Contextualizing “The Contemporary *Eruv*”

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Copyright Statement

The work associated with this submission has not been submitted elsewhere for a comparable academic award.

My recently published article, *The Non-Territoriality of an Eruv: Ritual Bearings in Jewish Urban Life*, grew out of the work undertaken to complete this commentary and prepare my existing body of previously published work for submission for the award of a degree of PhD by prior publication, appears in the *Journal of Architecture and Urbanism, (41)3,* 199-209, DOI: 10.3846/20297955.2017.1355279.

1. Abstract

The construction of *eruvin* – symbolic boundaries demarcating communal space that enable traditionally observant Jews to carry in public domains on the Sabbath – poses a unique problem at the intersection of religious and secular life. The application of the ancient doctrines of *eruv* to modern urban spaces has proven to be controversial in rabbinic circles, and in many respects the attendant Jewish law questions remain unsettled. At the same time, controversy over the construction of *eruvin* in modern metropolitan areas has metastasized to impact a much broader field of inquiry that includes law, politics, sociology, architecture, and aesthetics.

My research in this area – which began with the publication of my book, *The Contemporary Eruv: Eruvin in Modern Metropolitan Areas*, and continues in this commentary and my recent essay, *The Non-Territoriality of an Eruv: Ritual Bearings in Jewish Urban Life* – touches on all these areas of inquiry. This commentary provides a broad overview of my work on *eruvin* and offers insights into the significance of my original research, the impact my work has had on the broader scholarly community, and possible lines of further inquiry for future work.

Part 2 provides a glossary that defines the many Hebrew and technical-legal rabbinic terms used throughout this commentary. Next, Part 3 of this commentary offers a broad overview of my past and ongoing research into *eruvin* and touches briefly on the central question that drives much of my work. Part 4 discusses the central research questions that both animate my broader body of work and frame my more specific work on the study of *eruvin* in modern metropolitan spaces. Building on these research concerns, Part 5 of this commentary provides a general overview of the central concepts, doctrines, and issues in the construction of *eruvin*, tracing the topic from its biblical origins through early rabbinic legislation that set the stage for ongoing concerns. Part 6 explains the methodology of my research into *eruvin*, and lays out its three-pronged approach: addressing past rabbinic scholarship, actual hands-on experience with the urban spaces in which contemporary *eruvin* are built, and reconceptualizing traditional doctrines so as to apply them to modern contexts. In Part 7, I offer a literature review that focuses principally on the impact that *The Contemporary Eruv* has had on a variety of fields of inquiry, including law, urban studies, architecture, religious studies, public policy, and art. Part 8 includes abstracts of my other published works offered as further support for the merits of my scholarship. Finally, Part 9 of this commentary provides a tentative look forward at areas for future research, including a brief discussion of some of the ethical concerns raised by the construction of *eruvin* in modern metropolitan areas. Part 10 includes a list of sources referenced in this commentary.

2. Glossary of Terms

Ahronim: The rabbinic scholars of the early modern and modern periods from approximately 1500 C.E. through 1939 C.E.

De-oraytah: Literally, "of the bible"; used to classify particular legal rules and principles as sourced in scripture rather than in later rabbinic legislation.

De-rabbanan: Literally, "of the rabbis"; used to classify particular legal rules and principles as originating in post-biblical rabbinic legislation.

Eruv (plural: *eruvin*): A symbolic enclosure that permits Jews to carry objects through the enclosed area on the Sabbath.

Eruvei Hatzeirot: Literally, "intermingling of courtyards"; the symbolic unification of the various Jewish-owned private domains encompassed within the boundaries of an *eruv*.

Halakhah: Jewish religious law.

Hazal: The rabbis of the Talmudic period, who lived and worked from approximately 150 B.C.E. through 550 C.E., and whose legal rulings enjoy the authority of binding precedent over all post-Talmudic scholars.

