
Part I: Defining the Four Domains

The construction of *eruv* has generated much controversy in many Jewish communities. Our extended discussion seeks to shed light on the various opinions and practices regarding *eruv* and thereby encourage mutual respect for the different practices regarding the use of *eruv* today.

Disagreements about creating an *eruv* center around three primary issues: whether an area is suitable for creating an *eruv*, how to create the *eruv*, and how to rent the enclosed area in a democratic society. We will begin by discussing which areas are appropriate for creating *eruv*.

The Four Domains

The Gemara (*Shabbat* 6a) delineates four domains (*reshuyot*) for the laws of *Shabbat*. A ***reshut hayachid*** (private domain) is surrounded by walls of a minimum height of 10 *tefachim* (about 40 inches),¹ and has a minimum area of four *tefachim* by four *tefachim*. Common examples of a *reshut hayachid* include buildings and fenced-in yards. One is permitted to carry within a *reshut hayachid* on *Shabbat*.²

1. A *tefach* is a handbreadth, which is between three and four inches. See *Encyclopedia Talmudit* 20:659.

2. However, in certain situations, it is necessary to perform *sechirat reshut* and *eruv chatzeirot*, as is explained in part four of our discussion of the laws of *eruv*.

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A **reshut harabim** (public domain) is an area where carrying on *Shabbat* is forbidden, such as a city square or a street that passes directly from one end of town to the other. It must be at least 16 *amot* (about 28 feet)³ wide, unroofed, and with less than three walls (see *Shabbat* 99a).⁴ Rav Hershel Schachter points out that a *reshut harabim* must not be private property (*The Journal of Halacha and Contemporary Society*, 5:12, based on *Eruvin* 59a). Some opinions maintain that 600,000 people must pass through it daily, and we will discuss this debate later. Additionally, some authorities consider any inter-city highway a *reshut harabim*, even if it does not meet all of the other requirements (Ramban, *Eruvin* 59a).⁵ Carrying four *amot* (about six to seven feet) within a *reshut harabim* on *Shabbat* is biblically prohibited, as is carrying from a *reshut hayachid* into a *reshut harabim* and vice versa.

A **mekom petur** (literally an "exempt site") is a place within a *reshut harabim* whose area is less than four *tefachim* by four *tefachim* (see *Mishnah Berurah* 345:30). It must also be **either** at least three *tefachim* high **or** enclosed by walls that are three *tefachim* high. One may carry into or out of a *reshut harabim* or a

3. For summaries of the various opinions regarding the size of an *amah*, see *Encyclopedia Talmudit* (2:28-29).

4. There is some debate regarding the question of whether such a street also makes all public areas in its town into a *reshut harabim*. This will be discussed when we address the various cities in which this issue arose.

5. See Rav Hershel Schachter's essay in *The Journal of Halacha and Contemporary Society* (5:13). Rav Schachter has told this author that only a limited-access highway falls into this category. For example, Rav Schachter believes that New Jersey Route 34 (in the Matawan *eruv*) and Route 46 (in the Parsippany *eruv*) are **not** highways for this purpose. These roads may thus be included inside *tzurot hapetach*. Also see *Teshuvot Bnei Banim* (1:19, pp. 66-67) and *Aruch Hashulchan* (O.C. 345:26), both of whom rule more leniently than Rav Schachter. It should be noted that the Jerusalem *eruv* includes Israel's Route 1 (Jerusalem-Tel Aviv highway). See *The Contemporary Eruv* (p. 54 note 119), where Rav Eliezer Waldenberg is cited in defense of including Route 1 in the *eruv*.

reshut hayachid from a *mekom petur*. Common examples include narrow garbage cans and fire hydrants. It is widely accepted that a *mekom petur* exists only in a *reshut harabim*.⁶

The fourth and final domain is a ***karmelit***. In this domain, it is rabbinically forbidden to carry. A *karmelit* is essentially any place that does not fit the descriptions of the other domains. This includes the sea and all public places that do not meet the requirements of a *reshut harabim*.⁷

Converting into a Reshut Hayachid

In order to facilitate carrying in *karmeliyot* and *reshuyot harabim*, these areas must be transformed into private domains. Since the prohibition against carrying in a *karmelit* is only rabbinical in nature, the rabbis made it relatively easy to change a *karmelit* into a *reshut hayachid*. Surrounding it with *tzurot hapetach* (doorframes) renders the *karmelit* an enclosed area. A *tzurat hapetach* consists of a horizontal wire (or pole) that passes over the tops of two vertical poles, forming the shape of a doorway.

