

MAJOR CITIES AND THEIR ERUV STATUS

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As we explained in the previous chapter, some Rishonim require 600,000 residents for a city to attain the status of a *reshut harabim*. While this position prevents most towns and cities from having to cope with the issues regarding a *reshut harabim*, larger cities might nonetheless face them. In this chapter, we survey the opinions of contemporary authorities regarding certain specific cities.

Paris: Rav Chaim Ozer Grodzinski and the Chazon Ish

In the late 1930s, the rabbis of Paris asked Rav Chaim Ozer Grodzinski (the leading Ashkenazic halachic authority at that time) if they could construct an *eruv* consisting of *tzurot hapetach* around their city. This method would only suffice if Paris were considered a *karmelit*, as opposed to a *reshut harabim*.

Rav Chaim Ozer consulted with the *Chazon Ish* (one of the most respected authorities in the laws of *eruv*) as well as the rabbis who supervised the Vilna *eruv*. Rav Chaim Ozer (*Teshuvot Achiezer* 4:8) opens his responsum by noting that over 600,000 people reside in Paris, so seemingly all authorities would consider it a *reshut harabim*. Consequently, an *eruv* consisting of *tzurot hapetach* cannot render it a private domain.

However, he notes that walls surround Paris on three sides, rendering it a *reshut hayachid* on a biblical level. There are bridges that pass over the walls,

constituting breaches (*pirtzot*) in them. Nevertheless, Rav Chaim Ozer claims that Paris is a *reshut hayachid* on a purely biblical level, since the walls on these three sides cover most of the perimeter (*omeid merubeh al haparutz*). Rav Chaim Ozer argues that while any breach over ten *amot* (roughly fifteen to eighteen feet) invalidates a wall on a rabbinic level, such breaches are insignificant on a biblical level as long as the majority of each of three sides of the perimeter remains enclosed. Since the breaches in Paris's wall are problematic only on a rabbinic level, the erection of *tzurot hapetach* suffices to permit carrying. Rav Chaim Ozer and the *Chazon Ish* thus conclude that *tzurot hapetach* suffice in Paris.

Warsaw: Rav Shlomo David Kahane

Rav Shlomo David Kahane (the Rav of Warsaw during the 1930s) faced an interesting problem with Warsaw's *eruv*. During its construction in the nineteenth century, Warsaw's *eruv* consisted of *tzurot hapetach*. It was effective because fewer than 600,000 people resided within it. However, in the twentieth century, Warsaw's population exceeded 600,000, seemingly invalidating the *eruv*. Rav Kahane (cited by Rav Menachem Kasher in *Noam* 6:44) rules that the *eruv* is nonetheless valid, asserting that the larger a city grows, the less chance there is for any one street to run straight through it, without curving significantly. One requirement for a *reshut harabim* is that a street must go **straight** through the entire city. Accordingly,

Warsaw does not meet this requirement and is still not a *reshut harabim*. Rav Moshe Feinstein criticizes this approach (see *Teshuvot Igrot Moshe*, O.C. 1:140), questioning the argument that the street cannot curve. He claims that a street that runs from one end of town to the other turns it into a *reshut harabim*, curves notwithstanding, provided that it meets the other criteria for a *reshut harabim*. Thus, in a place that meets the other requirements for a *reshut harabim*, *tzurot hapetach* do not suffice.

Flatbush: Rav Yosef Eliyahu Henkin and Rav Moshe Feinstein

During the 1970's, the construction of the *eruv* in Flatbush (a neighborhood of Brooklyn, New York) aroused great controversy. To this day, its permissibility remains disputed. Some rabbis permit carrying inside the Flatbush *eruv*, while many rabbis and *rashei yeshivah* there, such as Torah Vodaath's Rav Yisroel Belsky (personal communication), forbid its use.

Rav Yosef Eliyahu Henkin (*Kitvei Hagaon Rav Y.E. Henkin* 2:25) strongly encourages the construction of *eruvim* in New York's five boroughs, including Brooklyn (whose population easily exceeded 600,000 already in his day). Although Rav Henkin does not explain why these places are not *reshuyot harabim*, a number of arguments have been offered to support his contention that Flatbush is not in this category. First, Rav Shlomo David Kahane's argument regarding the Warsaw *eruv* seemingly applies to Flatbush, too, because no street within the Flatbush *eruv* runs straight from one end of the city to the other.

Second, the ruling of Rav Chaim Ozer Grodzinski and the *Chazon Ish* also seems to apply to Flatbush. The faces of the buildings and the fences along the highways appear to constitute the majority of a wall on three sides. (Ironically, this lenient consideration is most often applicable in densely populated urban areas rather than smaller suburbs, which frequently have much empty space between buildings.)