Hotza'ah: Literally, "taking out"; the biblical prohibition against conveying objects through non-private spaces on the Sabbath without the prior construction of a legally acceptable *eruv*.

Karmelit: A domain neither public nor private, in which according to biblical law one may convey objects on the Sabbath, but according to rabbinic law must be enclosed by an *eruv* before carrying objects therein on the Sabbath.

Karpaf: An "uninhabitable" open area that, when comprising part of the space enclosed by an *eruv* boundary, may invalidate an *eruv*.

Lehi: A pole or other similar structure used either to form a valid *tzurat ha-petah* or to demarcate points of access necessary for the construction of a legally acceptable *eruv.*

Makom Petur: A designated and demarcated space who's limited size renders it not subject to the general biblical and rabbinic prohibitions against carrying objects in non-private areas on the Sabbath.

Omed: Standing structure in the perimeter of an enclosure.

Parutz: Open space in the perimeter of an *eruv* enclosure.

Reshut Ha-rabim: A public domain wherein carrying objects on the Sabbath is biblically proscribed, and which therefore cannot be included within the boundaries in a normatively valid *eruv*.

Reshut Ha-yahid: A private domain, in which one is permitted to convey objects on the Sabbath.

Rishonim: The medieval rabbinic authorities who lived and worked from around 1000 C.E. until 1500 C.E. While considered less authoritative than *Hazal*, their views are given great deference

by later rabbinic scholars known as *Ahronim.*

Sehirat Reshut: The symbolic unification of the various non-Jewish-owned private domains encompassed within the boundaries of an *eruv*.

Shabbat: The Jewish Sabbath.

Tzurat Ha-petach: A "doorway" comprising to posts and a lintel crossbeam that forms the basic component of contemporary *eruv* enclosures. A series of interconnected "doorways" form a symbolic wall or barrier that demarcates the area enclosed by the *eruv* and designates it as a collective private space within which Jews may carry objects on the Sabbath.

3. Background of Research

This commentary provides an explanation and roadmap of the enclosed dossier of materials, which have been submitted in fulfillment of the requirements for receipt of a PhD by prior Publication from the University of Huddersfield School of Art, Design, and Architecture. The submitted dossier and accompanying commentary center on my book, *The Contemporary Eruv: Eruvin in Modern Metropolitan Areas* (Feldheim, 1998), as well as on several published articles, and another scholarly article that has recently been published in the *Journal of Architecture and Urbanism*. Since its initial publication two decades ago, *The Contemporary Eruv* has become one of the foundational texts for research and teaching on the nature and meaning of *eruvin* in the Jewish tradition and in rabbinic law, especially with respect to how this ancient concept pertains to contemporary societies and urban spaces. This work explores how the traditional rabbinic rules, principles, and doctrines of the laws of *eruv* apply in modern urban settings, where new patterns of communal living, city planning, architecture, and space design create both novel problems and solutions for Jewish life.

Issues related to the construction and use of *eruvin* in modern metropolitan areas – where close urban living, city beautification projects like parks and pedestrian malls and the relatively modern innovation of suburban neighborhoods pose novel questions of both Jewish law and ethics – are complex, unsettled, and subject to significant debate and disagreement among rabbinic scholars of Jewish law. Curiously, while the theoretical and practical issues surrounding *eruvin* in general, and modern *eruvin* in particular, have generated an enormous amount of rabbinic literature, there has been little substantial scholarly research on this subject within the academy. Moreover, to the extent that such research exists, it has developed only very lately. My personal excursion into this field of enquiry originated with – and continues to be motivated by – my perception of the relative paucity of serious scholarly research in this field.