Rav Yehudah Halevi (*Kuzari* 3:51) explains why the rabbis provided a relatively simple way to remove the prohibition of carrying in a *karmelit*, by ruling that *tzurot hapetach* are sufficient to convert a *karmelit* into a *reshut hayachid*. He suggests that they made this enactment to prevent treating rabbinical restrictions with the same severity as the Torah's restrictions and to provide the Jewish people with some freedom of movement on *Shabbat*.

6. The Rama (O.C. 345:19) cites two opinions regarding whether or not a *mekom petur* can also exist in a *karmelit*. The *Mishnah Berurah* (345:87) notes that most *Acharonim* incline to recognize the status of *mekom petur* only in a *reshut harabim*, and the *Aruch Hashulchan* (O.C. 345:45) rules accordingly. Also see *Biur Halachah* s.v. *V'yeish Cholkim*.

7. For a brief summary of the laws concerning these four domains, see Rav Shimon Eider's *Halachos of the Eruv* (pp. 1-4).

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The conversion of a *reshut harabim* into a *reshut hayachid* is much more difficult, because the prohibition of carrying in a *reshut harabim* is biblical. A wall or fence must surround the *reshut harabim* in order to change its status.⁸ If a *reshut harabim* is enclosed on all sides by doors at night, it ceases to be a *reshut harabim*.⁹ The classic example of this phenomenon appears in *Eruvin* (22a), where the Gemara states that "had Jerusalem's doors not been locked in the evenings, the city would have been considered a *reshut harabim*." In a few locations in the United States, "doors" have been "installed" to encompass an area that might otherwise constitute a *reshut harabim*.¹⁰

Does a Reshut Harabim Require 600,000 People?

In light of the halachic differences between them, it is quite important to determine if an area is a true *reshut harabim* or merely a *karmelit*. The precise definitions of these categories have been debated since the time of the earliest *Rishonim*. The main point of contention is whether an area requires 600,000 people to attain the status of a *reshut harabim*.

Rishonim

The Rambam (*Hilchot Shabbat* 14:1) does not mention that 600,000 people must be present for an area to be considered a

8. A fence whose vertical and horizontal links are less than three *tefachim* apart is the halachic equivalent of a solid wall, based on the concept of *lavud*. This principle considers a gap of less than three *tefachim* to be closed off.

9. While walls undoubtedly turn a *reshut harabim* into a *reshut hayachid*, it is unclear whether doors achieve the same result. The *Avnei Neizer* (O.C. 280) believes they do make the *reshut harabim* into a *reshut hayachid*. On the other hand, the *Chazon Ish* (*Orach Chaim* 78:1) argues that doors transform a *reshut harabim* into a *karmelit*, but all breaches still require *tzurot hapetach* in order to permit carrying within the enclosed area on *Shabbat*.

10. See *Netivot Shabbat* (Chapter 23) for a general review of the literature regarding doors that eliminate the status of *reshut harabim*.

reshut harabim. Rashi (*Eruvin* 6a s.v. *Reshut Harabim* and *Eruvin* 59a s.v. *It*), however, writes that a city that does not regularly have 600,000 people is not a *reshut harabim*, because it has less population than the Jews' encampment in the desert. The practices and the activities of the Jewish encampment in the desert as recorded in the Torah serve as the paradigm for forbidden activities on *Shabbat* (see *Shabbat* 73b-74a). *Tosafot* (*Eruvin* 6a s.v. *Keitzad*) record that the *Behag* agrees with Rashi, whereas Rabbeinu Tam finds Rashi's opinion problematic.

A major problem with the opinion requiring 600,000 people for a *reshut harabim* is that the Gemara (*Shabbat* 6a) describes at length what constitutes a *reshut harabim*, without any explicit mention of requiring 600,000 people. Surely, the Gemara would not omit such a critical part of defining a *reshut harabim*. Rav Aharon Lichtenstein has told this author that he believes the opinion of Rashi and the *Behag* is among the most singularly difficult opinions of *Rishonim* in all of Halachah!

The Shulchan Aruch and its Commentaries

The *Shulchan Aruch* (*Orach Chaim* 345:7) cites (and presumably accepts) the view that an area is a *reshut harabim* even without 600,000 people, although he does cite the other view as a secondary opinion.¹¹ The Rama (O.C. 346:3) indicates that he accepts the requirement of 600,000.¹² Both the *Magen*

11. The *Shulchan Aruch's* view is somewhat unclear, as he appears to contradict himself in *Orach Chaim* (303:18). There he writes that no places today qualify as *reshuyot harabim*. Presumably, his reason is that he requires 600,000 people for a *reshut harabim*. Regarding the practice of Sephardic Jews today, see *Yabia Omer* (vol. 4, *Orach Chaim* 47:4) and page 7 of Rav Mordechai Eliyahu's comments to Rav Zechariah Ben-Shlomo's *Hilchot Tzava*.

