

# תטרזה

משמחת ניטואין

של

החתן התרמים הרב דוד הכהן טוי  
והכלה מרת חנוה קילא תזחיי

כהן

יום חמישי ו' ט סיוון התשס"ג

# **Community Eruvin: An Halachic Analysis**

*by*

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## Foreword

In honor of the wedding of Dovid and Chana Keila, we take pleasure in republishing this overview of the laws of Eruv.

In Talmud Yerushalmi, Mesechta Eruvin, Chapter 7, Halacha 9, it is written: “Why did Shlomo Hamelech prescribe the laws of Eruvin?” The Gemorah replies, “to bring peace.” The Korban Haeida comments that “an Eruv brings people together, and they will proceed to talk to one another.”

It seems therefore, that a Chasunah, the epitome of bringing people together, is an appropriate time to distribute an overview of the laws of building a community Eruv.

Originally published in 1988, the issues discussed within are very topical and are always relevant. The laws of Eruv are intricate and complex. This Teshura aims to examine the relevant texts, analyze the applicable laws and present them in a concise and accessible manner. In addition wherever possible the Lubavitcher Rebbe’s viewpoint on this subject matter is quoted.

The Zohar, Raya Mehemnoh in the beginning of Parshas Ki Seitzei (also brought by the Oruch Laneir in his introduction to Mes. Krisus), quotes the Possuk in Zechariah regarding Moshiach “Oni veroichev al hachamor.” That Moshiach will be humble, an Oni, and ride on a chamor. The word Oni is an acronym for the three mesechtos Eruvin, Nidah and Yevomos. It is with these three Mesechto’s Moshiach will take us out of Gulos.

**ונזכה זעהן זיך מיטן רבין למטע מעשרה טפחים והוא יגאלנו**

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# **Community Eruvin**

## ***Community Eruvin:***

### ***An Halachic Analysis***

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The Gemorah in Eruvin (68a) describes an encounter between Rabbah bar Chonon and Abaye. Rabbah bar Chonon rebuked Abaye for not having constructed an Eruv in his neighborhood. Abaye attempted to vindicate himself by saying, I am too preoccupied with my studies.”

The Mordechai, commenting on the above Gemorah, states that from here it can be derived that there is a mitzvah to build an Eruv to ensure people do not violate the Shabbos by carrying inadvertently<sup>1</sup>. Abaye, however, believed there is no such mitzvah and consequently did not construct an Eruv.

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1. See Meiri, Eruvin 68a. See Ritva (ad. loc.) “A Rabbi should not reside in a city without an Eruv (if it is possible to erect one). See Hagoas Ashri; Hagoas Maimunis Hil. Eruvin 1; Tur Shulchon Aruch 395; Bet Yosef 366, 1; Meiri 78b. See Mogen Avrohom O.C. 261, 6—he states that the issue whether the building of an Eruv is a mitzva is a point of controversy between the Magid Mishna (who views it as a Mitzva) and the Bet Yosef (who disagrees). If there is no mitzva associated with Eruvin, why then is there a Bracha for it? The answer may be that it is similar in case to Shechita. There is no direct compulsion to “shecht” an animal, it is only in response to the desire for meat that there is the mitzva of Shechita. Eruvin likewise, should one wish to carry on Shabbos, there is the mitzva of Eruvin. See Kesef Mishna, Rambam Hil. Brochos, 11, 11 (the matter requires further investigation).

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In later generations, the Chasam Sofer was asked his opinion regarding an Eruv. His reply<sup>1</sup> was that one does not need to cite any permitting sources as its construction is logical. Carrying on Shabbos is one of the severest transgressions in the Torah and one who carries on the Shabbos is classified as an atheist and heretic. It is difficult to ensure one does not carry in error, and especially difficult not being able to bring one's own siddurim and taleisim to shul. The Chasam Sofer stresses the requirement for a community to erect an Eruv to avoid such dangers.

Rabbi Ephraim Zalman Margolis, appears to be in agreement. He states<sup>2</sup>, "I feel we should exercise leniency towards Eruvin to prevent the transgression of the Shabbos by people who carry."

In 1959, the Rabbonim of Manhattan, New York, debated the construction of an Eruv for the entire island. The opinion of the Lubavitcher Rebbe was solicited by Ray Eisensadt, one of the leading proponents of the Eruv. The Rebbe responded<sup>3</sup> that in principle he strongly advocates the construction of Eruvin<sup>4</sup>.

R. Moshe Feinstein held differently. When his view was requested by R. Moshe Perutinsky<sup>5</sup>, another of the Rabbis involved in the debate, his reaction was strongly in the negative. He writes<sup>1</sup>, "Today the establishment of an Eruv is neither vital nor essential nor of any great benefit to the community."

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1. Resp.O.C.99.

2. Resp. Beis Ephraim 26; Nefesh Chayo Resp. 25; Chidushei Harim Resp. 4; Avnei Nezer O.C.Resp.266.

3. Quoted by Rabbi Menachem Kasher, Sefer Divrei Menachem, section Eruv in Manhattan p.9.

4. The Rebbe quoted further sources that there is a mitzva to construct an Eruv where possible. Responsa of the Rosh, Rule 21; Tashbatz part 11, Resp. 37 etc.

5. Printed in Hapardes (Sivan 5719). The attitude of R. Moshe Perutinsky was concurrent with the poskim quoted previously — one should endeavour to construct an Eruv, even if one has to rely on a weak basis, to prevent Chilul Shabbos.

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In ancient times, when it was necessary to care for animals, one was obliged to carry the feed for them; Taleisim and Siddurim had to be brought to Shul on Shabbos. This is not the situation today where all amenities are found at home and in the Shul. The desire to construct an Eruv for those people who carry at the expense of those who until now were totally observant is unallowable. There is no excuse or necessity today to construct an Eruv, even if it is 100% Kosher.<sup>1</sup>

From the responsa of R. Moshe Feinstein, we can detect a major shift in attitude in relation to the necessity of an Eruv in today's communities. Nevertheless, it is still the duty of the Rabbi to assess the prevailing conditions to determine the feasibility of an Eruv for his community. The Rabbi must bear in mind that each city is unique, each Eruv must be judged on its merits, and it is not sufficient to draw comparisons from other cities which may appear similar.

Let us take a closer look at the main halachic issues of this very complex subject.

### The Laws of Carrying

The Torah generally recognizes three domains:

- (a) *Reshus Hayochid* — a private domain
- (b) *Reshus Horabim* — a public domain
- (c) *Mokom Ptur* — a neutral area

Biblically, one may not carry from a Reshus Hayochid (a private domain) to a Reshus Horabim (a public domain) or vice versa (*Hotza'ah*). Nor may one carry more than four (4) amos (cubits, each measuring approximately 22 inches) in a Reshus Horabim (*Ha'avorah*). One may carry to and from a Mokom Ptur, and freely within it.

The Rabbis envisioned a fourth domain known as a *Karmelis*. A Karmelis, an area biblically classified as a Mokom Ptur, has many, though not all, the features of a Reshus Horabim. Due to their similarity, a Karmelis and Reshus Horabim can easily be

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1. Quoted in Divrei Menachem, section Eruv in Manhattan, p. 38

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confused, and hence, carrying in a Karmelis may lead to carrying in a Reshus Horabim proper. The Rabbis therefore removed the Mokom P'tur status and applied to this area all the restrictions of a Reshus Horabim, forbidding all carrying to, from and within the area<sup>1</sup>. The status of a Karmelis can however, be altered through the construction of an Eruv.

### Tsuras Hapesach

Tsuras Hapesach<sup>2</sup> (lit., form of a door) is the most common form of Eruv used to reclassify a Karmelis. By constructing door “frames”, one can envision walls which thereby enclose an open area (although not a public zone). Much as a house can have more than one door and still be considered a private residence, so any area built solely of doors<sup>3</sup> can be designated as a Reshus Hayochid.

There are certain limitations inherent in the use of Tsuras Hapesach. The Rambam considers a Tsuras Hapesach a valid Mechitzah (wall) only where the majority of the enclosure consists of bona fide walls (*omed merubah al haporutz*). Where this is not the case, each door frame must be narrower than ten (10) amos (approximately 18 feet)<sup>4</sup>. The Alter Rebbe<sup>5</sup> recommends the following of the ruling of the Rambam. Mishna Berura strongly endorses this view of the Rambam<sup>6</sup>.

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1. Two types of Karmelis are identified. One type was classified as a Mokum P'tur and received the ruling described above. Another form of Karmelis was applied to areas biblically assessed as Reshus Hayochid. These include:

(a) an area enclosed by three walls only,  
(b) an enclosure not specifically constructed for its residents e.g. water surrounding a city on all four sides. See Pri Migadim, Ohrach Chayim, Eshel Avrohom, Chap. 345, 3; Introduction to Hilchot Eruvin, Mishnoh Berurah.

2. Eruvin, 11b.; Shulchon Oruch O.C. Chap. 362, 11.

3. See R. Sholomo Kluger in his sefer, Tuv Taam VoDaas, p. 117, as to whether an area surrounded only by door frames can in fact be considered a private domain. He queries whether houses are built in such a manner.

4. Rambam's ruling explains the difficulty in using telephone wires as the sole source of an Eruv. The gap between the poles usually extends beyond 18 feet.

5. Shulchon Oruch O.C. 362, 19.

6. See Chasam Sofer O.C. Resp 88.

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The Oruch Hashulchan favours a more lenient judgement.<sup>1</sup>

A Tsuras Hapesach can only be used to enclose a Karmelis, not a Reshus Horabim.<sup>2</sup> A Reshus Horabim, according to the Halacha,<sup>3</sup> requires physical walls or doors (which actually close for some time in the evening<sup>4</sup>) to be reconstituted as a Reshus Hayochid. Imaginary walls or doors i.e. Tsuras Hapesach, which surround a Reshus Horabim are useless.<sup>5</sup>

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1. O.C. Chap 362, para 30. See Maharsham Vol 1, resp. 206.

2. Shulchon Oruch O.C. 362, 10.

3. Shulchon Oruch O.C. 364, 2; Rambam Hilchot Shabbos, 17, end of para 10.

4. According to some opinions, (Mogan Avrohom, O.C. 364, 2) not all doors must be closed. Rashi (Eruvin 6b) requires the closure of all doors. Rambam (as interpreted by the Magid Mishnah) does not require the actual closure of the doors. It is sufficient if the doors have the potential to close.

5. This Halacha is based on a dicussion in Gemorah Eruvin (6b). “Ain Mearvin Reshus Horabim Bekach”. A Reshus Horabim cannot be enclosed in such a manner (through the use of Tsuras Hapesach). The prescribed method of encompassing a Reshus Horabim (such as a main thoroughfare) requires genuine walls or doors built at both ends. The authorities argue as to why Tsuras Hapesach do not suffice in the case of a Reshus Horabim. Atu rabim umevatlo mechitsoso” — Flow thru traffic nullifies a boundary. Ray Yehuda (Eruvin 22a) is of the opinion that traffic passing through a mechitza actually negates and nullifies the barrier. The Rabonon, however, differ and claim that passing traffic does not have the ability to break sound boundaries. It follows that according to Ray Yehudah, Tsuras Hapesach is not a valid mechitza, for the traffic passing through negates its existence, and a Reshus Hayochid is created only through the presence of doors which actually close. What status does Tsuras Hapesach have, according to the Rabonon who are of the opinion that flow thru traffic does not negate strong mechitzos? It would appear, according to the Rabanom, that where traffic does not break a mechitza, it would not break Tsuras Hapesach and (biblically) doors are unnecessary. The Mishna Berura (Biur Halcha 364) is of the view that Tsuras Hapesach is a strong mechitza and according to the Rabanom, is valid. Nevertheless the halacha is according to R. Yehuda, which implies that Mm HaTorah a Tsuras Hapesach can not be used because the traffic negates it. The Alter Rebbe takes a similar approach (explained by Tzemach Tzedek, Chidushim al Hashas, p.62 column 4, p. 64 column 1). Tsuras Hapesach, he explains, is a sound mechitza. (See Tosfot Eruvin, 22a; Rosh Succah 1, 34; Tur O.C. 364, 12; Beis Meir O.C. 364, 12; Orchas Chaim O.C. Chap. 348 s.v. Vehinai). According to the Rambam (as quoted by the Alter Rebbe)

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It is therefore essential to establish the classification of any given area as either a Reshus Horabim or a Karmelis prior to any discussion over the validity of the Eruv which surrounds it.

