The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Friday, Nov 8 2024 ■ ז' חשון תשפ"ה
סימן שנ"ח סעיף ב'

# Overview

**Siman 358 Seif 2 (b):**

If it is difficult to breach the wall, there are authorities who maintain that he may place dirt on each side of the wall until the remaining height of the wall is less than ten *tefachim*. The width of the dirt must be more than four *tefachim* and its length must be more than ten *amos*. If the remaining part of the wall is less than ten *tefachim*, it is considered as though it is breached since the dirt is considered the ground of the *karpeif* and the height of the wall is measured from that point. Even if he subsequently removes the dirt it is effective since it was there for a Shabbos. Some disagree asserting that the dirt does not become nullified unless he intends for it to remain there forever.

- It is breached at this section and when the dirt is subsequently removed it is as if the area was enclosed for residential purposes. (M.B. 31)
- It should say that it is four *amos* wide. (M.B. 32)
- It should say that it is longer than ten *amos* so that it is considered a breach rather than an opening. (M.B. 33)
- This is effective only when the wall originally was less than twenty *tefachim* so that when one measures from the top of the mound to the top of the wall it will be less than ten *tefachim*. (M.B. 34)
- The fact that the dirt is subsequently removed does not detract from the fact that it is now considered enclosed for residential purposes since it remained in place for a Shabbos. (M.B. 35)
- One must explicitly nullify it there forever. Authorities follow the first and lenient opinion. Based on what is written in *seif* 6 one can construct another wall that is ten *tefachim* high and more than ten *amos* long and more than three *tefachim* from the existing wall. However, this only works while this new wall remains in place but once it is dismantled the area remains one that was enclosed for non-residential purposes since he hasn't physically changed the original wall. (M.B. 38)

# Halacha Highlight

## Minimizing the height of a wall by adding a mound

Rema Siman 358 Seif 2 (b)

**דיכול להניח להניח עפר אצל הכתל משני צדדים**

**One can place dirt next to the wall on both sides**

Rema suggests another method of reconfiguring an enclosure to transform it into a one that was made for residential purposes so that one is permitted to transport items throughout the entire area. He writes that if breaching and repairing the wall is difficult, there is an opinion that maintains that one can place dirt on both sides of the existing wall so that there is less than ten *tefachim* from the top of the mound to the top of the wall. Since the mound is considered ground level and the wall is not ten *tefachim* high, halachically, the wall is breached. Accordingly, one can now construct a house or create an opening to that area and then when the dirt is removed and the full height of the wall is restored, it is considered as though the area was enclosed for residential purposes. In order for this method to work the mound must be at least ten *amos* long since otherwise we would consider that area to be an opening the enclosure rather than a breach. Secondly, the top of the mound must be four *tefachim* wide because if it is less than four *tefachim* wide it is not fit for standing (מ"ב ס"ק ל"ב) and consequently cannot be considered the ground of the area so that we would measure the height of the wall from the top of the mound.

Vilna Gaon (ס"ק כ"ד) disagrees with the position cited by Rema and contends that the width of the top of the mound does not affect the *halacha* since we subscribe to the opinion that maintains that we combine the height of an elevation with the height of a wall to generate the minimum size of ten *tefachim* in order to constitute a *halachic* partition. Biur Halacha (ד"ה אם) explains that the opinion cited by Rema maintains that the *halacha* that we combine the height of an elevation and a wall applies when there is no space of four *tefachim* between the elevation and wall but when there is such a space, they do not combine.