While *The Contemporary Eruv* constitutes the core of my scholarly research on interactions between classical rabbinic law and jurisprudence and the needs and realities of modern life, it represents but one particular application of a broader concern about the complex processes through which traditional Jewish beliefs and practices are expressed in contemporary contexts in ways that maintain continuity with the past, provide relevance for the present, and offer a vision for the future. Several other of my published works explore this broader theme in a variety of contexts, including rabbinic land-use law, Sabbath rituals, and the relative merits of pluralistic and monistic approaches to the construction of Jewish dogma. These works include

- Bechhofer, Y. G. (2009). Pathways: Easements in Halacha. *Journal of Halacha and Contemporary Society, (LVII)*, 65-72.
- Bechhofer, Y. G. (2013). May You Invite for Shabbat Someone Who May Desecrate the Sabbath to Attend?. *Journal of Halacha and Contemporary Society, (LXVI),* 23-38.
- Bechhofer, Y. G. (2014). Does Psak Apply to Matters of Hashkafa?. *Journal of Halacha and Contemporary Society, (LXVII),* 23-36.

The following sections of this commentary provide a comprehensive and detailed account of my

research, focusing on my work analysing the theoretical and practical issues attendant to the application of traditional *eruv* laws to Jewish life in contemporary metropolitan spaces. I will demonstrate how *The Contemporary Eruv*, taken together with the rest of my published and under-review scholarship, meets the requirements for doctoral research. This body of work demonstrates specialization in scholarship; a new contribution to an area of knowledge; a high level of scholarship; originality; the ability to write a coherent volume of intellectually demanding work of a significant length; the ability to develop the capacity and personal character to manage the research; and an in-depth understanding of the topic area and of work related to the research (Hart, 1998, p. 20)

Part 4, the next section of this commentary, begins this account with some historical, legal, and cultural background on the subject of *eruv* in order to properly situate the reader and better contextualize the following explanation of my work.

4. Research Questions: My Research and Me

As is the case for many other scholars and researchers, the questions that drive my work are in substantial part an outgrowth of my own experiences and perspective. As noted above, my research is broadly concerned with explicating the complex processes through which traditional Jewish beliefs and practices are expressed in contemporary contexts in ways that maintain continuity with the past, provide relevance for the present, and offer a vision for the future. Of course, this is not a truly new research agenda. On some level, from an internal Jewish religious perspective, the entire project of Judaism since the cessation of prophetic inspiration has been preoccupied with determining how to take an existing tradition believed to be rooted in divine revelation and applying it with integrity and also efficacy to chart the course of religious living in ever-evolving temporal and special contexts and conditions. However, the urgency of the issue and the difficulty in responding to the problem has increased exponentially over the last two centuries as Emancipation, social, political, economic, and intellectual upheaval, and the ever-increasing rate at which the world changes challenge Judaism's time-honored slow-and-steady experiential model for navigating the complexities of an evolving religious tradition. For those concerned with such meta-issues, as opposed to just the intricate nuances of substantive Jewish law and thought, the issue is a pressing one. Indeed, to my mind, concern for the need to explain how Judaism and Jewish practice adapt to new realities is especially important; as a teacher of young students growing up in a thoroughly post-modern world, I bear daily witness to young Jews' scepticism that traditional Judaism can be made out to be much more than a reflection of rabbinic will. As someone committed to a more integrous and objective vision of what rabbinic Judaism is all about, I have a strong interest in trying to understand and explain how it is that ancient Jewish concepts are reconceived, but also preserved, as they are deployed as a lens rough which modern Jews see and experience their contemporary worlds.

At its core, my work in the field of *eruvin* is really just a particular instance of this broader interest in the way Jewish tradition expresses itself in new contexts playing out in a specified field of study. As I note in the preface to the third edition of *The Contemporary Eruv*, I grew up in the town of West Hempstead, New York. West Hempstead was one of the earliest communities to commission and construct a modern metropolitan *eruv*. As a very young boy, I watched as my local community grappled with the Jewish legal, social, political, and architectural issues associated with *eruv* construction, which were complicated by the fact that in many ways the West Hempstead Jewish community was embarking on uncharted waters. As an observer, the process fascinated me, and it was therefore unsurprising that thirteen years later, after receiving my M.S. and rabbinic ordination, I decided to focus my post-graduate rabbinic studies on understanding the topic of *eruvin* in general, and the issues associated with constructing *eruvin* in modern metropolitan areas in particular.

