The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שצ"ב סעיף א'

Overview

Siman 392 Seif 1:

If a city was owned by an individual and then became public, they may make a single *shituf* so that the residents could transport objects throughout. Similarly, if it was public but has one entrance, they may make a single *shituf*. However, if it is public and contains two entrances that people use to enter and exit, even if it subsequently, becomes the possession of an individual, they may not make a single *shituf*; rather they must exclude one area, even one yard or one house and then make a *shituf* in the remaining area. Those who are part of the *shituf* may transport objects throughout the city except for that place that was excluded and the residents of the area that was excluded are permitted in their place relying on the *shituf* they made for themselves. If those who remain are numerous, it is prohibited to transport objects in the other part of the city. This is to serve as a reminder that the *eruv* is what permits them to transport objects in a city through which many people travel since it is prohibited to transport objects in the area that was excluded and each is permitted to transport objects only within their area. If the residents of each *mavoi* wish to make their own *eruv* they may do so since it is clear that places are excluded. They must construct two posts that are minimal in size if the entrance is ten *amos* and if it is greater than ten *amos* it is necessary to construct a *tzuras hapesach*.

- An individual built the city and leased homes to others. Some maintain that the same is true if the builder sold houses to others as long as people recall that originally it was owned by an individual. (M.B. 1)
- This is true even if the city has two entrances. (M.B. 2)
- Since it has only one entrance it resembles a yard rather than a public domain. (M.B. 5)
- The concern is that it will revert back to being a public domain but they will continue to be lenient. People are not particular about this and perhaps it is because they rely on the opinion that maintains that an area is not a public domain if there are less than 600,000 people. (M.B. 7)
- There is a debate whether a gentile's home could be used as the excluded area and it is best to be stringent. (M.B. 10)
- Otherwise it would be breached to a prohibited area. (M.B. 12)
- A *lechi* or *korah* would not effectively divide the areas. Rema refers to the case of excluding a house or yard from the *mavoi* and he requires something more than a *lechi* or *korah* to divide the areas. (M.B. 13)

Halacha Highlight

Excluding an area from the *eruv*

Shulchan Aruch Siman 392 Seif 1
אין מערבין את כולה
We do not make an *eruv* around the entire area

Shulchan Aruch states that if there is a public city, meaning, it is not owned by a private individual who leases his homes to others, and that city has two entrances that people use to enter and exit, even if it was originally constructed by an individual, they may not make a single *eruv* that includes the entire city. It is necessary to exclude a house or a yard and then it is permitted to include in the *shituf* the remainder of the city. The reason for this restriction was Chazal's concern that the area will revert back to being categorized as a public domain and will continue to rely on the *eruv* even though it is no longer effective. Mishnah Berurah (סק"ז) then observes that communities do not seem to be concerned with this restriction. He suggests that perhaps they subscribe to Rashi's view that to qualify as a public domain it is necessary for there to be 600,000 residents and as such the city is categorized as a private city rather than a public city.

Magen Avrohom (כאן ולעיל סי' שמ"ה סק"ז) writes that *halacha* follows Rashi's opinion about this matter and consequently, it is understood why in cities they do not exclude some area from the *eruv*. Sha'ar HaTziyun (סק"ז) cites Elya Rabba who disagrees and contends that *halacha* does not follow Rashi's position regarding the definition of a public domain. Biur Halacha (סי' שמ"ה סע' ז' ד"ב ויש) also cites numerous authorities who rule that once the streets are 16 *amos* across, the area is considered a public domain even though there are not 600,000 residents. According to these authorities, the question returns as to why it is not common practice to exclude an area from the *eruv*. Some suggest that the rationale is that they rely on the authorities who maintain that excluding a gentile's home is sufficient. Although Mishnah Berurah (סק"י) writes that one should adopt a stringent position about this matter, nevertheless, it would seem that common practice is to accept that position.