פסי nullify the walls (רמב"ן מלחמות) (עירובין כ"ב, רש"ב"א ו; ריטב"א כ"ב, ר"ן כ"ב. ד"ה הכא, מאירי י"ז: ד"ה ר"י).
16. **Acharonim.** Many Acharonim are meikel and pasken like the Chachamim. בית אפרים סי' כ"ו, מג"א סי' שס"ג סק"מ, שו"ת חתם סופר א"ח סי' פ"ט, הנהדב"י הובא בשו"ת תשובה מאהבה סי' ק"ב, אבנ"ז סי' רע"ג ורע"ו, (חזו"א סי' ק"ז סק"ד ועוד), and the general minhag is to rely on the meikel opinion. However, it is not so clear-cut, as most poskim are machmir and cite R' Yehuda (ביאה"ל סי' שס"ד ס"ב ד"ה ואחר).
17. However, many Acharonim are machmir and pasken like R' Yehuda (משכנות יעקב סי' ק"כ כ"א, ביאה"ל שם).

## עומד מרובה על הפרוץ

18. The above machlokes was stated regarding ביראות פסי, which are called "four walls" (above, 12). When it comes to a low-level wall, e.g., a lechi or kora (8), even the Chachamim agree that many people coming through nullify it. The poskim discuss whether this machlokes also applies to other halachic walls or only to ביראות פסי. [The Acharonim discuss this at great length and there are many details involved, but we will only discuss the main parts here.]
19. **Four walls.** The poskim explain that even if there are four walls with gaps and the gaps are less than ten amos wide [even though there are gaps at the corners, so it is not like ביראות פסי], if many people walk through the gaps, the above machlokes Tannoim applies. R' Yehuda is machmir, that the people coming through nullify the walls, and the Chachamim are meikel d'oraisa, that the people coming through do not nullify the walls (ריטב"א עירובין דף כ"ב) (ע"א ד"ה דרבנן, תוס' שם ע"ב ד"ה ת"ש, משכנות יעקב).
20. Some say עומד מרובה על הפרוץ is even better than ביראות פסי. With ביראות פסי, we must view it as if the walls extend to each other and close off the area – only then do the Tannoim argue. With עומד מרובה על הפרוץ, though, we do not need to view it as if it was closed since the majority of the perimeter is full wall. Accordingly, people coming through do not nullify the wall even according to R' Yehuda (רמב"ן מלחמות כ"ב. ד"ה ר' יהודה הובא בס' גאון יעקב עירובין כ"ב: ד"ה פליגי).
21. Others argue and are machmir. They say the Chachamim were only meikel with ביראות פסי, which are called "four walls." With עומד מרובה על הפרוץ, though, if there is a gap in the wall at the corners and it does not have its own status of ביראות פסי, the Chachamim agree that many people coming through nullify the wall (ריטב"א עירובין סי' רנ"א (רכ"ד ד"ה ועכ"פ, שו"ת מהריט"ץ סי' רנ"א).
22. **Three walls.** Some poskim hold that even when there are three walls with עומד מרובה על הפרוץ, the above machlokes applies, because three walls with עומד מרובה are akin to "שם ד' מחיצות." According to the Chachamim, people crossing through do not contradict the classification of walls, just like they do not for ביראות פסי. The reason four "walls" are needed for ביראות פסי is because only with four walls is there a "שם ד' מחיצות." However, עומד מרובה על הפרוץ, which are full walls, are called walls even if there are only three of them (חזו"א סי' ק"ז סק"ה).
23. What emerges is that if an eiruv is primarily based solely on a heter of walls which are עומד מרובה על הפרוץ, some opinions would say the walls are posul since many people cross through them on a public path.

## צורות הפתח

24. The poskim also argue about walls made with צורות הפתח. Are they called "four walls" like ביראות פסי (above, 12) regarding the above machlokes, in which case they would be subject to the machlokes Tannoim and poskim whether people coming through nullify the walls? Or are they not called "four walls," in which case they are worse than ביראות פסי, like a lechi or kora (above, 18), which are nullified by many people walking through according to everyone?
25. Some say a צורת הפתח is worse than ביראות פסי. Hence, there is no שם ד' מחיצות, and everyone would agree many people coming through nullify a wall (האמר) (ריטב"א עירובין כ"ב. ד"ה דרבנן, פשטות של תוס' עירובין ו; ד"ה והאמר).
26. Others say a צורת הפתח is like ביראות פסי and subject to the machlokes Tannoim and poskim (ריטב"א עירובין סי' כ"א בביתא התוס' (רע"ה סק"ב וישועות מלכו סי' כ"א בביתא התוס' and it would depend on the machlokes between the Chachamim and R' Yehuda).