Shortly after I began my initial foray into the field of *eruvin*, a controvery related to the Jewish legal acceptability of the local *eruv* arose in Far Rockaway, New York, the community in which I was then studying. Several of the issues involved in the controversy eventually made their way to *The Contemporary Eruv* (although the community is not named). My rabbinic mentor at the

time, who was a prominent and highly regarded local authority, was commissioned to revamp the local *eruv* in order to bring it up to appropriate standards. I, of course, seized this opportunity to get some much-needed hands-on experience and apprenticeship, and I learned much under his tutelage over the course of this process. I later moved to the Chicago, Illinois to continue my advanced studies and to begin teaching as well. There, in the early 1990s, the suburb of Skokie constructed an *eruv*, and many of the difficult practical and legal issues that arose during that process that served as another important basis for my later work in *The Contemporary Eruv*. Some of these issues were identical to the issues that arose in the Far Rockaway *eruv*, while others were new, and had to be tackled without the benefit of prior experience.

These experiences helped me become acutely aware of two critical realities: First, while the legal field of *eruvin* is well-trodden territory from an abstract and theoretical perspective, that the construction of *eruvin* in modern metropolitan areas poses new and unique challenges, the resolutions of which are often neither obvious nor simple. Second, I came to appreciate that there was at that time no comprehensive and practical English-language work addressing the theoretical and practical issues I had come to learn were involved in the proper construction of *eruvin* in modern metropolitan areas. I appreciated that this was a serious issue – one that sat at the crossroads of traditional rabbinic jurisprudence, contemporary social, political, architectural, and economic realities – upon which I might be able to shed some light drawing on the expertise I had gained over the course of my previous years of study and on my more general interest and desire to better conceptualize the ways in which Jewish law and practice respond and adapt as they are applied to new factual circumstances.

I published the first version of my work, a pamphlet entitled *Eruvin in Modern Metropolitan Areas*, in 1993 (Saltzman Press). This work formed the nucleus of what later became chapters 3-5 of *The Contemporary Eruv.* A second pamphlet edition followed in 1995 (Hebrew Theological College Press). The first, full hardcover edition of *The Contemporary Eruv: Eruvin in Modern Metropolitan Areas* went to press in 1998 (Feldheim), and this is the edition most often cited in the literature. As of 2013, the book is in its third edition. The new editions were warranted by new original research, new developments in the field, and amendments and corrections. I remain fascinated by "all matters *eruvin*," a complex area of Jewish law in which the challenges attendant to the contemporary application of traditional concepts and norms is so fascinatingly pronounced. In addition to my research and publications in this area, I founded and continue to moderate a very active LinkedIn discussion group dedicated to the study of *eruvin* in modern metropolitan areas,[1] and am actively involved in the new National Eruv Initiative.[2]

1https://www.linkedin.com/groups?home=&gid=3771957&trk=my_groups-tile-grp.
2http://eruvinitiative.org/.

5. The *Eruv* in Historical, Legal, and Cultural Context

The Hebrew Bible includes an explicit prohibition against performing *melakhah*, or "creative work," on the Sabbath. What exactly qualifies as forbidden labor, however, is left largely unspecified. In addition to the Bible's directly commanding that "You shall not light a fire in any of your dwellings on the Sabbath" (Exodus 35:3), the text alludes to another specific Sabbath day stricture by prescribing "abide ye every man in his place; let no man go out of his place on the seventh day" (Exodus 16:29). According to rabbinic understandings of this latter instruction preserved in the Talmud, the verse alludes to a biblical prohibition against carrying or conveying objects over a distance of more than four cubits on the Sabbath day. This four-cubit stricture reflects the verse's directive to not go out from "his place," as this distance – which measures approximately six feet – corresponds to the average length of a man lying prone on the ground with his arms extended above his head. Based on the context of this verse, moreover, the Talmudic rabbis understood this prohibition as applying to conveying an object over a distance of more than four cubits in a *reshut ha-rabim*, or "public domain." A private domain, or *reshut ha-yahid*, no matter how large, is regarded as "his place," and thus carrying objects within such space is permitted. Only moving items from a private to a public domain or conveying objects through a public domain are prohibited.