### **Reshus Horabim**

There are various prerequisites which must be met for a particular zone to be classified a Reshus Horabim. The Gemorah stipulates a Reshus Horabim must conform to the following criteria:

- (a) Minimum width of sixteen (16) amos (approx. 28 feet)<sup>6</sup>
- (b) No obstruction overhead<sup>7</sup>
- (c) No obstructions at either end of the area<sup>8</sup>

The great majority of streets in any metropolitan city would automatically rate as Reshus Horabim. According to the Gemorah, physical walls (or doors which close) would be the only means through which an Eruv could be generated. Tsuras Hapesach encircling the entire area would be ineffectual.

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Tsuras Hapesach is sufficient MehaTorah. As an added precaution the Rabanon interdicted the presence of doors to strengthen the boundary as a result of the traffic passing through. The Alter Rebbe states that in principle the Halacha is as the Rabanon, but one should follow the stricter opinion. In contrast, the Pri Megadim believes that Tsuras Hapesach is a very weak mechitzah. A Tsuras Hapesach does not really act as a boundary; it serves more as a reminder than a physical wall. Any area enclosed by Tsuras Hapesach could not be classified as a Reshus Hayochid. (See Ritva 22a) He infers that the Rabanon concede that traffic invalidates a Tsuras Hapesach. Min HaTorah one may not use Tsuras Hapesach to effect an Eruv around a Reshus Horabim, both according to R. Yehuda and according to the Rabanon. To summarize the above points:

The Mishna Berura is of the opinion that the Halacha is that of R. Yehuda and MehaTora one may not rely on Tsuras Hapesach as the traffic flowing through negates its existence as a barrier.

The Alter Rebbe states that biblically one may use Tsuras Hapesach as the concept of it being negated through traffic does not stand. However, the Rabonon forbade its use.

The Pri Megadim concludes that Tsuras Hapesach is invalid not because the traffic removes its validity, but because it never had the status of a wall.

6. Shabbos 99a; Shulchon Aruch O.C. 345, 7.

7. Shabbos 98a; Shulchon Aruch O.C. 345, 7.

8. Shabbos 6a; Shulchon Aruch O.C. 345, 7.

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How is it then that so many communities do construct Eruvin comprised solely of Tsuras Hapesach?

### Shishim Ribbu — Six Hundred Thousand

Many years after the Talmud was completed, the Halochos of Eruv were further qualified by no less an authority than Rashi. The conditions which Rashi stipulated are critical to the Eruvin of today.

Rashi states<sup>1</sup> that in order to be considered a Reshus Horabim, an area must have a minimum of six hundred thousand people (600,000) traversing it each day. The basis for this requirement is actually the basis of all thirty-nine forbidden activities on Shabbos, namely, the Mishkan. To determine what constitutes a Reshus Horabim, a parallel must be drawn from the Mishkan. Six hundred thousand people crossed the major desert thoroughfare each day, this then becomes another factor which must be incorporated into the rules of what establishes a Reshus Horabim.

Many of Rashi's contemporaries disagree<sup>2</sup> with this qualification. Questions were raised though not all satisfactorily answered. These include:

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1. Rashi, Eruvin 6a, S.V. Reshus Horabim.

2. Not all authorities disagreed with Rashi.

Those who concurred with his stipulation include:

- (a) Tosfot (Shabbos 6b s.v. Caan; 64b s.v. Rebbe; Eruvin 6a s.v. Keitzad)
- (b) Rosh (Eruvin, 6a; Beah, 3, 2)
- (c) Sefer Hoitim (Chaps. 92, 206)
- (d) Sefer Hatrumah (Chap. 249)
- (e) Behag (Hil. Eruvin p. 131) — Behag is actually classified as an authority from the Gaonic period.
- (f) Beis Ephraim (Resp 26) who counts twenty Rishonim who are in accord with Rashi.

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Why does the Gemorah fail to mention this prerequisite<sup>2</sup>? Why accept the figure of 600,000, surely there were many more pedestrians if one includes women and children as well as the Erev Rav<sup>3</sup>. The authorities who follow Rashi's view maintain that as a result of this ruling, in their day, no one area could be considered a Reshus Horabim<sup>4</sup> as the minimum of six hundred thousand was never met. If this is to be taken as a general rule, surely in the times of the Talmud when the general population was a fraction of what it was in Rashi's times the rules of Reshus Horabim could never have applied. How, then, can we explain the existence of so many laws — totally irrelevant for so many thousands of years?

In another vein, the mitzvah of Shofar was waived by the Rabbonim when Rosh Hashana coincides with Shabbos. This law was instituted to prevent the ignorant from carrying their Shofar to the Rabbi for instructions and inadvertently violate the biblical prohibition of carrying on Shabbos. If, as Rashi's interpretation appears to imply that there was no Reshus Horabim, why ban a mitzvah because of some hypothetical, theoretical difficulty<sup>5</sup>?

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Those authorities who disagreed with Rashi on this point include:

- (a) Rambam (Hil. Shabbos, 14, 1)
  - (b) Magid Mishne (commenting on the above Rambam)
  - (c) Ramban (Shabbos, 59a)
  - (d) Rabbeinu Tam (Tosfot, Eruvin 6a)
  - (e) Ritva (Eruvin 59a) who states that most Gaonim disagree with Rashi
  - (f) Rivash (Chap 405)
  - (g) Meoras in the name of the Raavad (Eruvin 6a)
  - (h) Rashbo (as quoted in Magid Mishna referenced above)
  - (i) Mishna Berura (Biur Halacha, 345, s.v. She'ain) who adds many more Rishonim who contest this stipulation of Rashi.
2. Magid Mishna (ibid); Ramban (ibid); Ritva (ibid).
3. Tosfot (Eruvin 6a); and most of the aforementioned Rishonim.
4. Tosfot (Shabbos 64b); most Rishonim mentioned above; Shulchon Aruch (various places, e.g. 303, 18).
5. Mishna Berura (Biur Halacha, 345); Mahri Asad (O.C. Resp. 87); Shoel U'Maishiv (Vol. 1, Sec. 1, Resp 111); Mishkenos Yaakov (O.C. Resp. 120- 122); Sefer Hachaim 345. Tosfot Ha'Rid (Succah, Madura Tinyono 40a) interprets the above Gemorrah differently.

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In truth, upon closer examination of Rashi's language, he appears to be referring not to 600,000 pedestrians converging on one avenue, but to a city whose population totals more than the given figure<sup>1</sup>. By adopting this fundamental difference, Rashi's principle is more comprehensible and the difficulties mentioned above can be dismissed.

It would appear then, that according to all opinions, a city with a population greater than six hundred thousand cannot make use of an Eruv consisting of Tsuras Hapesach. Such a city requires genuine walls or doors.

There are some Rishonim who interpret Rashi literally<sup>2</sup>. According to their responsa, most metropolitan cities wouldn't qualify as a Reshus Horabim. An Eruv erected of Tsuras Hapesach would be sufficient.

The Beis Yosef states<sup>3</sup> that the Rambam's principle (which does not require minimum traffic before an area is classed a Reshus Horabim) constitutes the Halacha, although he does mention that another opinion does require 600,000 pedestrians to effect a Reshus Horabim. In general, the first opinion quoted by the Beis Yosef is the accepted one. The ruling of the Rambam prevails<sup>4</sup>.

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1. Rosh quotes Rashi as referring to a city; Tosfot (Eruvin 6a); Ramban (ibid); Tosfot Rid (Eruvin 59a); Sefer Harnaoros (ibid).

There is a Rashi (Eruvin 59a s.v. Ir Shel Yachid) which clearly states that an area is not a Reshus Horabim if it does not have 600,000 people passing through the main road, i.e. it is not the population of the city which creates a Reshus Horabim but the actual pedestrian count. How then can the Rosh and other commentaries infer that Rashi (in his previous citing) is referring to a city? They explain that should the city contain a population less than the established minimum, it requires a traveling population of 600,000 people before it can be classed a Reshus Horabim. (See Divrei Menachem, Eruv B'Manhattan, 66; Mishna Berura, Biur Halacha (ibid).

2. Ramban (Shabbos 57a) quotes the Sefer Hatruma who states that today we do not need six hundred thousand people crossing the street each day.

3. O.C. 345, 7.

4. Maharshal (Beah, 80); Masas Binyamin (92); Bigdei Yesha ad loc. Birkei Yosef ad loc

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The Mogen Avrohom<sup>1</sup> and the Taz<sup>2</sup> believe that this Halacha does not conform to the general rules established when citing rulings of the Beis Yosef. The Taz adds that in this case, it is the second opinion of the Beis Yosef which is generally accepted as the Halacha<sup>3</sup>. In accordance with the more lenient ruling, an Eruv can be constructed around any metropolis through the use of Tsuras Hapesach. The Taz concludes by saying however, that a G-d fearing Jew will comply with the stricter interpretation and not rely on Tsuras Hapesach.

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1. O.C. 345, 7.

2. O.C. 345, 6.

3. The Shulchan Aruch appears to interpret Rashi literally. Before an area is classed as a Reshus Horabim, six hundred thousand people must traverse it each day. There are many commentaries who take issue with this halacha and a more definite explanation has been sought.

(a) Does the figure six hundred thousand refer only to the Jews in the vicinity or is it inclusive of gentiles? Are women and children excluded? (Tosfot Eruvin 6a; Gaon of Butatsch O.C. 345; Roviah Hil. Eruvin 379; Noam Vol. 1 p 204; Divrei Menachem p 174). The general conclusion is that all pedestrians, women, children and gentiles are included in the total.

(b) Does the figure refer only to people on foot? What about those passing through via other means of transport (e.g. trains, cars etc.)? See Beis Ephraim, Resp 26; Yeshuos Malko, 27; Maharsham Vol 1, resp. 161; Journal Hapardes, Tevet 1951, all of whom are of the opinion that cars and other carriages cannot be included in the final total. Most authorities reject this view and the Maharsham himself (*ibid*) is not quite certain of the validity of this ruling. See Divrei Menachem where the author discusses the flaws involved when citing the above mentioned opinion (also quoted in Noam Vol 1, 208).

The Mogen Avraham (345 para 14) concludes that people aboard ships are included in a total count. The Sheilas Yaavetz (Sec 1, Resp 7) disagrees.

The Pri Megadim (O.C. 363, Eshel Avraham par 30), clearly states that passengers in carriages on the road must be included in the tally.

R. Moshe Feinstein (*Igros Moshe*, Vol 1, resp 139) is adamant in his opinion that drivers and passengers of vehicles must be included when calculating the usage of an area.