Third, the *Aruch Hashulchan's* unique (but highly questionable) approach might be taken into account (O.C. 345:19-24). In his opinion, a street must be the only inter-city thoroughfare or commercial center in that city to be a true *reshut harabim*, with all other streets being minor in comparison. Accordingly, only in the time of the Talmud did true *reshuyot harabim* exist, because it was common for a town to have only one main street. Nowadays, most towns and cities have more than one inter-city thoroughfare and commercial center, so we do not have true *reshuyot harabim*. Brooklyn certainly has multiple commercial centers and inter-city roads, so the *Aruch Hashulchan* would not consider it a *reshut harabim*.

Rav Moshe Feinstein (*Teshuvot Igrot Moshe*, O.C. 4:87) vigorously disputes the *Aruch Hashulchan's* argument, citing a proof to the contrary from the Gemara (Shabbat 96b). The *Divrei Malkiel* (vol. 3, p. 267) also writes that one may not rely on the *Aruch Hashulchan's* novel insight, since it does not appear in any earlier source. Rav Aharon Lichtenstein (personal communication) conveyed sentiments similar to those of the *Divrei Malkiel* and Rav Moshe. Moreover, a careful reading of the *Aruch Hashulchan* seems to reveal that he sought to use his novel suggestion only

as an adjunct (*senif*) to the view that a true *reshut harabim* requires 600,000 people. He never suggests relying on his idea without other grounds for leniency. Accordingly, the *Aruch Hashulchan's* view cannot be relied upon as the sole reason for permitting carrying within an area that contains more than 600,000 people.

A fourth defense of the Flatbush *eruv* is the opinion of Rav Efraim Zalman Margoliot (*Beit Efraim*, O.C. 26) that only pedestrians count when determining that 600,000 people travel in a street. He argues that the requirement for 600,000 people is based on a comparison to the encampment in the desert. The comparison can thus be made only to pedestrians, as the 600,000 people who were in the quintessential *reshut harabim* were all pedestrians. The Maharsham (1:162) and Rav Eliezer Waldenberg (cited in *The Contemporary Eruv*, p. 54 note 119) add that trains and cars are private domains unto themselves, so their occupants are not counted among the 600,000 people of a *reshut harabim*. Both Rav Moshe (*Teshuvot Igrot Moshe*, O.C. 1:139:6) and Rav Binyamin Silber (*Teshuvot Az Nidberu* 6:70) reject this argument, pointing out that wagons (*agalot*) were used in the desert encampment's thoroughfares.

Despite all of the arguments in favor of being lenient, Rav Moshe did not endorse the construction of the Flatbush *eruv* (see *Teshuvot Igrot Moshe*, O.C. 4:87-88). He explicitly rejects all of the arguments presented and rules that the 600,000 people who regularly travel the streets of Brooklyn render it a *reshut harabim*. Interestingly, Rav Ovadia Yosef (*Teshuvot Yabia Omer* 9 O.C. 33) endorsed the creation of an Eruv in Flatbush as

acceptable according to baseline Halachah. He accepted the approach of the Beit Ephraim that the occupants of cars do not count towards the count of 600,000 people.

Kew Gardens Hills

Although Rav Moshe did not approve of constructing an *eruv* in Flatbush, he did permit the *eruv* in the Kew Gardens Hills section of Queens, New York. Rav Moshe stipulated the following requirements for the *eruv* to be acceptable:

- 1) All highways (Grand Central Parkway, Long Island Expressway, Van Wyck Expressway) were excluded from the *eruv*, because many authorities maintain that highways always constitute *reshuyot harabim*.
- 2) It was constructed in a manner that greatly reduces the possibility of breakage during Shabbat. A communal *eruv* that uses as many pre-existing components as possible, such as telephone poles and wires, fences, hills, and train overpasses has the greatest chance of remaining intact.
- 3) An individual was appointed to inspect the *eruv* every Friday; it must be rigorously inspected before every Shabbat (see *Teshuvot Doveiv Meisharim*, 2:28, who addresses of inspecting an *eruv* before Friday).
- 4) The rabbis of the community were required to approve of the *eruv* and mutually agree that it was

built properly, as an *eruv* should promote peace and not be a source of tension within a community (see Gittin 59a).

Regarding the issue of *reshut harabim*, Rav Moshe wrote that "Kew Gardens Hills is small regarding these issues and the reasons I wrote [for not allowing an *eruv* in other parts of New York City] do not apply here." Although the borough of Queens has more than 600,000 inhabitants, Rav Moshe apparently viewed Kew Gardens Hills as a separate entity. *Tzurot hapetach* thus sufficed, since fewer than 600,000 people resided in it.

