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## HALAKHIC SPACE, AND ITS RELATIONSHIP TO PHYSICAL AND MORAL SPACE: SBM 2022 WEEK 3 SUMMARY

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Should the thought of squashing an entire city into the spatial boundaries of a single house absolutely contort your mind, you are in good company. Yet a possibility of that sort arose this week as SBM analyzed Chazal's attempts to define and categorize urban spaces.

The laws of techumin state that an individual who begins Shabbat within a city may walk during Shabbat to any point within that city, and an additional 2000 amot beyond the city. Where does the city end and the 2000 amot begin? The Talmud discusses a phenomenon whereby, under some circumstances, a section of land seventy and two thirds amot long is appended to the edge of a city as a kind of buffer zone, known as a *karpaf*. The 2K amot begin at the outside edge of the *karpaf*.

But this is begging the question. The *karpaf* becomes the new edge of the city for techumin purposes, but where is the original edge from which the *karpaf* begins? Moreover, we Talmudists, or at least Briskers, always want definitions to be precise. So we want to know what differentiates the city from its *karpaf*. Why do we say that the city ends and the *karpaf* begins, rather than saying that the city includes the *karpaf*?

On a practical level, it's easy to draw the boundary for a walled city; the city ends at the wall, and the *karpaf* begins from it. But the Arukh HaShulchan spells out that when a city is not walled, there's no clear binary distinction between inside and outside. It's fuzzy ... so where does the city end and the *karpaf* begin?

This question may have important real-world halakhic implications. For example: Where do you place the *karpaf* when a city is extended by other halakhic tactics? For example, the techum-perimeter of a walled city is extended to include any individual houses within  $70 \frac{2}{3}$  amot of the city wall, and then any houses within  $70 \frac{2}{3}$  amot of such houses, and so on. Does the *karpaf* begin from the last such house, or does it end regardless  $70 \frac{2}{3}$  amot beyond the wall?

The eighteenth century posek Rav Yechezkel Landau takes these questions on (Responsa Noda B'Yehuda 2:0C:52). His halakhic analysis probes into some of the deepest philosophical questions

about what makes a city a city, what differentiates a city from a house, and why you can't call a village of huts a city.

Mishnah Eruvin 57a records a dispute. Rabbi Meir holds that each individual city is automatically given a *karpaf*. The Sages, as interpreted by Rav Huna, contend that a *karpaf* is given only when two cities are within two *karpafs*' distance from each other. Each city is given a *karpaf* in that case, and the intersecting *karpafs* join them for the purposes of the laws of techumin.

Yet it seems that all positions, including the Sages, agree that houses within a *karpaf*'s distance of an isolated city extend that city. This may mean that the Sages agree that a *karpaf* is given whenever a house and a city are within one *karpaf* of each other. Maybe that *karpaf* is related solely to the city. But maybe this proves instead that a house can also generate a *karpaf* when a city is in range – what is unique about cities is only that they can generate independent *karpafs*, and so unify even when a distance of two *karpafs* apart.

If that understanding is correct, what about two houses, distant from any city, but within a *karpaf* from each other? Do they form one techum-unit, just as when a house is appended to a city, so that a denizen of House A can walk 2000 amot past House B? If that is the case, what really differentiates a house from a city?

R. Landau integrates and synthesizes various rulings in related cases to develop an approach to this question. His argument stands atop Rif's approach to the question of how halakha views a "village" of hut-dwellings.

We'll start from Mishnah Arakhin 32a, which defines a "walled city" for the purposes of Biblical real estate law as one that contains three courtyards of two houses each and whose wall existed in the time of Yehoshua bin Nun.

On Eiruvim 55b, Rav Huna states that the 2000 amot for people living in a village of hut-dwellings begins at each individual doorway; the spaces do not join at all. However, Rav Chislev bar Rav Kehana cites Rav Ashi as follows: "If there are three courtyards of two houses each amongst the huts – they are established". It seems likely that "established" means that everyone in the "village" can now count their 2000 amot from the edges of their combined space rather than only from their individual doorways.

Rashi links Rav Chinena's statement to the opinion of the tanna Rabbi Shimon in Mishnah Eiruvim 59a. If a large city becomes depopulated (literally: "if a public city becomes private"), any subsequent *eruv chatzeirot* allowing people to carry across property lines must exclude some part of the city. Rabbi Yehuda holds that this area must have a population of at least 50 people, and it seems likely that he sees this as the minimal population for a city. Rabbi Shimon does not mention a minimum population, but instead requires at least 3 courtyards with two houses each. It seems reasonable, especially in light of Arakhin 32a, that this is his definition of a city. By connecting Rabbi Shimon with Rav Chinena, Rashi therefore indicates that Rav Chinena is saying that while hut-dwellings can never form a city, they can be appended to a city.