The general conclusion appears to be that all traffic, both pedestrian and non-pedestrian, must be tallied to provide an accurate count of the traffic in the area.

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The Alter Rebbe concludes similarly<sup>4</sup>. The Mishna Berura<sup>5</sup> however, is dismayed that Poskim relied on Rashi's lenient interpretation of Reshus Horabim. Although Rashi's ruling prevailed in Halacha, the Mishna Berura urged all to follow the more stringent path.

R. Moshe Feinstein, when asked to adjudicate on the construction of Eruvin in Manhattan and Brooklyn responded thus<sup>6</sup>. Even according to Rashi's tolerant description of a Reshus Horabim, it requires only six hundred thousand people crossing the streets of the city to classify it as such. If the total traffic of all streets of the city exceeds six hundred thousand, then the city with all its streets is a Reshus Horabim<sup>7</sup>. In ancient times, there was only one public road through a city, today all major roads constitute a public byway and their cumulative traffic cannot exceed the nominated figure of six hundred thousand<sup>8</sup>.

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(c) Must the minimum traffic be maintained every single day of the year? (See Maharsham Vol 3, Resp. 188; Beit Av, resp 5 & 9 Yeshuat Malko, 27).

The Mishna Berura (Chap 345 para 29) mentions that he searched through all Rishonim and could find no reference to a daily requirement for this level of traffic. Rav Kasher (Divrei Menachem) writes that most Rishonim are of the opinion that the minimum traffic need not be maintained on a daily basis although there are those who do insist on it (Noam, Vol 1. 202) He concludes that "Kol Yom" must mean "an entire day" and not "every day". See Beis Ephraim (above) who states the level of traffic need not pass each day, so long as the possibility exists that all traffic can pass through on any given day.

The general conclusion is that those who require a minimum of six hundred thousand people converging on the road each day constitute a small minority of the relevant opinions.

4. Shulchan Oruch O.C. 345, 11. See Beis Meir 364.

5. Biur Halacha 364.

6. O.C. Resp. 139; O.C. IV, 87.

7. R. Moshe discusses this point but does not arrive at a conclusive definition of a city which is regarded as a Reshus Horabim. Is it sufficient that the population of the city be six hundred thousand; or is it required that the minimum traffic be maintained on the streets of the city. Brooklyn with a population of 3,000,000 is clearly capable of providing a sufficient aggregate to render it a Reshus Horabim.

8. See Aruch Hashulchon O.C. 345 para 19 & 20 who concludes differently but whose opinion (on this matter) is rejected in Halacha.

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R. Moshe Feinstein concludes<sup>1</sup> that according to all opinions, an Eruv cannot be constructed around a large metropolis.

### Conclusion

The following principles have been determined:

- (a) Tsuras Hapesach is ineffectual when used to encircle a Reshus Horabim.
- (b) A major city, such as Brooklyn, would be classified a Reshus Horabim according to most opinions.
- (c) Followers of the Alter Rebbe Shulchan Oruch are encouraged to avoid carrying within the confines of an Eruv consisting of Tsuras Hapesach which surround a large metropolis.
- (d) Followers of the Mishna Berura should not rely on such an Eruv,
- (e) Followers of R. Moshe Feinstein cannot rely on such an Eruv.

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The Chazon Ish introduced a novel concept to enable the construction of Eruvin today. He states (Hilchot Eruvin 107 para 4) than if a city contains roads which form a “T” intersection it (the city) cannot be considered a Reshus Horabim. The intersecting road forming the vertical of the “T” is surrounded on three sides. These walls consist of the buildings along the length of the road, and the “dead end” it reaches at the top of the intersection. Although there may be breaks in the “wall” it is classified as “omed merubah al haporutz” (more wall than opening). Three walls are sufficient to classify an area a Reshus Hayochid. Thus any roads intersecting with this road, automatically hit a “wall” of a Reshus Hayochid which in turn fulfills their requirement for three walls etc. etc. By the laws of progression, the Reshus Hayochid (Min HaTorah) is thus extended through all streets of the city.

The Chazon Ish himself later conceded that the “Gaonim and leading scholars opposed this view for a myriad of reasons” (Yetsios Hashabos pp 51- 56). See letter of R. Moshe printed at the back of Yetsisos Hashabos, p 69, s.v. Vetaam hasheni.

1. R. Chaim Ozer (printed in Hapardes, Teves 1962) states in a letter regarding an Eruv in Paris, “Paris is a Reshus Horabim M’Doraissa, even though six hundred thousand people do not traverse each street. Its status is similar to Yerusholaim which most definitely did not have that many people crossing every street and yet was classified a Reshus Horabim (Eruvin 6b). It is the aggregate traffic of all streets with which we must be concerned.

See Shoel Keinian (R. Elchanan Yoffe)

## **Community Eruvin**

There are those who labour under the misconception that R. Moshe, although adamantly believing that Brooklyn was a Reshus Horabim, was tolerant of other views and allowed the option of following other authorities. In fact, R. Moshe made it patently clear that this attitude applied only to Manhattan<sup>1</sup> and not to Brooklyn<sup>2</sup>. Furthermore, he signed a petition, dated 2nd Kislev, 5739, that under no circumstance should an Eruv be erected in Boro Park or any other large city even if there are Rabbis who permit it.

To emphasize how strongly he felt about this contentious issue R. Moshe wrote his own letter of protest, dated 17th Teves, 5739. R. Moshe declared that all who publicize reliance on the Eruv are in grave error. Carrying within the confines of the Eruv (and of course, without) constitutes Mechallel Shabbos Befarhesia — “Publicly defaming the Shabbos”. Whoever was instrumental in the construction of the Eruv was causing the masses to flagrantly violate the Shabbos. R. Moshe concludes by forbidding the construction of an Eruv around any neighborhood in Brooklyn<sup>3</sup>.

## **Mefullos Mishaar Leshaar**

Rashi introduced another new concept when defining a Reshus Horabim, as well as the stipulation previously noted. The additional requirement is the necessity for the road in question to be straight from end to end.

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1. See Igros Moshe O.C. Vol IV, Resp. 89.

R. Moshe explained this allowance as due to the fact that Manhattan, being an island, is surrounded with four walls of water. This would be sufficient, according to some opinions to lower its status from a Reshus Horabim to that of a Karmeiš.

2. See Hashmotos to Igros Moshe, Vol IV, p 428. See also a letter from R. Moshe to Rabbi Menashe Klein, dated 2nd Adar, 1981. R. Moshe states that the population of Warsaw at the time of construction of its Eruv, was less than 1.5 million people. He emphasises his view that under no circumstances may one construct an Eruv in Boro Park or Flatbush. (printed in Sefer Yetzios Hashabos).

3. See Ramo (Darchei Moshe O.C. 364, para 1) who suggests that even though today there is no Reshus Horabim (for lack of six hundred thousand people) an Eruv should not be constructed with Tsuras Hapesach. See Pri Megadim (Eshel Avraham, 364, 2).

## Community Eruvin

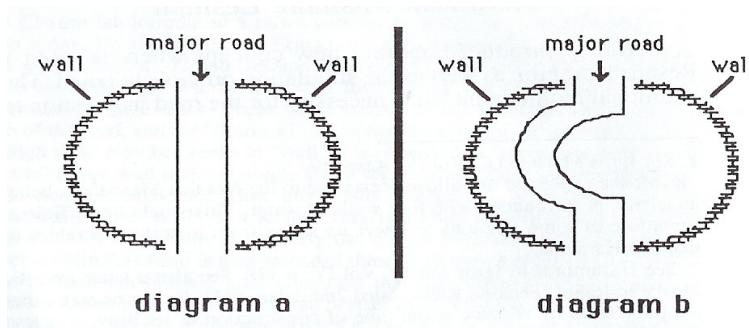
Rashi implies that if a road curves as it traverses the city, it can no longer be considered a Reshus Horabim, even if it meets all the other criteria. (For example, within Melbourne this would imply that neither Nepean Highway nor Dandenong Road could be considered Reshus Horabim).

The source of this Rashi is in Gemorah Eruvin (6a s.v. Reshus Horabim). The text reads:

“It appears (to be classified as a Reshus Horabim) the area must be 16 cubits wide, a city with a population of six hundred thousand, have no walls surrounding it (or) cross straight from gate to gate so that the area is open and resembles the desert.”

It appears the disjunctive “or” was deleted from the Gemorah at one time or another. (The editors used by the printers of the Gemorah of Vilna are anonymous). Through the omission of the “or”, the text reads with an implied “and”. “And” (to be considered a Reshus Horabim, its major byway) must cross straight from gate to gate. The original text with “or” in place of “and”, implies<sup>1</sup>, for the area to be classed as Reshus Horabim it must have no wall surrounding it, or if it is encircled, then its major byway must extend in a straight path from gate to gate.

What happens to a road when it curves which prevents it from serving as a Reshus Horabim?



1. See Haoros on Ritvo (Eruvin 6a), Footnote #453 where further interpretations are offered.

## Community Eruvin

A road when it runs straight has only two walls, down its length. The ends of the road meet the areas which are open. A winding road develops four “walls” from the outer rampart surrounding the city at any point where it curves. The existence of four barriers at any point along the road renders it invalid as a Reshus Horabim.

Most Rishonim<sup>1</sup> when quoting Rashi allow the reading of the additional word “or”. This would mean that an ordinary city does not require its roads to be straight to be classed as a Reshus Horabim. It is only when the city is surrounded by walls that the major byway must run exact. (According to this view, major arterial roads such as Dandenong Road and Nepean Highway retain their classification as Reshus Horabim as it makes no difference whether they curve.)

The Shulchan Oruch is not precise on this point. The Beis Yosef (345, 7) notes only three rules. The correct width (16 amos as mentioned earlier); no surrounding wall; or a wall with open ends. No mention is made of the requirement that the road run straight<sup>2</sup>.

The Mogen Avrohom does comment that the road must run straight. However, he is referring to the law when there is an outer wall surrounding the city. It is unclear what his opinion would be if there were no wall.

The Alter Rebbe clearly interprets the Rashi to mean that this particular stipulation need be met only when there is a wall surrounding the city.

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1. Tosfot (Eruvin 6a) totally omits the clause of “Mekavan” — straight. Rosh; Ran (Eruvin 6a). Rashi (beginning of Eruvin s.v. Movui) “it is open from end to end” — failing to stipulate that the road must run straight. Roviah (Chap 379) clearly states “if there is no wall and the Reshus Horabim is open on both ends, or if it is surrounded by walls and its Reshus Horabim is straight”. See Rabbeinu Yerucham (Nesiv 12 sec 4); Sefer Yetzios Hashabos (1); Hilchos Eruvin, appendix to chapter 1, sec. 2; Sefer Hamoros (Eruvin 6a); Sefer Hashlomo (Eruvin 6a); letter of R. Moshe printed at the end of Sefer Yetzios Hashabos.

2. This omission is interesting in light of the fact the Beis Yosef wrote in his magnum opus “Kesef Mishna” (Hil. Shabbos, 1 — towards the end) that a road must run straight from end to end before it can be classed a Reshus Horabim. Yet here he fails to mention this requirement.

## Community Eruvin

As mentioned before, there are a minority of Rishonim who disagree with the above distinction<sup>1</sup>. They claim that the major byway must be straight regardless of the presence of an outer wall. The Beis Ephraim rules that roads which curve do not constitute a Reshus Horabim. Based on this ruling, there are Rabbis who created an Eruv constructed of Tsuras Hapesach<sup>2</sup>.