Based on this responsum, it seems obvious that it is permitted according to Rav Moshe's standards, to create an Eruv in the Riverdale section of the Bronx. Riverdale is dramatically distinct from the rest of the Bronx, far more than Kew Gardens Hills is distinct from Queens. The same reasoning seems to apply to the Hyde Park neighborhood in the south side of Chicago. However, Rav Moshe in his very brief responsum does not set forth his criteria when he would consider a neighborhood as distinct from the larger city.

Tel Aviv

Not all halachic authorities agree with Rav Moshe's ruling to view certain neighborhoods as distinct entities within a large city. Rav Shaul Yisraeli (*Techumin* 10:140) writes that a city constitutes one halachic entity for purposes of defining a *reshut harabim*. Moreover, the sole halachic criterion defining an area as a city is a contiguity of homes (see *Shulchan Aruch*, O.C. 398), not municipal boundaries.

Accordingly, he rules that the entire Tel Aviv metropolitan area (known as Gush Dan which includes Tel Aviv-Yaffo, Ramat Gan, Bnei Brak, Givatayim, Petach Tikva, Bat Yam etc.) should be viewed as one entity regarding the *reshut harabim* issue. Since more than 600,000 people reside in Gush Dan, it constitutes a *reshut harabim*.

The Tel Aviv *eruv* today consists of *tzurot hapetach*, so Rav Yisraeli offers a suggestion for how Gush Dan may yet be a *karmelit*. He explains that the overwhelming majority of the observant community in Tel Aviv relies on the *eruv* because it follows the *Shulchan Aruch's* presentation (O.C. 345:7) of the view that requires 600,000 people for a *reshut harabim*. He implies that 600,000 people must pass through a **particular street** every day for it to be a public domain. Rav Yisraeli notes that the *Mishnah Berurah* (345:24 and *Sha'ar Hatziyun* 345:25) rules that 600,000 people need not pass through a particular street for the town to be defined as a *reshut harabim*. According to the *Mishnah Berurah*, anywhere with 600,000 residents is a *reshut harabim*.

The residents of Tel Aviv thus rely on an extraordinarily lenient approach. They follow the lenient understanding (*Shulchan Aruch*, to require 600,000 on one street) of the lenient opinion (Rashi, that 600,000 people are required for a *reshut harabim*)! Rav Yisraeli explains that it is possible to be so lenient only because we follow the opinion of those Rishonim (cited in *Biur Halachah*, 364:2 s.v. *ve'achar* and see our chapter on *Demystifying Atzurot Rabim*) who rule that *tzurot hapetach* suffice on a biblical level for even a *reshut harabim*. Because *tzurot hapetach* are only invalid in a *reshut harabim* on a rabbinical level, it is

possible to permit lenient practices that would otherwise be unacceptable.

Rav Naaman Wasserzug (*Techumin* 11:163-169) provides a different defense of the Tel Aviv *eruv*. He argues that, on a Torah level, Tel Aviv is a *reshut hayachid*, because it is enclosed by "halachic walls" on three sides. It has the sea on the west, the Ayalon Valley on the east, and the Yarkon Valley on the south. According to this approach, the residents of Tel Aviv are not relying on such a radically lenient ruling.

The more straightforward approach to defend the *eruv* of Gush Dan would be to adopt the approaches we set forth regarding Paris and Warsaw. In addition, Rav Nissim Karelitz is cited (*Ule'areiv Eruvo*, p. 22) defending the *eruv* in Bnei Brak noting that Bnei Brak is a very distinct entity from the rest of Gush Dan. Similarly, the cities comprising Gush Dan are generally perceived as separate entities. For example, the cultural events conducted by each Gush Dan municipality for its residents are not open to residents of other cities of Gush Dan, without paying a higher fee.

Gush Dan differs in this regard from Jerusalem, where the latter is perceived as constituting one municipal entity. Rav Eliashiv is cited (*Ule'areiv Eruvo*, p. 21) as asserting that even Jerusalem's suburb Ramot is considered part of Jerusalem as far as its definition regarding its being a *reshut harabim* since Ramot's residents typically enter Jerusalem even for the most basic purchases (though this is subject to change over time).

Conclusion

In addition to the issues discussed in this chapter, this author's experience indicates that virtually every community *eruv* encounters challenges and difficulties during construction and maintenance. Accordingly, before relying on any community *eruv*, one must consult a halachic authority familiar with both the laws of *eruv* and the details of the *eruv* in question. Our discussion in this chapter only addresses certain issues of interest regarding each *eruv*, but we have not researched the *eruv* sufficiently to ensure that they are fit for use on Shabbat. Furthermore, due to the difficulties and challenges in maintaining an *eruv*, no one can ensure that *eruv* that are presently acceptable will remain this way in the future.