## Using צורות הפתח to Allow Carrying in a Reshus Horabim

27. A major ramification of the above machlokes is whether fencing in a reshus horabim with צורות הפתח alone can allow carrying within it. Many people walk through the צורות הפתח – does this nullify their status of walls? We mentioned above (26) that some poskim say a צורת

is like ביראות פסי. Hence, if we pasken like the Chachamim, we can be meikel to make an eiruv in a reshus horabim using צורות הפתח on a d'oraisa level. On a d'rabanan level, צורות הפתח certainly are not enough; as the Shulchan Aruch rules (סי' שס"ד ס"ב), doors are required.

28. According to R' Yehuda, צורות הפתח would not even help d'oraisa when many people go through them and nullify them. We also mentioned (25) that according to some poskim, צורות הפתח are worse than ביראות פסי, and both the Chachamim and R' Yehuda would agree that many people coming through nullify the wall. If so, there is no possibility that צורות הפתח alone would help in a reshus horabim, even mid'oraisa.
29. **Bottom line halacha.** The poskim argue whether walls consisting of צורות הפתח help a reshus horabim. The Shulchan Aruch rules that an eiruv in a reshus horabim cannot be made with צורות הפתח (שו"ע סי' שו"ע סי' ש"ב), as he holds that even according to the Chachamim, who hold people coming through do not nullify a wall, a reshus horabim cannot be fixed with two walls and צורות הפתח. Some Acharonim hold that even according to the Chachamim, צורות הפתח are worse than ביראות פסי and they do not help mid'oraisa (above, 25) (משכנות יעקב סי' קכ"א, בית אפרים סי' כ"ו, חזו"א סי' ע"ד סק"י).
30. However, others hold that according to the Chachamim, who hold that people coming through do not nullify a wall for ביראות פסי, צורות הפתח would also work for a reshus horabim mid'oraisa. Even so, צורות הפתח do not work mid'rabanan; doors are necessary mid'rabanan (שו"ע הרב שס"ד ס"ד, רמב"ם הובא בביתא"ל שס"ד ס"ב ד"ה ואחר).
31. **Modern-day reshus horabim.** Previously, we elaborated on the reshus horabim status when there are not 600,000 people in a city (Issue 316, par. 6). There is a machlokes among the poskim whether an area 16 amos wide is considered a reshus horabim d'oraisa, or whether there must also be 600,000 people. Based on this, the poskim offer a justification for people who rely on an eiruv made primarily with צורות הפתח in a reshus horabim only if there is an uncertainty whether it is truly a reshus horabim: namely, it could be we pasken like the Chachamim, and according to some poskim (above, 26), even with צורות הפתח we say people coming through do not nullify the walls, and it is kosher mid'oraisa in accordance with the Rambam's opinion. It follows that doors are only needed mid'rabanan. If so, when we consider the additional factor that perhaps an area is not a reshus horabim d'oraisa without 600,000 people, it is only a safeik d'rabanan. Thus, carrying would be mutar with צורות הפתח alone and no doors. Nevertheless, a scrupulous person should be machmir not to rely on this (ביאה"ל שם).
32. **600,000 people.** But all this is only true in a city without 600,000 people. A big city which has 600,000 people gets into the machlokes among the poskim of how and where to count the 600,000 people (Issue 316, par. 17): is it specifically on that street, or is it also in the areas of the city that are used as a primary part of the city? According to most opinions, it is likely that there are reshuyos horabim d'oraisa, in which case צורות הפתח alone cannot be relied on – even if we want to rely on the Chachamim that people coming through do not nullify a wall, mid'rabanan doors are necessary, as the Shulchan Aruch rules. If so, צורות הפתח alone cannot be relied on to make eiruvim in big cities.
33. Indeed, many contemporary poskim and gedolim hold that one should not rely on or make an eiruv based on צורות הפתח alone in big cities with more than 600,000 residents, unless additional solutions can be found to add factors that would allow being meikel.
34. **High-level eiruv.** Some are careful that an eiruv should be based on three full walls, as is the case in many neighborhood eiruvim (Issue 316, par. 34). When this is done, people do not walk through the walls; they only walk into the area between the walls via the open side. The concept of "אתו רבים ומבטלי מחיצתא" was not stated in this case (ספר הנפלא הליכות עירובין פ"ג אות ל' העומד לצאת לאור).
35. Another way to make a high-level eiruv is with real doors. This upgrades an eiruv into a high-level eiruv, as will be explained later in the series, בעזה"ש.



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