Rabbi Moshe Feinstein totally rejects this view<sup>3</sup> claiming there is absolutely no basis to the opinion that a Reshus Horabim demands a straight road<sup>4</sup>.

## Comparison to Yerusholaim

Another issue which must be mentioned is the comparison with Yerusholaim. Ray Yochonon says<sup>5</sup>, “Had they not closed the gates of Yerusholaim, it would have been a Reshus Horabim”. Towards the end of Eruvin (10la), it appears that although they closed the doors of Yerusholaim it still remained a karmelis. An Eruv Chatseros<sup>6</sup> was never made,<sup>7</sup> the people did not carry<sup>8</sup>.

The Mishna (Pesochim 64b) relates that when Pesach coincided with Shabbos, the paschal lamb was offered as a

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1. Or Zorua (Eruvin 164); Noam (Vol 1, p 204); Ramban (Mes Eruvin p59a). See Divrei Menachem (p. 88) where R. Kasher concedes the difference between a walled city and one that is not.

2. Mayim Rabim (34).

3. O.C. Vol 1, 140.

4. There are very few Achronim who raise this issue when discussing Eruvin. See Shmiras Shabbos Kehilchoso who quotes Horav Auerbach that this requirement is contingent upon the requirement of having six hundred thousand people traversing the streets every day.

5. Eruvin (6b).

6. Matzo set aside to enable carrying within a private courtyard with multiple residents.

7. Rashi ad loc. Raav on Mishnayos ad loc., Meiri Pesochim 64a.

8. There is one opinion, Rabbeinu Ephraim, that Yerusholaim Halachically was considered a karmelis despite the closed doors. See Meiri Shabbos 6a. Rabbi Yonason in his commentary on the Rif Eruvin page 1b. In other words there is no way possible to enclose a Reshus Horabim. The Rashbo is of the opinion if there is a “platia” a center with many people thronging there, surrounding it with walls would be futile — Baer Hetev O.C. 345, 7.

## Community Eruvin

sacrifice and the people would wait by the Temple Mount for the entire Shabbos before it was roasted. Rashi explains that the offering could not be taken home with them because it was Shabbos and they could not carry as there was no Eruv in Yerusholaim. Why, if it were possible,<sup>1</sup> was there never an Eruv erected in Yerusholaim<sup>2</sup>?

Rabbi Moshe explains<sup>3</sup> that Yerusholaim was the centre of much activity. Many people, who lived outside of Yerusholaim travelled there to spend time, offer sacrifices etc. Many of these people came from places that did not have an Eruv. The chazal were concerned that people who look to Yerusholaim as the centre of all Jewish activity, would unsuspectingly believe one is permitted to carry on Shabbos. The presence of an Eruv would be incidental to the mistaken conceptions they might adopt. It was for this reason R. Moshe did not consent to an Eruv in Manhattan or Brooklyn.<sup>4</sup> He stated that their status in Judaism today allows a comparison to Yerusholaim. It would follow that constructing an Eruv which only incorporates the predominantly Jewish areas of a city, would create the same dilemma the Chachomim faced with Yerusholaim.

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1. Tosfos Yomtov ad loc. explains the Rambam's view that it was not possible to construct an Eruv. Rashi was of the opinion that it was possible to construct an Eruv but they did not do so as a matter of principle. There are other Rishonim who have the view that there was an Eruv in Yerusholaim. Tosfos Bobo Metsioh pg. 53b S.V. "Nfol Hamchitsos", Noam Vol 1 page 240.

2. See Sotah 41a that on Yom Kippur they carried their Sifrei Torah in Yerusholaim. In his first interpretation Rashi explains that this Gemorah followed the view one may carry on Yom Kippur. In his second interpretation Rashi explains Yerusholaim had an Eruv.

In Yomo page 66b Rashi omits the second explanation. See Rabbi Moshe's letter printed in Sefer Yetzios Hashabbos. See Tshuva Me'ahavo 20 — 22.

3. Igros Moshe Vol. 1139.

4. Rabbi Pesach Frank in response to Rabbi Moshe claimed that we have no right to add new safeguards or interdictions. If halachically the Eruv is viable then one should construct it. See Divrei Menachem where Rabbi Kasher presents his own interpretation of why Yerusholaim did not have its own Eruv.

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### Halacha Kedivrei Hameikel B'Eruvin

Despite all of the above there are those who prefer to follow the lenient view of the Halacha even if the majority of opinions disagree. They base their right upon an Halachic axiom, *Halacha Kedivrei Hameikal B'Eruvin*. “Leniency is the rule with the laws of Eruvin”. The Gemorah explains that even if the majority of opinions follow one view and it is only the minority opinion which follows the lenient view, although ordinarily we would have followed the majority (even if Eruvin is only Miderabonon), since we are dealing with the Eruv the lenient view is acceptable. This same concept is used in Hilchos Aveilus (Laws of Mourning).

The Gemorah is ambiguous regarding how far we carry the law and to which area of Eruvin it is applicable.

Most Rishonim claim<sup>1</sup> this rule is implemented only when there is an argument regarding the actual Eruvin but not as it applies to Mechitzos (boundaries). Indeed, the basic meaning of the term Eruvin denotes the actual symbolic binding of a private courtyard with multiple residents. This is done through the placing of an edible item (such as bread or Matzoh) in one household on the presumption that all other households in the area have the right to come and use the foodstuff. Laws dealing with the bread used for Eruvin are strictly D'Rabonon and therefore leniency is prescribed. Mechitzos, (laws dealing with the boundaries, types of walls and the different Reshuyos involved), which can involve questions which border on Torah-based prohibitions, cannot be based on the lenient interpretation, and the strict letter of the law must be applied.

However a number of Rishonim do insist<sup>2</sup> that the law of *Halacha Kedivrei Hameikel B'Eruvin*) applies to Mechitzos.

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1. Rivash resp. 405, Rosh second chapter of Eruvin, 4, Ritvo page 89a S.V. vaho detnan. Rashbo 80b. In fact the Talmud Yerushalmi quotes Shmuel as saying we are lenient regarding questions over Eruvin but not regarding mechitzos (Eruvin 2a) Ma'are Ponim ad loc. states that the Rambam, Rif and most poskim favour this opinion, Maharam psokim number 43, 44, yad malachi number 184.

2. Mordechai: Eruvin 482.

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There are many Rishonim who say<sup>1</sup> it applies only to an argument amongst the Tannoim. Others extend<sup>2</sup> the validity of the ruling to the period of the Amoroim. There are others<sup>3</sup> who go even further and say this rule also applies to Rishonim and leading poskim of that era. However, when it comes to latter day Achronim, it appears that everyone would agree the correct path would be to follow the majority view and not necessarily the more lenient one. No one today, may liberally use the expression *Halacha Kedivrei Hameikel B'Eruvin* without first investigating whether or not it is appropriate.

## Water as a Mechitzah

The previous discussions have dealt with the concept of using Tsuras Hapesach as the boundaries of an Eruv. There are other natural partitions which may at times act as valid Mechitzos. We shall focus, in particular, upon the use of water as a Mechitzah.

The Gemorah states<sup>4</sup> there once was a street which ended at the ocean. Rabbi was asked his opinion whether the ocean could serve as a “wall”. Rabbi did not reply. The Gemorah explains that although biblically an ocean may be considered a mechitzah,

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1. Ritva mes Eruvin page 47B S.V. “veshaminon”, Raaved quoted in the Meiri, Rashba ad loc., maharan psokim number 43, 44, Tosfos Kesubos 4a S.V. avol in the name of the Behag, Rosh ad loc.

2. Hagoos Ashri second chapter of Eruvin, 4, Ritvo quoting the gaonim, Tosfos Eruvin page 66a quoting Rebbeinu chananeal, Hagoas Maimuni, chap. 16 Hilchos Shabbos, 7, Radvaz resp. 1061, Ramoh Y.D. 390, 5 states that by poskim we don’t follow the lenient view if the majority of opinions are more stringent.

3. Chido in Sefer Birchei Yosef Y.D. 397, 3 interpreting the Bes yosef’s view. The Bes Yosef himself is vague regarding his position in this dispute. The Sdei Chemed Vol. 1 page 244 cites the Bes Yosef who on many occasions concludes we don’t follow the lenient view of poskim. Bach Y.D. 396 Resp. Zera Emes Vol. 11. Sdei Chemed Vol. 1 page 244 and onward presents a detailed discussion on this matter.

There is one dissenting view that we follow the lenient opinion even in a dispute between the latter day poskim, Resp. Ginas Vrodim 14 rule 5. We find in Shulchan Oruch often that the prevailing halachah is the stricter opinion even amongst poskim, e.g. O.C. 363, 29.

4. Eruvin page 8a.

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the rabbis discouraged its use as such. This was born out of concern *Shemo Yaaleh Hayam Sirton*. Rashi interprets this passage to mean that the tide will bring with it rocks and sand which may consequently eradicate the validity of the ocean as a wall<sup>1</sup>. The Gemorah continues noting that Mreimar residing in Surah (Babylon) refused to rely on the ocean and instead built a mesh fence. The given explanation was that he feared *Shemo Yaaleh Hayam Sirton*.

The Gemorah concludes<sup>2</sup> that one cannot use an ocean as a mechitzah even if it is being used merely as an enclosure on the fourth side. (The requirement to close off the fourth side is only a Rabbinical injunction).

In fact, Rebbeinu Chananel quotes another text in the Gemorah where the conclusion is just the opposite to what has just been discussed. Namely, that water is acceptable as a mechitzah<sup>3</sup>.

In Halacha,<sup>4</sup> we find a dispute between the Beis Yosef (Sfardim) and the Ramo (Ashkenazim). The Beis Yosef follows the lenient view that one may use the ocean as a mechitzah. The Ramo, in his gloss, disagrees with this approach and rejects the legitimacy of the ocean as a mechitzah for an Eruv.

For, a predominantly Ashkenazi community, the Halacha follows the view of the Ramo. The decision of the Alter Rebbe is<sup>5</sup> that the Halacha is as the Ramo. The Mishna Berura<sup>6</sup> follows this view and prefaces his decision by saying that the Acharonim are in accord that ocean water is invalid as a boundary.

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1. Rosh, Rashi, Ritvo ad loc. Raaved quoted in the Rashbo ad loc. Hagoas Maimuni in the name of the Rom, Darchei Moshe O.C. 363, 29 interprets the Rif as following these opinions. Nachel Eshkol page 162.

2. See however Ritvo ad loc.

3. Rambam 17 Hilchos Shabbos, 5, Eshkol section 3, page 162, Bes yosef O.C. 363 interprets the Rif similar to Rebbeinu Chananel.

4. O.C. 363, 29.

5. O.C. 363, 35, Taz ad loc. Pri Megodim Eishel Avrohom ad loc. Elia Robboh, Bach ad loc. Orchos Chaim quotes many Achronim who follow this view.

6. 363, 121.

## Community Eruvin

There are those poskim who do rely<sup>1</sup> on the ocean as a mechitzah with the restriction that it be the fourth side with the other three sides being proper walls. This then would be classed as a case of Halacha D'Rabonon where there is room for moderation. There are other poskim who are generally inclined<sup>2</sup> to sanction the reliance on water in an ocean, even if it constitutes more than one quarter of the Eruv.

Nevertheless, it would not be permitted for those who follow the opinion of the Alter Rebbe or Mishna Berura to carry within the confines of an Eruv which relies on the ocean as one of its mechitzos.