Critical to understanding the complex issues related to *eruv* doctrines and applications is an appreciation for the importance the Talmudic rabbis placed on defining the contours and characteristics of public and private domains. Since the Bible proscribes carrying in public domains, defining a public domain and distinguishing it from a private domain became critical. Under Talmudic law, public domains include open public spaces that are more than sixteen cubits wide, such as roads, plazas, and parks; all other spaces are biblically treated as private domains where carrying is permitted.

While the foregoing explanation of the biblical prohibition against carrying objects in the public domain on the Sabbath may appear straightforward, as is true for many areas of Jewish law, rabbinic scriptural exegesis and post-mosaic rabbinic legislation have greatly complicated the issue. As a result, the Jewish legal principles governing carrying on the Sabbath expanded into a broad field of theoretical inquiry and practical application. Perhaps the most significant expansion of the basic biblical doctrine occurred as a result of what the Talmud describes as a legislative measure implemented by King Solomon. The Hebrew Bible contemplates only two kinds of "places," the narrowly defined "public domain," where carrying on the Sabbath is prohibited, and the residual category of "private" spaces, where carrying is permitted. Solomon, however, adopted legislation creating a third kind of "place" with respect to Sabbath carrying laws. This space, known as a *karmelit*, includes any place that does not constitute a biblically defined public domain, but which is not enclosed by walls or other kinds of partitions demarcating it as "private." While the Bible itself does not forbid carrying in such non-public domains on the Sabbath, Solomon's new rule did prohibit carrying in this intermediate place that was not fully "public," but also not truly "private."

King Solomon's expansion of the kind of "place" in which carrying is prohibited on the Sabbath

greatly expanded the reach of this Sabbath stricture. Whereas the Bible itself only forbids carrying in open areas wider than sixteen cubits, under Solomon's legislation, carrying was also proscribed in all non-enclosed places. While narrow alleyways, some small roads, modest public squares, and small parks would not have qualified as biblical public domains, each would likely qualify as a *karmelit* where carrying is prohibited under the Solomonic rule. This has particular relevance to urban and suburban residential living patterns. There are few spaces that fit the definition of a *reshut ha-rabim* under biblical law, and it would in any case be rare and unusual for traditionally observant Jews to find themselves in such places on the Sabbath day. Many outdoor public spaces do, however, meet the Solomonic criteria of a *karmelit*, and the legislative restriction on carrying in such areas would, in fact, substantially impact the ability of very many Jews to move about and interact outside their homes on the Sabbath day.

To soften the impact of this new Sabbath stricture, Solomon's legislation included a mechanism whereby a *karmelit* space could be symbolically transformed into a private domain, thus permitting carrying therein on the Sabbath. The specific rules governing the transformation of a *karmelit* into a private domain are complex and detailed at length in *The Contemporary Eruv*. Put briefly, according to Solomon's enactment, objects may be carried in a *karmelit* on the Sabbath provided two conditions are met. First, the area constituting the *karmelit*, which by definition is unenclosed by solid walls or barriers, must be enclosed by symbolic walls – usually pillars joined at the top by crossbeams or string – which demarcate the otherwise open space as "private." Second, the owners and inhabitants of the now-enclosed *karmelit* space must unite by forming a symbolic community, usually accomplished by the inhabitants setting aside an amount of food for later consumption as a shared communal meal. When these two conditions are met, they result in an *eruvei hatzeirot* – literally, "mixing of courtyards." This concept – the process by which, through legal fiction as well as genuine place-making, an open, public area is transformed into a community space – is commonly referred to by the shorter term "*eruv*" (plural, *eruvin*).