Talmud Eiruvim 60A records the position of Rav Yitzchak that even one house-plus-courtyard is sufficient to allow appending the hut-dwellings. One might therefore assume that Rav Yitzchak disagrees with Rabbi Shimon's claim that a city minimally requires at least 3 courtyards with two houses each, and that he in fact fits an entire city into an individual house. But this is not necessarily so.

RIF (Rabbi Isaac al Fasi) interpretations must generally be inferred somewhat oracularly from his decisions as to which statements of the Talmud to include and which to omit in his digest. In the case of the depopulated city, he cites a statement by Rav Chama bar Gurya in the name of Rav that the halakhah follows Rabbi Shimon, and also Rabbi Yitzchak's statement that one house-plus-courtyard is sufficient. In the 'hut-village' case, he leaves out Rav Chinena's statement, but does not add in a statement reflecting Rav Yitzchak's opinion. What may be inferred from all this?

Rav Landau infers from Rif's inclusion of an endorsement of Rabbi Shimon's opinion in the one case, and his exclusion of Rav Chinena in the other, that he accepts Rabbi Shimon's definition of a city in principle, but contends that for many halakhic purposes, a full-featured "city" is not needed. RIF rules like Rabbi Yitzchak regarding what constitutes a valid segmented-off area in a depopulated city, and for what kind of a structure added to an assortment of huts will enable the residents to view their 2000 amot as beginning outside their joined space. However, for other purposes, three courtyards of two houses each are necessary. One such purpose is the rule that two cities may conjoin their techum-spaces if the cities are within a distance of two *karpafs* from each other.

Rabbi Landau concludes that one cannot rely on Rabbi Yitzchak's definition of a house-as-a-city for the purpose of joining together two houses via their karpaf.

It's important to keep in mind, as Rabbi Klapper is keen to evoke in our understanding of halakha, that a posek who is defining spaces for the purposes of eruvin ought not do so purely intellectually and philosophically without recourse to empirical sociological factors pertaining to the people for whom such

decisions regarding what is and what isn't a city are made. Moreover, SBM guest speaker Rabbi Shmuel Hain's understanding of "halakhah kedivrei hameikal", if applied to techumin, enjoins us to deeply consider the ends and subjective effects of halakhah when paskening. For example, excluding individual houses at the margins of city might segregate a portion of the population who cannot afford to live in the city proper, but nonetheless want to participate in its urban Jewish community. Moreover, if halakha doesn't allow two houses to unify into a city, this can limit the extent to which the two families will feel connected to each other. Taking a lesson from Rabbi Klapper, I would keep in mind the broader aim of achieving the unity of yisrael and how that might affect a ruling in such scenarios.

It definitely took me great effort to cognize the issues we discussed. Doing so called for me to hold a large number of datums in mind at once, and the ability to model their interconnectivity in a specific and rigorous fashion. This brings me to a broader issue which came up: in any sugya in halakha, there are always multitudinous ways of looking at the same issue. In such situations of exponentially many possibilities, how do you get to a psak halakha? Rabbi Klapper explained in the course of a shiur this week that he thinks about psak probabilistically. The probability of a halakhic outcome is based on many factors, including textual interpretation, weight of authority, chances for broad communal acceptance, and basic morality.

For example, Rabbi Klapper spoke about his experiences in addressing issues of iggun and mamzerut. A creative posek may be able to produce an intellectually groundbreaking psak with full intellectual halachic integrity, but be unable to implement it because the relevant Jewish community would not accept it. In the 21<sup>st</sup> century, this has been more true regarding iggun than mamzerut. But the moral probabilities strongly urge freeing all agunot as soon as possible.

We got a behind-the-scenes look at how poskim balance the realpolitik demands of communal halakhah with the platonic ideal of a perfectly moral system. Rabbi Klapper is willing to say that halakha-as-practiced is not yet such a system, although it strives to be. Moreover, Rambam notes that any system of law will necessarily involve cases where some people get hurt. Halachists need to be so sensitive as to hurt as few people as possible, and heroic enough to feel the pain for where the Halachic framework does fall short.

It was definitely surprising, yet also reassuring to hear Rabbi Klapper mention, at least in passing, that while he finds theological issues in the exceptional cases where halachic morality falls short, such as for agunot, this is not an affront to the system itself, but a problem to be worked with. The system develops slowly and its flaws are fixable by socially responsible psak made by poskim in tune with the real world they are paskening for.

Shabbat Shalom!