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1. Chasam Sofer resp. 89, chidushei Horim O.C. Resp. Y, Mahrit resp. 94, Knesses Hagdolah 395 where he writes if the fourth side is open to the water it is then considered closed. Mayim Rabim in his resp. explains in this case there is no argument between R. Yehuda and the Rabonon. Everyone concedes one can use the ocean.

In contrast there are other poskim who learn that the argument between R. Yehuda and the Chachomim is only regarding a situation where one Mechitzah is the ocean but if two sides of the Eruv is an ocean everyone agrees that such an Eruv is not valid. "Toras Eruvin" written by the Rov of Cracow quoted in Divrei Menachem, Eruv B'Manhattan page 106.

2. The Admur Meshots attempted to say that the concern of 'Chaishinon Lesirton' was limited strictly to a Reshus Horabim but not to a karmelis. All one had to do was to establish that a given neighborhood was a karmelis then one could rely on the ocean. However the Lubavitcher Rebbe successfully rejected his view (see Divrei Menachem page 35). Basing it on the opinion of the Ramah who says today because of a lack of 600,000 people there is no Reshus Horabim and yet he is determined that the Halacha today is that one can't rely on water although it is only a karmelis. The alter Rebbe says so clearly 363, 35 even if it is a karmelis, the Mishneh Brurah in Biur Halacha ad loc.

There are however some who seem to rely on water, Shev Yaakov 17, Divrei Malchiel quoted in Divrei Menachem page 105.

There were others who claim that if all 4 sides are surrounded by water it is an advantage. Chemed Moshe 363, Binion Olam Resp. 14m Kol Mevasser Resp. 20.

In fact there is a new dimension introduced in such a situation that the Mechitzos are 'Lo Hukaf Ledira', not erected for purposes of residence, as they existed before there were any residents — Pri Megodim Mishbetsos Zohov 363, 20 towards the end, Alter Rebbe Shuichon Oruch 363, 35 Mishnei Bruroh Biur Habochoh 363 S.V. 'Veyesh Cholkin'. See Sheiles Yaavets Resp. 7 that even one side of an eruv is an ocean can be a problem of "Lo hukaf Lediroh".

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- Why should a body of water be considered a mechitzah — a wall?
- Rashi explains that at the shoreline there is a drop of ten tefochim (approximately 3 feet). This drop is then (figuratively) extended upwards towards the sky whereupon walls are created. In other words, it is not the water itself which serves as the mechitzah, but the incline of the coast.<sup>1</sup> The Rabbonon were concerned that the ocean would carry rocks and dirt and pile them on the embankment causing the incline to be lost and thus eradimating the mechitzah,
- The concern which led the Gemorah to proscribe the use of an ocean as a mechitzah (that of the tide filling in the barrier) would not seem to extend to the use of a river<sup>2</sup>.
- The Mogen Avrohom, adds<sup>3</sup> some information on the use of the incline of shore as a Mechitzah. He states that even if there is no drop, merely a slope, so long as it is at the shore<sup>4</sup> and angles are a
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  - 1. Eruvin page 8a, Rivash Resp. 405, Tur O.C. 363 it is implicit in his explanation of Yehoshua ben Hananiah that the Mechitzah will be eradicated, this is only possible if there is some kind of wall near the decline or the bank, Ritvo page 22B S.V. Dehoh.
  - 2. Tosfos Eruvin page 24b S.U. Ain, Alter Rebbe Shulchan Oruch 363, 35. Mishnei Brura 363, 101. Rivash quoted in Tosfos Shabbos ad loc. Or Zarua 164, chasam Sofer O.C. Resp. 89. There are some poskim who claim there is no distinction between a river and an ocean and they both cannot be used as Mechitzos. Ritva page 24B S.V. ain, see Dik Dukei Sofrim the letter yed that the city of Sarot was not bordering an ocean, rather it was lying on the banks of a river, Toz 363, 20. Aruch under the word Azal.
  - 3. The Mogen Avraham towards the end of 345 attempts to explain why an ocean is a karmelis not a Reshus Horabim. He explains most oceans don't have the right slope, it is very gradual at the beginning of the ocean. For it is critical that immediately at the shore we have this drop Mishnei Brura in Shaar Tzion 363, 93. See also Mogen Avraham 363 Par 30, Alter Rebbe 363, 35, Mishnei Brura 345 Par 48 in the name of the Meiri, 363, 318 Tosfos Shabbos ad loc., Eli Rabboh ad loc.
  - 4. In fact it is an argument in Shabbos page 100a the Rabbonon contend a pit with Mechitzos in middle of the ocean is not a Mechitzah at all, Rabbi Shimon says it is. Rashba there paskens like Rabbonon consequently if the drop doesn't start out at the shore it can no longer be considered as mechitzos. See Mishnei Brura Biur Halachah 345, Rambam and Raavad 14 Hilchos Shabbos Halacha Vov. Ritvo Shabbos ibid and other Rishonim who follow the Rabbonon.

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minimum of ten tefochim (approx. 3 feet) over a maximum distance of four amos (approximately 7 feet), halachically, it is considered a mechitzah and may be extended skyward. If the level of the slope is more gradual e.g. ten tefochim over five amos, it may no longer be considered a wall. With such a low level of incline, it would be possible for people to walk right over it and thus could not be considered an obstruction for the purpose of creating a valid mechitzah.

The Rabbi of Cracow, Ray Aryeh Leib Horowicz, warned in his Sefer Tikun Eruvin, in relation to the establishment of an Eruv in his city, that if the intention was to use the Vistilla River, the degree of the slope surrounding the river must be investigated.

There are some latter day poskim who claim<sup>1</sup> the mechitzah of water is the body of water itself and measurement of the embankment is not required. They base this principle on a responsum of Mahrit (94)<sup>2</sup> where it clearly stated that the ocean itself is a mechitzah<sup>3</sup>.

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However the Mogen Avraham in the name of the yeraim the Alter Rebbe O.C. 345, 19 follow the view of R. Shimon that a pit in middle of the ocean does have Mechitzos Mehatora. The Alter Rebbe and Mogen Avrahom nevertheless maintain there must be an embankment and it must be at the beginning of the ocean.

1. Chelkas Yaakov Vol. 1 Resp. 192, Beis Meir O.C. 363, 29. The Beis Meir attempts at introducing a third perspective of necessitating a cant but not being so steep.

2. His father the Mabit was a colleague of the Beis Yosef.

3. This was derived from his interpretation of the Magid Mishneh. The Magid explains “sirton” to mean the water line might recede dramatically and people will be carrying in the clearing. The Mogen Avrahom O.C. 363, 31 and all the commentaries understood that we were using the bank as a Mechitzah but we are concerned the ocean will recede and create a large clearing on the other side of the fence and people will carry there although it is a karmelis. See also Mogen Avrahom a difference in Halachah between Rashi’s understanding of our concern and the Magid Mishneh’s.

The Mahrit understood the Magid Mishneh was relying on the water itself as a Mechitzah and our concern was the water might recede and this new clearing will be open on two sides, (where the previous walls ended — to the new shore line) or this new section is “Lo Hukaf Lediroh”. The Oruch is quoted Erech Azal as an authority that water itself is the Mechitzah. Reading the Oruch it becomes very difficult to understand how he learnt the Gemorah regarding where they put the nets.

## **Community Eruvin**

However, the continuing text of the Mahrit, makes it clear that the above statement cannot be taken out of context.

In his next paragraph, the Mahrit qualifies his statement as referring only to a mechitzah on the fourth side of an Eruv where Mehatorah the area would be classed as a *Reshus Hayochid*. The presence of three valid mechitzos would require only a *Heker* (reminder) on the fourth side (e.g. a *Lechi*). The Mahrit claims a body of water is a strong enough *Heker* and the measurement of the incline of the embankment is not required. One cannot rely on the Mahrit if water is to constitute more than one quarter of the Eruv. A body of water on its own is not a Mechitzah, and the bank would need to be measured for the required dimensions.

## **Mechitzos Yedei Shomaim**

There is yet another issue which must be highlighted. Tosfos (Eruvin 22b, s.v. dil) explains that according to Rav Yehuda, who is of the opinion that traffic breaks a mechitzah, a continent or an island surrounded by water is still a Reshus Horabim as the water traffic breaks the mechtiza. Does this mean that according to those Rabonon who did not share this opinion of Rav Yehuda, any continent could be classed as one large Reshus Hayochid? Tosfos replies that this is not the case and differentiates between natural and man made mechitzos.

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The Rabonon were of the opinion that a man made mechitzah is “strong” and cannot be broken by traffic passing through its barriers. A natural mechitzah, such as water, is “weak”<sup>1</sup>, and the Rabonon concede that traffic invalidates its legitimacy as a boundary.

The Mogen Avrohom queries<sup>2</sup> the reliance on the ocean as a mecbitzo if Tosfot established that the Rabonon conceded that the flow of traffic negates its position to act as such. He infers that the reliance on water as a mechitzah is contingent on the fact that the shore used not include any area where ships or boats dock<sup>3</sup>.

(For example within Melbourne, this automatically invalidates the use of the of Port Philip Bay as a mechitzah, as there are numerous docking points along its foreshore as well as many bathers<sup>4</sup>).

The Mogen Avrohom does provide a second explanation. If 600,000 pedestrians are required to classify an area as a Resut Horabirn, perhaps the same criteria is applied to the “breaking” of a Mechitzah. All the water traffic (including the people bathing at the shore) must exceed six hundred thousand souls before the mechitzah is considered broken. The second response of the Mogen Avrohom is by no means certain, and the Mogen Avrohom himself prefacing his second explanation with the word, “maybe”.

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1. Tosfos Horosh stipulates that in addition to being natural Mechitzos it must also enclose a large area before the traffic can break it see knesses yecheskal 2. Tosfos doesn’t add this condition.

2. O.C. 363, 30.

3. Previously the Mogen Avraham ( 345 towards the end) commented that ships crossing can break the Mechitzah but they will not create a Reshus Horabim because “Lo Nicho Tushmishte” it is difficult to come by. Implying to break a Mechitzah you don’t need all the criteria as creating a Reshus Horabim.

4. The beach can create another problem of “Platia”, marketplace, where many people gather together for most of the day. The Rashbo quoted in Baar Hetov 345, 7 claims one cannot create an Eruv if it includes a “platia” even walls are insufficient (Avodas Hakodesh Shaar 3, 1 see chacham Tsvi Resp. 37) see Avnei Nezer Resp. 273, Beis Ephraim Resp. 26 that not only the area where the “Platia” is situated remains a Reshus Horabim but rather the entire area contiguous to this platia cannot be considered closed by these walls. Furthermore, the law of having straight roads does not apply when it connects to a platia.

## Community Eruvin

In addition, there are many Rishonim<sup>1</sup> and Acharonim (e.g. Mishna Berura chap 363 of Biur Halacha) that are of the opinion that to break a mechitzah it is not necessary to meet the same conditions as when creating a Reshus Horabim. Thus, bathers at the beach may invalidate the shore as a mechitzah. (The Mogen Avrohom is not clear as to whether his references to ships refer to the ships themselves or the people aboard them who would need to cross the shore upon disembarking<sup>2</sup>).

There are many leading Achronim who interpreted the aforementioned Tosfot in the following vein.

If the mechitzos surrounding a given area are natural and there is a *rabim*, multitude of people living within these confines, then the mechiza is automatically broken. The *rabim* enclosed within a man made mechitzah have no effect, but they do render a natural mechitzah ineffectual<sup>3</sup>.

Again, the reliance on the ocean as a mechitzah is placed in jeopardy. The traffic within the area enclosed by the mechitzah can itself invalidate it<sup>4</sup>.