12. This is inferred from the Rama's statement that in our day there are no *reshuyot harabim*. While logic would dictate that the Rama is writing this because he believes that only a place with 600,000 people constitutes a *reshut harabim*, this inference presents a certain difficulty. The *Shulchan Aruch* (*Orach Chaim* 303:18) also writes that there are no true *reshuyot*

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Avraham (345:7) and the *Taz* (345:6) cite the view of the *Ma'sat Binyamin* (92) and the Maharshal (*Yam Shel Shlomo, Beitzah* 3:8), who rule that the presence of 600,000 people is not required. However, the *Magen Avraham* and *Taz* themselves disagree with these authorities and write that the majority view is that of Rashi, requiring 600,000 people. The *Aruch Hashulchan* (345:17) writes that the *erubin* in the Jewish towns of Eastern Europe relied on this accepted leniency; otherwise, they could not have used *tzurot hapetach*.

The Mishkenot Yaakov's Criticism

In the early nineteenth century, the *Mishkenot Yaakov* (*Orach Chaim* 119-122) strongly criticized the construction of the Eastern European *erubin*. His criticisms included the fact that their wires sagged,¹³ and there were no places for hinges on the *tzurot hapetach* (as there are on true doorways).¹⁴ Most of all, *tzurot hapetach* were used to create the *erubin*, since the towns and villages were seen as *karmeliyot*. He asserted that the opinions of many more *Rishonim* had been published since the time of the *Shulchan Aruch*.¹⁵ The discovery that many of these *Rishonim* rejected Rashi's opinion rendered his opinion that requires 600,000 people a **minority** opinion, whereas it had previously been considered the majority view. He argued that even the small towns and villages of Central and Eastern Europe should now be considered *reshuyot harabim*.

harabim, yet he appears to rule that 600,000 people are **not** required for a *reshut harabim* (O.C. 345:7). The *Magen Avraham* (345:7) points out this problem.

13. Sagging wires are problematic, because a *tzurat hapetach* must be constructed in the same manner as people makes ordinary doorframes (*ked'avdei inshei*; see *Erwin* 94b). We will address this at greater length in our third chapter about *erubin*.

14. See *Erwin* 11b. Our practice is not to require a place for hinges; see *Aruch Hashulchan* 362:31.

15. See Rav Moshe Bleich's article, "The Role of Manuscripts in Halachic Decision Making" (*Tradition* 27:2:22-55), regarding the halachic weight of newly discovered manuscripts of *Rishonim*.

Reaction to the Mishkenot Yaakov's Criticism

Halachic authorities expressed mixed reactions to the *Mishkenot Yaakov's* criticism. The *Beit Efraim* (26) defended the practice to rely on *eruv* consisting of *tzurot hapetach*. The *Aruch Hashulchan* (362:18) wrote in the late nineteenth century that it was as if a heavenly voice proclaimed that the opinion requiring 600,000 people for a *reshut harabim* was [still] correct.

The *Mishnah Berurah*¹⁶ strongly urges pious individuals (*ba'alei nefesh*) to be strict and refrain from carrying within an *eruv* that is based on the lenient opinion. However, he writes that one should not rebuke those who do rely on such *eruv*. For a summary of this issue, see Rav Elimelech Lange's *Hilchot Eruvin* (21-28).

It is interesting to note that even those who are strict and do not rely on an *eruv* might be permitted to ask a Jew who does use the *eruv* to carry for them (see *Teshuvot Igrot Moshe*, O.C. 1:186).¹⁷

16. 345:23 and *Biur Halachah* s.v. *She'ein Shishim*.

17. Rav Shlomo Zalman Auerbach (*Teshuvot Minchat Shlomo* 1:44) rules that one who embraces the strict opinion in a disputed area of Halachah need not refrain from causing others to follow their practice of relying upon the lenient view. However, he addresses a rabbinical prohibition, and he notes that this matter is subject to debate regarding biblical prohibitions. Regarding *eruv*, authorities debate whether carrying in a *reshut harabim* enclosed by *tzurot hapetach* is a biblical or rabbinical prohibition; see *Biur Halachah* (364:2 s.v. *Vehu* and s.v. *Ve'achar*). Elsewhere (*Minchat Shlomo* 2:35:17), Rav Shlomo Zalman suggests that one who adopts a *chumra* (stringency beyond the letter of the law) can ask someone who follows the letter of the law to violate this *chumra*. However, if one is strict because he believes a more lenient view to be mistaken, perhaps he should refrain from asking others to violate what he considers an absolute prohibition. (Even in the latter case, Rav Shlomo Zalman does not issue a definitive ruling.) When Ashkenazic and Sephardic communities follow different opinions, Rav Shlomo Zalman implicitly compares such a situation to a *chumrah*, because the one who causes others to act agrees that Jews from the other community need not be stringent.