The Chicago Center
Mishna Berura Digest
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שס"ב סעיף ח'-ט'

Overview

Siman 362 Seif 8:

If there is more breached space than physical wall it is prohibited unless each breach is less than three *tefachim*.

- When a wall has more open space than closed space it is treated as non-existent and even the part that is closed is considered open. Some maintain that even if two closed parts, together are greater than the open part, they combine to nullify the open part. If a partition is 15 *amos* long but comprised of an *amah* of partition, an empty space of an *amah*, two *amos* of wall, an open space of seven *tefachim*, two *amos* of wall, a space of an *amah* and then one final *amah* of wall, the entire area is considered closed. (M.B. 45)
- *Lavud* indicates that the area is considered closed. (M.B. 46)

Siman 362 Seif 9:

If the breached area and closed space are equal it is permitted regardless of whether the space is horizontal or vertical provided that there is no breach greater than ten *amos* but if it is less than ten *amos* it is permitted since it is considered an entrance.

- Even if they are equal in size it is permitted since the open space is not greater than the closed space. (M.B. 48)
- A partition may not have three *tefachim* of space beneath it since that allows goats to pass beneath it. Similarly, if a partition was six *tefachim* high and after a gap of three *tefachim* one added additional material so that the total height would be ten *tefachim*, it is ineffective despite the fact that there is more closed space than open space since the open space on both sides of the upper piece nullify its presence. However, If one made an upper piece that is four *tefachim* and a lower piece that is three *tefachim* and the space between is three *tefachim*, the upper piece that is four *tefachim* is not nullified since the piece is greater than the empty space that is beneath it. (M.B. 50)
- This renders the partition as non-existent even if the closed space is greater than the open space. (M.B. 51)
- Ten *amos* is also permitted. (M.B. 52)

Halacha Highlight

Omed merubah al haparutz

Shulchan Aruch Siman 362 Seif 8
פרוץ מרבה על העומד
If the open space is greater than the closed space

Shulchan Aruch states that when the open space is greater than the closed space, פרוץ מרובה על העומד, the area is not considered enclosed. *Poskim* debate the method of determining whether an area has more open space than closed space. According to Aruch HaShulchan (סע' כ"ג וכ"ט וסי' שס"ג סע' י"ז) the calculation is made taking the entire circumference into account. In other words, we look at the entire enclosed area and calculate whether, overall, the area has more open space than closed space or whether it has more closed space than open space. The one additional qualification is that each side of the enclosure must have some part of a wall because if a side does not have any wall whatsoever the area is not considered enclosed. Chazon Ish (או"ח סי' ע' סק"ז וסי' ע"ה ס"ק ג'-ה') disagrees and asserts that each side is calculated independently and the wall of one side has no bearing on the wall of another side. Mishnah Berurah (ס"ק מ"ה) seems to agree with Chazon Ish's stringent approach since he writes that when two walls are whole and complete and the third wall has more open space than closed space, we look at the closed space on the third wall as nonexistent. This clearly indicates that we do not take the walls of the other two sides and add that to the third wall to determine whether there is more closed space than open space.

Chazon Ish describes a circumstance where this disagreement would generate a practical difference. An area is 20 *amos* by 10 *amos* and the sides that are 20 *amos* are completely closed but the sides that are 10 *amos* have walls that extend only 4 *amos*. According to Aruch HaShulchan, of the 60 *amos* that are the total circumference, 44 *amos* have an actual wall so that the entire area is עומד מרובה על הפרוץ. However, according to Chazon Ish we determine the status of each wall separately and thus on two of the walls there is more empty space than closed space and thus the area would not be considered properly closed and one would not be permitted to transport objects more than four *amos*.