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1. Or Zorua 129, 10 that although ordinarily you need 600,000 people to create a Reshus Horabim but to break a Mechitzah you don't need it. Ritvo Page 22a S.V. Kaan towards the end to break a Mechitzah and revert it to a Reshus Horabim you don't need a road 16 amos wide although it is a prerequisite for a Reshus Horabim, Tosfos Rabbeinu perets there. However this point of sixteen amos is debated amongst the Rishonim Ramban page 59a to break a Mechitzah a road 16 Amos wide is necessary. See also chidushe Horan to break a mechitzah you need 16 amos see Chachmas Shlomo ad loc. Beis Meir.

2. Sheiles Yaavets Resp. 7 understood it to mean the ships itself. There are others who learn the Mogen Avrahom referred to people disembarking quoted in Sheiles yaavets ibid see Noam Vol. 1 page 218.

3. Alter Rebbe 363, 44, Chasam Sofer 89 Sheiles Yaavets ibid, Chacham Tsvi 33, Noam ibid that is why England is a Reshus Horabim despite water on all four sides. Although we learned previously one could rely on water save for our concern of "yaaleh sirton". The Alter Rebbe explains that only on the fourth side can we rely on water but if it is two sides or more then traffic negates it from within it remains a Reshus Horabim Mehatorah (see Sheiles Yaavets ibid) its original form or at least a karmelis. The Alter Rebbe explains Tosfos expression natural Mechitzos are not such Mechitzos to mean the decline itself still retains the Mechitzah or Reshus Hayochid status even if the traffic passes right over it just it does not have the capability to encircle another area.

4. Knesses Yecheskeil 2.

## **Community Eruvin**

Granted there is the opinion that one requires 600,000 people before the mechitza is negated, but as the Alter Rebbe explains, “if the water is only on one side which biblically makes the area a Reshus Hayochid, and it is only the Rabonon who required a fourth side, we may be lenient and say you need 600,000 people before the mechitza is invalid”. If the water is to make up more than one side of the Eruv (as is the case in Melbourne), then the figure of six hundred thousand plays no role in the query of the validity of such a mechitza<sup>1</sup>.

There are other Rishonim who believe there is no distinction between natural and man made mechitzos. They interpret the question of Tosfot in an entirely different vein<sup>2</sup> but their view is not brought down in Shulcan Aruch.

## **Conclusion**

Those who follow the Alter Rebbe Shulchan Aruch (or indeed, the opinion of most poskim) cannot rely on having two mechitzos of water. Traffic, whether it be the bathers, boats or the multitude of people living within the area, revokes the status of the shores as valid boundaries.

## **Status of Bridges**

Another issue which must be highlighted is the effect the presence of bridges has on the status of a Mechitza.

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1. It is compared to a karmelis which does not have the required number of people but it is forbidden to carry there medrabanon, similarly here natural mechitzos are rendered null and void Medrebonon if it is on two sides or more the people within, regardless the number break the mechitza. If there were enough people to create a Reshus Horabim it is a Reshus Horabim if not it is a karmelis.
  2. Ritvo ad loc. there must be a set maximum distance between ends of the mechitza regardless if they are natural or man-made. Therefore a continent can be a Reshus Horabim. The Rashbo remains in a quandary whether there is a limit to the extent of the mechitzos or not. See Biur Halcho who quotes a Rambam that only natural Mechitzos have a limit but not man-made, Eshol Hilchos Eruvin 65.

## Community Eruvin

When a river is used as a mechitzah, the presence of bridges which cross its banks must be noted. The Pri Megadim states clearly<sup>1</sup> that bridges need a Tsuras Hapesach at their opening.

There are two ways of viewing this problem. The initial difficulty would be one which was discussed earlier; a bridge is a most obvious case of traffic negating natural Mechitzos<sup>2</sup>. As was mentioned, most Poskim hold that traffic does breach such mechitzos.<sup>3</sup> The simple means of resolving this difficulty is the demand that six hundred thousand people traverse the bridge before the mechitzah can be considered as having been “broken”

A second difficulty lies in the fact that the bridge itself would be considered a *pirtza*, a breach in the Mechitzah. The extent of the traffic passing through is of no concern. A Tsuras Hapesach would need to be erected if the passage of the bridge is wider than ten amos.

Why should a bridge be considered a *pirtza*? Normally a river acts as a mechitzah by the extension of its banks upwards thus symbolically creating “walls” which serve as the barrier. The Tzemach Tzedek explains<sup>4</sup> that the bridge obscures these imaginary walls and therefore at the point of the bridge they are ineffectual. If the area being surrounded is classed as a Karmelis, then a Tsuras Hapesach constructed at the passage of the bridge validates the mechitzah.

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1. Mishbetsos Zohov 363, 20. Nodo Beyehuda Mahdura Tanina O.C. 42, Chasam Sofer O.C. 89 Mishneh Brura 363, 118.

2. Tosfos shabbos 363 par, 66 Binyan Olom quoting Rabbi Shlomo Kluger explains that we are not concerned with a “*pirtsoh*” being this is the normal size for the opening of a bridge.

See Chasan Sofer O.C. Resp. 90 S.V. Mah Nichaar where he quotes a certain Rabbi that everyone agrees the traffic that crosses a bridge breaks the mechitzah because initially it was built with the intention of having traffic crossing it. The Chasan Sofer rejects this view,

3. The Chelkas Yaakov in his kuntres Eruvin points out that some bridges have man-made walls added on to the original natural walls bringing into question whether traffic breaks man-made mechitzos.

4. O.C. Resp. 39, Chasam Sofer ibid. The Tsemach Tsedek cites the Taz 372, 9, Elia Rabboh 372, 25, who support the view that a bridge is a “*pirtsoh*”. This is also the opinion of the Noda Beyehuda ibid.

## Community Eruvin

If the area enclosed is actually a Reshus Horabim, Tsuras Hapesach would be insufficient and proper doors would need to be erected.

(The underlying logic for this pirtza<sup>1</sup> is that it is similar to a law where the roof of a house is a Reshus Hayochid, but if there is a projection off the roof, the roof becomes a Karmelis. Since the walls of the house extend upward, the fact that the ledge conceals these imaginary walls renders them null and void. Similarly, although there are imaginary walls underneath, on the bridge they are not noticeable, and therefore are not considered to be there.)

The Chasam Sofer contends<sup>2</sup> that if a bridge rises<sup>3</sup> ten tefochim above the ground, the bridge itself is a Reshus Hayochid. A Reshus Hayochid cannot cause a breach in a mechitzah since it itself is a mechitzah.

The Tsemach Tsedek counters<sup>4</sup> that since the elevation referred to by the Chasam Sofer, usually takes place after a distance of ten amot from the outset of the bridge, that section which is not a Reshus Hayochid would be a Pirtza.

Many Poskim have attempted to prove that a bridge need not be considered a *pirtza*. In general, most of the heterim advanced have been refuted. R. Krauser in his overview<sup>5</sup> of the Eruv in Manhattan concluded that at least a Tsuras Hapesach would need to be constructed for every bridge<sup>6</sup>.

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1. See Noam vol. 1 page 224.

2. *ibid.*

3. This would only help us regarding the westgate bridge. The other bridges which connect to the city e.g. Spencer Street and Hoddle Street are level with the connecting roadways. Although there is a drop of ten tefochim where it passes over the water forming a mechitzah, nevertheless there is a walkway underneath the bridge, which breaks the mechitzah. Chasam Sofer *ibid.*

4. *ibid.* Imrei Yosher quoted in Noam *ibid.*

5. His article with the assistance of Mechon Toras Shlomo is printed in Noam Vol. 1 pages 193 — 246. It is an in-depth analysis of many of the issues involved with constructing an Eruv.

6. See also R. Moshe in Igros Moshe Vol. 1 Resp. 139.

## Community Eruvin Conclusion

If bridges which cross the mechitzah which creates a section of an Eruv do not have (at the least) a Tsuras Hapesach constructed at the outset (and it could very well be that proper doors are needed), one cannot rely on the mechitzah.

### ***Zroim Btoch Hoir — A Planted field within a City***

One of the greatest hurdles a Rabbi must overcome before he can construct an Eruv around a city is *zroim*. *Zroim* refers to a low and enclosed area, larger than one hundred amot by fifty amot<sup>1</sup> where people are prevented from walking (such as a planted field<sup>2</sup> of a lake<sup>3</sup>), Halachically, one may not carry there as the “walls” surrounding that area are considered as having been “removed”. Although there may be residences incorporated in this area, the entire area is considered open and unenclosed. This obviously poses a problem where an Eruv will enclose a botanical garden with a large flowerbed, or a park with a pond or with a lake.

Some Achronim rely<sup>4</sup> on a heter provided by the Chacham Tsvi<sup>5</sup>, although he himself warns not to rely on it, save in extreme circumstances. Basically, the Chacham Tsvi follows the minority opinion of Tosfos that *zroim* do not break Mechitzos if residents are included.

The justification for this ruling is that the primary reason for the mechitzah is the residents, the flowerbed is incidental. An Eruv surrounding a city is meant to benefit the inhabitants, the *zroim* are reduced to total insignificance by comparison and can have no effect on the mechitzah. It is important to remember, however, that the Shulchan Oruch explicitly<sup>6</sup> decided in favour of those who oppose this distinction of Tosfot.

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1. O.C. 358.

2. Shulchan Oruch 358, 9.

3. Shulchan Oruch O.C. 358, 11.

4. Avnei Nezer O.C. Resp. 298, Zera Emes Vol. 2 Resp. 41, Noam Vol. 1 page 230, pri Tevuah 9, Divrei Menachem Page 115.

5. Resp. 57 quoting the Dvar Shmuel.

6. O.C. 358, 10.

## Community Eruvin

The Shulchan Oruch concluded that zroim breach a mechitzah regardless whether residents of a *chotser* are included.

In addition, it appears<sup>1</sup> that the heter of the Chacham Tzvi was only used in cases where real walls surrounded the area. Where Tsuras Hapesach constitute the Eruv, it is apparent that even the Chacham Tsvi would concede that zroim break the mechitzah.<sup>2</sup>

Some Poskim attempt<sup>3</sup> to remedy this difficulty by constructing a fence around the flowerbed, thereby isolating it from the rest of the area enclosed by the overall mechitzah. The Mishnah Berura contends<sup>4</sup> that walls erected around the area in question in fact exacerbate the situation.

There are those Poskim who advance the theory<sup>5</sup> that as flowerbeds are planted with the intention of beautifying an entire area to benefit its residents, their presence would not break a mechitzah. Many Poskim disagree<sup>6</sup> with this concept borne out of the fact that the Gemoroh itself does not make any distinction between one type of plant or another.

Another possible heter is based on the question<sup>7</sup> whether plants or flowers which grow on their own invalidate mechitzos<sup>8</sup>. If they do not, then it is very possible that botanical gardens planted by non-Jews do not breach mechitzos<sup>9</sup>.

## Conclusion

A flowerbed of the dimensions 100 amot by 50 amot, demands a fence built around it.

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1. Noam Vol. 1 page 231, Divre Malchiel Vol. 4 O.C. Resp. 3.

2. The Lubavitcher Rebbe (Divrei Menachem page 119) refers to the Mishneh Brura ad loc. that one should not rely on this heter, Shoel Umashiv MaDura Kamoh Sec. 2, Beis Shbomo Sec. 1 51, yesodei yeshurun page 254.