My book, *The Contemporary Eruv*, deals primarily with the details, debates, theoretical challenges, and practical solutions to constructing *eruvin* in modern metropolitan areas in order to transform legally-designated *karmelit* spaces into communal private domains.

To better understand the cultural and sociological significance of the *eruv* in Jewish life, and the ways in which it relates to the use and conceptualization of modern urban and suburban spaces, it is important to appreciate some of the rationales underlying the biblical prohibition against carrying in public domains, the Solomonic expansion of this proscription to include *karmelit* spaces, and the legislatively embedded mechanisms for transforming a *karmelit* into a private domain through the symbolic creation of a demarcated community within an unenclosed place.

The Bible relates the observance of the Sabbath to the commemoration of God's "resting" on the seventh day following the six days of creations described in Genesis. Just as God did not "work" on the seventh day, so too Jews are commanded to refrain from *melakhah*, labor, on the seventh day, the Sabbath. Many traditional rabbinic commentators have suggested a deeper connection between the Sabbath day prohibition on labor and God's creation of the world. The Hebrew term *melakhah* connotes specifically the kind of creative, transformative activities used to alter, shape,

and harness one's environment. Following the completion of the six days of creation, God handed over the earth to humanity, commanding them to "subdue the earth and settle it" (Genesis 1:28); but God further required that mankind do so only in a manner consonant with His desire for justice and morality. Thus, the biblical command to refrain from creative human activities – *melakhah* – on the Sabbath in accordance with God's command symbolizes and reinforces the idea that the work mankind does all week to further develop the created world and human civilization must be done in accordance with the divine will. On this view, that the unifying rationale for the Bible's forbidding *melakhah*, or labor, on the Sabbath is that *melakhah* involves the kinds of creative human efforts used to mold our environments, harness natural resources, and develop the social institutions and arrangements that contribute to human flourishing.

The biblical prohibition against carrying or conveying objects through the public domain on the Sabbath fits within this interpretive scheme because carrying items from one private place to another through the public sphere is an essential element of what it takes to create community and society. One may carry and reinforce the bounds of community within a non-public space, a *reshut ha-yahid*, but one may not carry objects from place to place, thereby creating a new community – a quintessentially creative act, a *melakhah* – on the Sabbath.

As was explained earlier, the scope of the original biblical prohibition was originally quite limited; only the true *reshut ha-rabim*, the wide-open undifferentiated public domain, was restricted from being transformed into a communal sphere through the act of carrying objects through this space. Carrying through smaller open spaces, already bounded by signs of human control, was less transformative, however, and therefore permitted. To reinforce the biblical ideal that the creation of community through the use and transformation of space is a creative act, Solomon expanded the prohibition and forbade carrying even in a *karmelit*. Still, Solomon also recognized the potential of utilizing the stricture against carrying in a *karmelit* as a vehicle for reinforcing the value and importance of community and society constituted not by solid walls that exclude outsiders as they join insider-members together, but through the symbolic *eruv*. The Talmud makes this point explicitly, noting that the Solomonic condition that a *eruv* requires the designation of food for a shared communal meal is a means of engendering peace and fellowship among private, sometimes contentious individual members of the *eruv* community. The Talmudic sage Rabbi Joshua thus explained that "we make *eruvin* to establish peaceful relations between people" (Jerusalem Talmud, Eruvin 3:2). The seventeenth century rabbinic scholar Rabbi Solomon Eidels suggested that through the communal collection of bread, all the members of the *eruv* community become "friends as one," as if they are living in one large house. This idea is well-illustrated by a Talmudic story:

> Once, a woman thought she was detested by another woman [who lived in the same courtyard]. The first woman sent her young son to the second woman with the former's contribution to the shared meal used to establish the eruv. The second woman took the bread and hugged and kissed the boy. The boy went back to his mother and told her what happened, and the mother exclaimed: "Does she loves me so much? I did not know!" As a result, the two women made peace with each other. (Jerusalem Talmud *Eruvin* 3:2).

