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

Overview

Siman 398 Seif 9:

Regarding a city that is located by a river bed that is generally dry but used by the city residents since it fills only when it rains, if it has in front of it a platform that is four *amos* wide for people to stand upon and use the river bed, the river bed is part of the city and the *techum* is measured from the far side of the river bed and the entire river bed is part of the city by virtue of the platform placed adjacent to it. If there is no platform, the *techum* is measured from the entrance to their houses so that the rived bed is part of the 2000 *amos*.

- This allows people to use it even when the river is full. Magen Avrohom is uncertain whether this principle could be extended to other areas that are used by the citizens but Elya Rabba argues that it is limited to a riverbank. (M.B. 46)
- It is the same whether it is less than four *amos* or not there altogether. (M.B. 47)

Siman 398 Seif 10:

Hut dwellers that live in tents made from palm leaves and willow branches are not categorized as a city, therefore, they measure their *techum* from the entrance to their dwelling (Assuming they do not have a partition 10 *tefachim* tall or a ditch ten *tefachim* deep around their houses)**. If there are three yards that each contain two permanent houses made from stone or wooden planks, they give permanent status to the tents and the area is categorized as a city and the area is squared and given 2000 *amos* in each direction the same as any other city.**

- They are not permanent in one place but if they are, the area is categorized as a city. Pri Megadim is uncertain about the duration of time necessary for it to be considered permanent. (M.B. 49)
- Meaning, each person measures his own *techum* from his dwelling. (M.B. 50)

Siman 398 Seif 11:

The *techum* in a city that was enclosed and then inhabited is measured from the place that is settled. If it was inhabited and then enclosed it is measured from the wall.

- It is not inhabited until the wall. (M.B. 53)
- The wall is not sufficient to consider the entire area as four *amos* since the area was not constructed for residential purposes being that it preceded its inhabitation. (M.B. 54)
- This is true even if the houses are distant from the walls since it was enclosed for residential purposes. According to Rema the city is granted 70 and 2/3 *amos* and then they begin to measure the *techum*. (M.B. 55)

Halacha Highlight

The wall that encloses a city

Shulchan Aruch Siman 398 Seif 11

עיר שהקפה ואחר כך ישבה

A city that was enclosed and then inhabited

Shulchan Aruch (סע' י"א) differentiates between a city that was first enclosed and then settled and a city which was settled and then enclosed. If a city was enclosed and then settled, the *techum* is measured from the end of the inhabited area rather than from the walls. Mishnah Berurah (ס"ק נ"ג) explains that Shulchan Aruch refers to where the houses inside of the walls do not extend all the way to the walls so that there is a gap between the furthest house and the wall. The reason we do not measure from the outer wall, explains Mishnah Berurah (ס"ק נ"ד), is that only a wall constructed to enclose a residential area qualifies to categorize the area as four *amos*. On the other hand if the people settled the area and then they enclosed the area with a wall, the *techum* is measured from the wall even if the houses do not reach the wall. As explained, as long as the wall was constructed for residential purposes, the entire encompassed area is considered only four *amos*.

Chazon Ish (או"ח סי' קי"י סק"כ ד"ה ואמנם) writes that a wall could render the enclosed area as four *amos* only when the function of the wall is to protect the homes and inhabitants in those homes. However, if a weak and flimsy partition is constructed around an area, we do not measure the *techum* from that flimsy partition, it is measured from the homes (שונה הלכות סע' ג'). Rav Nosson Kopshitz (מ"ב מהד' דרשו אות 67), however, notes that the distinction between a protective wall and flimsy wall is relevant only when the wall does not fully enclose the homes but if there is a wall or something else so that the city, by definition, is categorized as a private domain, the *techum* is measured from outside of that partition. This idea could be traced to Sha'ar HaTziyun (ס"ק כ"ז) who writes that only an area enclosed by partitions is categorized as a private domain even though it is not categorized as a city.