3. Beis Shiomo, Hilchos Eruvin written by Rabbi Elimelech Langa 7, 6, Doven Meishorim 2, Divrei Menachem ibid.

4. Mishnei Brurah, Biur Halachah ibid.

5. Meiri Eruvin page 24, Mariah Halevi sec. 2 101, Noam Vol. 1 page 231, Divrei Menachem page 115, Chelkas yaarkov Vol. 1 201,2.

6. Divrei chaim sec. 2 O.C. Resp. 28 Orchos Chaim O.C. 358, 11.

7. Pri Megodim ad loc.

8. Shoel Umashiv Madura Kamah sec. 2 Resp. 88, ibid.

9. Chelkas Yaakov ibid, Noam ibid.

## Community Eruvin

Similarly, a lake<sup>1</sup> may need a fence built all around it to isolate it from the rest of the area included in the Eruv.

## Eruvin Around the World

Many of the Eruvim constructed throughout the world are based on very weak foundations, yet some of the leading Poskim had no qualms in advancing their cause. Their motivations were virtuous.

The Nefesh Chaya concludes<sup>2</sup> one of his responses dealing with an Eruv by stating that practically speaking, people today flagrantly violate the Shabbos by carrying. It is incumbent upon us therefore, to utilize all the possible leniencies.

The Avnei Nezer concludes<sup>3</sup> one of his responsa regarding Eruv stating, “The reason I am so lenient is because of this urgent consideration that otherwise people may openly desecrate the Shabbos”.<sup>4</sup>

On the other end of the spectrum we have many Rabbonim who are concerned that the construction of an Eruv is at the expense of the Shomrei Shabbos, who by carrying in such an Eruv, will be lowering their standard<sup>5</sup>. (Amongst the Poskim, no mention is made of the popular retort advanced today, that no one is obliged to carry in an eruv.

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1. Regarding a Lake there are other factors that need to be taken into consideration.

First there is the issue of whether the residents have a direct benefit from the Lake such as rowing or sailing, then it does not have the status of zroim. This criterion obviously does not effect Caulfield Park.

Second if at the outset of the Lake there is a drop or an incline of ten Tefochim we then have walls surrounding the entire lake, thereby isolating it from the rest of the Eruv.

Third of all it must have at some point a depth of ten Tefochim (Shulchon Oruch 358, 11) or three Tefochim (Biur Halochoh ad loc.) in order to be classified as a Lake not a puddle.

2. Nefesh Chayoh O.C. Resp. 25.

3. O.C. Resp. 265, Resp. 293, chidushei Horim O.C. Resp. 4.

4. Mahrioh Halevi sec. 2 108 — we must search in every crevice for an opening or a “Heter” in order to spare the chilul Shabbos. Chelkas Yaakov Vol. 1 203.

5. Rabbi Moshe Feinstein writing in the scholarly journal Hapardes Sivan 1959.

## Community Eruvin

The Rabbonim are obviously beyond such banalties and are more concerned with the status of Kilal Yisroel as a whole.)

A further persuasive argument against the establishment of an Eruv is advanced by many prominent Rabbonim. Those who are instrumental in building Eruvin are of the conviction that there is no Reshus Horabim today. Even the largest metropolis is classified only as a Karmelis. (This distinction is inherent in the use of Tsuras Hapesach as the means of enclosing a city.) A Karmelis is only forbidden Midrabenon. Innocent people are already spared from desecrating the Shabbos Min haTorah. There is no longer a pressing need to build an Eruv as the sin for carrying is no longer as severe.<sup>1</sup> On the other hand, the presence of an Eruv would be instrumental in reducing the Shemirat Shabbat standard of so many people.

The Lubavitcher Rebbe, in his reply to the question of an Eruv in Melbourne, advanced another *chashash* (matter of concern). The Rebbe stated that it is inevitable that at some time the eruv will break and people accustomed to carrying will not cease to do so at that time. This is a very relevant *chashash*. Rab Moshe Feinstein<sup>2</sup> cites an example where a Rabbi Segal made an Eruv. Some years later one of the conditions for the Eruv ceased to exist and the people did not refrain from carrying.

Rabbi Henkin, when he gave his consent<sup>3</sup> to build an Eruv in Manhattan, stipulated only natural Mechitzos. “If Tsuras Hapesach is necessary, then I do not approve as they might not last forever.”

R. Moshe introduced another chashash which in fact seems to be the crux of the dispute of Eruvin in London today. R. Moshe feared the presence of an Eruv would diminish the important concept of carrying in the minds of the people to the extent that they might be unaware of its implications. Indeed, quoting in the name of R. Yosef Dov Soloveitchik, R. Yehuda Silver writes,<sup>4</sup>

1. See Beis Yosef Shulchon Oruch Even Hoezer 42 where he decided that one who desecrates the Shabbos Medrabenon is not considered a mechalel shabbos deserving to be banished from ever testifying again. See Shulchon Oruch Y.D. 2 Hagoas Rabbi Akive Eger. Alter Rebbe Y.D. 2 Kuntres Achron, 10.

2. Divrei Menachem page 31.

3. Yetzios Hashabos page 65.

4. In an article in the Jewish press dated January 29th, 1988, page 38a.

## **Community Eruvin**

“Aside from the technical reasons, the Rav has another pedagogical reason to advise against citywide Eruvin. The Rav said he is against such Eruvin because of his fear of raising a generation of children who will grow up not knowing of the issur of carrying on Shabbos.” In fact, the Gemoroh takes issue with this problem regarding Eruvei Chatzeiros.

In contrast, Rabbi Pesach Frank, states<sup>1</sup> in a letter that it is not necessary to create new matters of concern. If the difficulty was not mentioned previously, we need not raise it now. In his letter, he challenges the complication R. Moshe raised with his parallel to Yerusholaim. It is not clear whether he meant to include R. Moshe’s other concerns as well.

The dilemma of constructing an Eruv for the benefit of the people who do carry at the expense of those who do not, has involved many Rabbis and the debated points have resulted in a stalemate. Both proponents and those in opposition have advanced their reasons and concerns each feeling that their views take precedence.

The Lubavitcher Rebbe suggested a novel solution. Granted that the construction of an Eruv is of great benefit to those Jews who do carry, there would be no prohibition of secretly constructing an Eruv without any publicity (and certainly without a public relations committee). Thus all those who did violate the Shabbos are no longer in transgression and no obstacles of temptation will have been placed in the paths of those who did not carry.

## **Conclusion**

There exist many current proposals for an Eruv in cities around the world. Some would like to see Eruvin erected as soon as possible. This desire is either borne out of convenience or for a more virtuous reason, in deference to all those people who are already carrying on Shabbos. Little do some realize the complexities involved in the construction of an Eruv. In this article there was an attempt to highlight the issues and present a balanced view where possible.

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1. Divrei Menachem page 32.

## Community Eruvin

In many instances, reliance on a minority view (and quite often one held only by one or two poskim) would be the only means of overcoming various obstacles.

Rabbi Henkin, a pre-eminent halachic authority, in his letter of approval for the Eruv in Manhattan dated 28th of Tarnuz 5721, stated,<sup>1</sup> “today there is no one rabbi over a city. Even if you have a committee of Rabbonim organizing an Eruv, if they are the minority Rabbis of that city, any Eruv constructed, so long as it does not have written approval of a majority of the Rabbonim in the city, can only be used in extreme cases.”

Rabbi Yonoson Shtef, one of the organizers of the Eruv in Manhattan, wrote,<sup>2</sup> “In the Talmud Yerushalmi it is written,<sup>3</sup> ‘why did Shlomo Hamelech prescribe the Laws of Eruvim?’ The Gemoroh replies, ‘to bring peace’. The Korbon Eidah comments that it brings people together and they will proceed to talk to one another”. Rabbi Shtef concludes, “But if one was to make an Eruv in a city which will cause friction and create a rift in the community, then by constructing the Eruv you are achieving the direct opposite of what Shlomoh Hamelech wished to achieve.” Rabbi Shtef resigned from direct involvement with the Eruv in Manhattan when he realized that this was the course that was being followed.

For those people who claim that those in opposition to an Eruv are unsympathetic and unconcerned with the welfare of less religious or non-religious brethren, and do not really have the sanctity of Shabbos at heart, the following is a copy of an article printed in the Jewish Chronicle, dated March 25, 1988 concerning the views of Rabbi Henoch Padwa, Great Britain’s foremost halachic authority.

“Rabbi Henoch Padwa, principal rabbinic authority of the Union of Orthodox Hebrew Congregations (the Adath<sup>4</sup>), has issued a “public notice” in which he describes the moves to set up an “eruv” as “a violation of the sanctity of the Sabbath.

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1. Divrei Menachem page 15.

2. Quoted in Sefer Yetzios Hashabbos page 81.

3. Eruvin 7 Halachah 9.

4. A roof body comprising numerous Orthodox Congregations.

## Community Eruvin

“The situation in London today, he said, could not be compared with that in “earlier times and in other congregations”.

“He had discussed the matter with other leading rabbis “and they are in total agreement with my view.” He called on those campaigning for an “eruv” to “desist forthwith”.

“Asked for his reaction to Rabbi Padwa’s statement, the Sassover Rebbe, Rabbi S.D. Rubin, told the “Jewish Chronicle” this week that the decision had not been taken lightly.

“An ‘eruv’ will be of great help to everyone to whom the Sabbath is holy and part of their life. At the same time, it is our duty to keep the Sabbath holy.

“After lengthy and careful consideration of all aspects regarding the halacha and the sanctity of the Sabbath, the rabbis, guided by Rabbi Padwa, decided that an ‘eruv’ in London is impossible.

“It is undeniable that it would make life more comfortable on the Sabbath, especially for mothers with small children, the elderly and the infirm. *However, in the life of a believing Jew, religion takes priority over ease and comfort.*

“Therefore, we trust that those who are suggesting an ‘eruv’ in parts of London, praiseworthy as their intentions are, will desist from pursuing this project.

“Those rabbis opposed to the scheme are as profoundly concerned with shmiras Shabbos (observing the Sabbath) and as deeply imbued with ahavas Yisroel (love of Israel) as anyone else.

“The Sabbath is the life and soul of the Jewish people. thanks to the fact that our forefathers gave their lives for the sanctity of the Sabbath, we are still a Jewish people after nearly 2,000 years dispersed all over the world.

“The Sabbath is the foundation of a Jewish home. Without a foundation, or even with a faulty foundation, the home cannot stand.