The community-creating feature of the *eruv* is not limited to the collective designation of food for a shared meal, however. There is perhaps an even stronger signaling about the role that place plays in the demarcation of societies in the Solomonic rule that carrying in a *karmelit* on the Sabbath can be rendered permissible by the construction of symbolic boundary markers around the area. The *eruv* "mixes" the residents living within its pillar-and-crossbeam borders, and creates a community where previously there was only a collection of individual "private domains," but it does so by symbolically demarcating space as internally shared rather than by excluding outsiders with walls or other actual barriers. As one rabbinic scholar has explained:

> [P]art of the purpose of *Shabbat* is to educate us as to what *melachah* [creative labor] is and to help us understand the importance of our work during the *Sheishet Yamim* [six weekdays when such labor is permitted] . . . But we must remember that on this day we were meant to rest, not alone, but together with our brothers in the joint *chatzer, mavoi* or *medinah* [courtyard, neighbourhood, or city] that we have built together. Shlomo [King Solomon] sought to impress upon the consciousness of his nation that the goal of bringing the *Shechinah* [God] to their midst would require the joint effort of the entire people, and he intended that the process of making an *eruv* would draw the people of a city together (Buchman, 2006, p. 211).[3]

This idea, coupled with the essential symbolic character of the *eruv*, recalls Searle's account of the evolution of physical barriers into symbolic ones, and the ways in which such barriers create community through "collective intentionality":

> Consider for example a primitive tribe that initially builds a wall around its territory. . . . [S]uppose the wall gradually evolves from being a physical barrier to being a symbolic barrier. Imagine that the wall gradually decays so that the only thing left is a line of stones. But imagine that the inhabitants and their neighbors continue to recognize the line of stones as marking the boundary of the territory in such a way that it affects their behavior . . . The line of stones now has a function that is not performed in virtue of sheer physics, but in virtue of collective intentionality. . . The line of stones performs the same function as a physical barrier but it does not do so in virtue of its physical construction, but because it has been collectively assigned a new status, the status of a boundary marker (Searle, 1995, p. 40).

Brin, quoting Morris Levin has recognized the similar dynamics involved in the use of the *eruv* as a delineation of communal space:

> The *eruv* is a conscious delineation of community. It is a construction in a physical sense defining a physical area. It is also a legal construction to support this notion of physical community (Brin, 2013).[4]

Academic research had considered the origins, meanings, and spatial dispositions of the *eruv* throughout history, with a particular emphasis on its role in validating Jewish urban life in a

3 See Buchman, 2006, pp. 188,191,208 for the references to *The Contemporary Eruv.*

4 Levin makes an intriguing comparison between eruvin and urban bike lane: "[They] not only define an "intentional community space," as he calls it, they prompt broader awareness and greater participation (Brin, 2013)."

broadly secular society today. In that context, the symbolic community created by the *eruv* is a Jewish one, and the *eruv* boundaries create community not only through mutual affinity and feelings of collective identity among area residents, but also through the demarcation of those areas in which Jews may move about freely without ritual restrictions on the Sabbath day and those areas where they may not. My one work has included the identification and definition of that "line of stones," and Searle's concept of "collective intentionality" as they emerge from the application of the ancient Solomonic traditions of *eruv* to the contemporary city, with its pre-existing instrumental (technologically driven) urban infrastructure. What appears in everyday urban life as prosaic, such as the utility pole, carries potentially profound (and sometimes problematic) implications in "mapping" the dynamics of *eruv* communities in the contemporary city.