*“Those who have the eternity of the Jewish people at heart should endeavour to ensure that they and their children keep the Sabbath holy.”*

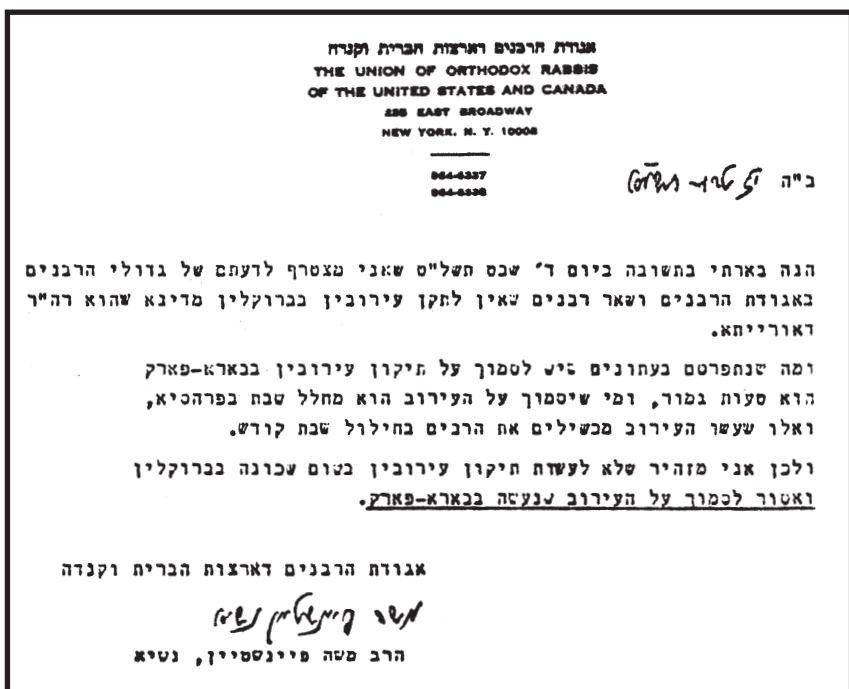
# Community Eruvin

## Appendix

1. The Lubavitcher Rebbe's response several years ago to the erection of an eruv in Melbourne.

ספורטסמת דעתך שבדורנו זה איש או ארגון שמתחשבים ATI  
הכוונה עירוב ווודע שסוף סוף יתפרק הדבר – הרי זה תקלח  
איומת, כי אי אפשר שלא יארע שבת קודש אחד והעירוב פסול –  
ופ"טطبع שיתרגלו פעלים אחדים בהזאה שבת קודש לא  
תועיל כל הכרזה וחודעה שהעירוב נפסל ואstor וכו' שייפסיקו  
להוציא  
וain להשות עירוב אלא בטודיות.

2. Reb Moshe Feinstein Zatzal's protest against using/erecting an eruv in Boro Park, Brooklyn.



## Community Eruvin

3. A protest letter from a wide range of pre-eminent halachic authorities, including Reb Moshe Feinstein Zatzal, against using/erecting an eruv in Boro Park, Brooklyn.

ב' ב' ב' ב'

**אזהרה חמורה נגד תיקון עירובין בניו יארק**

חו"ת שבחמן האחרון התחילה איזה אנשים שכנות פלטבוש לחיעיש אודות עירובין, אלו מפרטים בה דעת תורה שהוא דבר שכבר נاصر על ידי גולי הרבינים שבארה"ב שבדורנו ושבדורות שפנינו בין בניו יארק ובין בשאר עיריות גדולות בכל רחבי ארץ"ב. וביום ח' סיון תשכ"ב התאספו בגאותה הרגנים מגדולי ראשי היישובים והרבנים מאורי ישראל ביום מrown הנגנו ר' אהרן קאטלער צ"ל וחתמו על אישור לעשות עירוב בניו יארק וכתו בין השאר,, ואסרו לטלטל במאנהען אף לאחר התקונים שעשו או שעשו איזה רבנים וכל מי שייסמוך על עירוב במאנהען ייחשב למחלל שבת" והסקימו וחתמו על הנ"ל מrown הנגנו ר' אהרן קאטלער צ"ל מהחגון ר' חיים ביך צ"ל והגאון ר' יוסף אליהו הענקין צ"ל ובבל"ט מrown הנגנו ר' משה פינשטיין שליט"א ומrown הנגנו ר' יעקב קמנצקי שליט"א והגאון ר' גדריה שרשר שליט"א ועוד כמה גולי הרבנים. וכן כבר פירסם מrown החגון ר' משה פינשטיין שליט"א פסק דין להלכה למשעה בספריו עירובין בניו יארק וברוסלן, בנינוי הנ"ל לאסור תישׁוּ עירובין בניו יארק וברוסלן.

**לען** באנן לזרען בשער כת וכיס שאסור להחנן עדות באוזן שכונה בניין ציריך בברוסלן כל שם הוראת דין כל ואפי' אם יתגנו בה עירוב נס כו אמרו למלטם בין גנולם ובין פטנים.

ובזקנות שמיירת השבת-כHALCAה נעה לנאהלה שלימה ואמיתית בב"א.

<b>חק</b> שמאול בלא"א "מוות"ג <b>ש"ב</b> צוק"ק ל' זיע"א נפנדים בג"ד דק"ק מטאוטסדרור יע"א <b>ערזיאל יהודה לעכברותיך</b> <b>אב"ד</b> ר' עדת ראות <b>גרונט</b> תחנן לזבניך <b>רב</b> בפליטובו <b>ישראל פנחס הילוי גאנרניש</b> <b>דוד</b> שלמה בהרב אלחנן <b>טפעקטער</b> <b>רב</b> בפליטובו <b>אביינדור מלילער</b> <b>רב</b> בפליטובו	<b>חק</b> שלמה האלבערשטאט <b>אב"ד</b> ק' בארכון יע"א <b>משה שטערן</b> <b>אב"ד</b> דערבעגען יע"ז <b>שרנא משה אלטמאנוויז'</b> <b>שייכת פיר</b> <b>משה צבי ארי' ביך</b> <b>שמחת עלברג</b> <b>יע"ר</b> אנגות הרביים דארה"ב <b>זקונט</b> <b>חנןז'ו'יט ליפא</b> <b>טיטעלבלטווים</b> <b>אב"ד</b> נ'יבראטרו יע"ז <b>גנטלי היירצקאל העליג</b> <b>אב"ד</b> ק' שאבראש צי'ו' <b>ישבר בער הלוי ראטעגענבערג</b> <b>אגדוק'ק ואויאיסטָבָּן</b> <b>אהרן צוקערמן</b> <b>רב</b> דאונטנד שראל בעטלעכובוש <b>שמעון דוד דאסדק'</b> <b>רב</b> בפליטובו <b>שמעון שואוב</b> <b>רב</b> קה"ל דוד שוויז <b>וועזנטונגטאן אויעיסט</b> <b>אהרן ישע' שפֿרְאַוִּי</b> <b>ר'ם</b> בישיבת תורה ועת <b>ורוב</b> בפליטובו <b>שרנא פִּיוֹוֵל חַנּוֹן</b> <b>ר'ם</b> בשישיבת דרבנן <b>ורוב</b> בפליטובו	<b>משח פִּינְשְׁטִין</b> <b>ישראל שפֿרְאַוִּי</b> מבלהוז <b>חק</b> שלמה זלמן פִּידְמֶן <b>אב"ד</b> ק' טעקי <b>חק</b> יוסף גורנוזאולד <b>אב"ד</b> ק' פְּאַמָּה <b>יוסף לוייפְּרָד</b> <b>בן הח"ק</b> א'ים ז'ל מושעדיין <b>גדלי' הלוי שאר</b> <b>ישובת תורה ועת</b> <b>יוסף בְּגַנְגְּזִין</b> <b>רב</b> בפליטובו <b>ישראל הילוי בעטלקִי</b> <b>שלמה זלמן ברוין</b> <b>מח"ס</b> שעירום זלמן בהליך <b>רב</b> בפליטובו <b>אשר בן הרב ר' אליעזר</b> <b>הכהן בעמן</b> <b>ר'ם</b> בתורה דעת <b>חיים בעטלאל</b> <b>шибת מקדש מדל</b> <b>טובי גאנלדשטיין</b> <b>шибת עמק חלכה</b> <b>דוד זינגר</b> <b>אשי ספְּרָד בָּרוּךְ פָּקָד</b> <b>שמחה היושע וויסטמאן</b> <b>רב דישראלי גזעיג</b> <b>הלוֹן דִּיוֹוִיד</b> <b>шибת ערוי תורה, רב בפליטובו</b> <b>סדר החתימות לפני קבלתון)</b>
<b>חק</b> שמאול בלא"א "מוות"ג <b>ש"ב</b> צוק"ק ל' זיע"א נפנדים בג"ד דק"ק מטאוטסדרור יע"א <b>ערזיאל יהודה לעכברותיך</b> <b>אב"ד</b> ר' עדת ראות <b>גרונט</b> תחנן לזבניך <b>רב</b> בפליטובו <b>ישראל פנחס הילוי גאנרניש</b> <b>דוד</b> שלמה בהרב אלחנן <b>טפעקטער</b> <b>רב</b> בפליטובו <b>אביינדור מלילער</b> <b>רב</b> בפליטובו	<b>חק</b> שלמה האלבערשטאט <b>אב"ד</b> ק' בארכון יע"א <b>משה שטערן</b> <b>אב"ד</b> דערבעגען יע"ז <b>שרנא משה אלטמאנוויז'</b> <b>שייכת פיר</b> <b>משה צבי ארי' ביך</b> <b>שמחת עלברג</b> <b>יע"ר</b> אנגות הרביים דארה"ב <b>זקונט</b> <b>חנןז'ו'יט ליפא</b> <b>טיטעלבלטווים</b> <b>אב"ד</b> נ'יבראטרו יע"ז <b>גנטלי היירצקאל העליג</b> <b>אב"ד</b> ק' שאבראש צי'ו' <b>ישבר בער הלוי ראטעגענבערג</b> <b>אגדוק'ק ואויאיסטָבָּן</b> <b>אהרן צוקערמן</b> <b>רב</b> דאונטנד שראל בעטלעכובוש <b>שמעון דוד דאסדק'</b> <b>רב</b> בפליטובו <b>שמעון שואוב</b> <b>רב</b> קה"ל דוד שוויז <b>וועזנטונגטאן אויעיסט</b> <b>אהרן ישע' שפֿרְאַוִּי</b> <b>ר'ם</b> בישיבת תורה ועת <b>ורוב</b> בפליטובו <b>שרנא פִּיוֹוֵל חַנּוֹן</b> <b>ר'ם</b> בשישיבת דרבנן <b>ורוב</b> בפליטובו	<b>משח פִּינְשְׁטִין</b> <b>ישראל שפֿרְאַוִּי</b> מבלהוז <b>חק</b> שלמה זלמן פִּידְמֶן <b>אב"ד</b> ק' טעקי <b>חק</b> יוסף גורנוזאולד <b>אב"ד</b> ק' פְּאַמָּה <b>יוסף לוייפְּרָד</b> <b>בן הח"ק</b> א'ים ז'ל מושעדיין <b>גדלי' הלוי שאר</b> <b>ישובת תורה ועת</b> <b>יוסף בְּגַנְגְּזִין</b> <b>רב</b> בפליטובו <b>ישראל הילוי בעטלקִי</b> <b>שלמה זלמן ברוין</b> <b>מח"ס</b> שעירום זלמן בהליך <b>רב</b> בפליטובו <b>אשר בן הרב ר' אליעזר</b> <b>הכהן בעמן</b> <b>ר'ם</b> בתורה דעת <b>חיים בעטלאל</b> <b>шибת מקדש מדל</b> <b>טובי גאנלדשטיין</b> <b>шибת עמק חלכה</b> <b>דוד זינגר</b> <b>אשי ספְּרָד בָּרוּךְ פָּקָד</b> <b>שמחה היושע וויסטמאן</b> <b>רב דישראלי גזעיג</b> <b>הלוֹן דִּיוֹוִיד</b> <b>шибת ערוי תורה, רב בפליטובו</b> <b>סדר החתימות לפני קבלתון)</b>

## לזכות

הזהן התמים הרב דוד הכהן ט"י  
והכללה חנה קילא תחוי  
כהן

לרגל חתונתם בשעה טובה ומצלהות  
יום חמישי ו"ט סיוון ה'תשס"ג



ולזכות הורייהם  
הרה"ת ר' משה חיים הכהן וזוגתו זהה לאה  
ומשפחים ט'חוי  
כהן

הרה"ת ר' מרדכי צבי וזוגתו יהודית  
ומשפחים ט'חוי  
קראסניאנסקי