The identification of the thematics of a Jewish community – its "invisible" arrangement of symbolic relationships – within the visible (and tangible) systems of a secularized and instrumental world, raises important questions about the capacity for such co-existence in an increasingly globalized and fragmentary age. I refer here to Fonrobert's idea, discussed below, of the *eruv* as "territoriality without sovereignty," a concept that relates in many ways to the broader Judeo-Christian traditions of ritual space and time that transcend the mundane parameters of the physical city as expressed for example in Augustine's *De Civitate Dei*. Moreover, in our day and age, in which various kinds of "virtual communities" are often perceived as threats to "real communities," the spatial virtual community of the *eruv* may be perceived as an invasive and even oppressive network of exchange that runs counter to the "safe" homogeneity and undifferentiated nature of modern urban space. My work, to paraphrase Smith, is an attempt to define "place" as distinct from "space," blunting the issues that arise from a mistaken perception of the function of the *eruv*. Related to this analysis is the further question of continuity between ancient Jewish practices such as *eruv*, and the functioning of the contemporary Jewish diaspora in an age of ever advancing technologies and more complex urban causes and concerns. My research is in many ways situated between (and within) these horizons of enquiry – both deeply immersed in the traditions that underlie my Jewish faith and also receptive to the realities and needs of a rapidly changing urban life today.

6. Methodology

As discussed above, the body of research presented and explained in this dossier is broadly concerned with the complex processes through which traditional Jewish beliefs and practices are expressed in contemporary contexts in ways that maintain continuity with the past, provide relevance for the present, and offer a vision for the future. *The Contemporary Eruv* in particular, the centerpiece of this submission, examines is great detail how the ancient rules and principles governing the construction of *eruvin* – which were developed, defined, and articulated in relation to very different kinds of urban spaces and land uses from those familiar today – should be understood and applied to modern metropolitan areas. In a field of study wherein abstract ideas must lead to applied practice, it was essential to identify the relationships between ideas and practice. This is the primary focus of *The Contemporary Eruv*, and the crux of this work's unique contribution as a practical guide for conceptualizing and navigating urban space from the vantage of Jewish ritual practice informed by original scholarship on the subject. This analysis entails the development of conceptual understandings of the goals and functions of the symbolic space demarcation of the *eruv* in its original context; the ways in which is seeks to create virtual community through the demarcation, but not the actual division of space; and the ways in which such aims might be effectuated in contemporary urban contexts.

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Contextualization Within Rabbinic Discourse

Written for and aimed at a traditional rabbinic audience, an important methodological concern in the production of *The Contemporary Eruv*, as is typically true with other works that seek to chart new paths and break new ground in heavily trodden fields, was persuasiveness and credibility. It was important to contextualize this new study of the problems that inhere in modern metropolitan *eruvin* within the broader discourse of rabbinic literature.

Traditionally, rabbinic analysis of *halakhic* topics, including *eruvin*, takes a longitudinal and historical approach that examines the development of doctrines over time, from biblical origins through Talmudic interpretations, post-Talmudic applications, and more contemporary codifications and synthesis of earlier material. Jewish law issues and ideas develop and evolve through rabbinic research and debate that has been traditionally categorized based on a chronological periodization of Jewish scholastic development. Following the close of the Talmudic period in the sixth century, the era of the *Rishonim* ("early ones") lasted until the early sixteenth century, and was followed by the period of the *Ahronim* ("latter ones"), which ended around the Second World War (though it is perhaps too early to say for sure). Each period is characterized by particular focuses and interests in rabbinic literary production, but all are unified by a general sense that later research and analysis must address the work of scholars of earlier eras. To skip or fail to adequately contend with the works of a prior period would render later research incomplete and deficient. Situating itself within this disciplinarily acceptable mode of scholarship, my own analysis aims to address earlier rabbinic work on the conceptualization and application of *eruvin* before embarking on the substantial task of articulating an approach to *eruvin* in contemporary urban spaces.

The initial foundation of all such research is of course the Hebrew Bible. However, since the Bible itself is terse and cryptic in the extreme, the primary foundation of Jewish legal analysis is the Talmud, which contains authoritative interpretations and normative extrapolations from the Bible. The Talmud is also regarded as the major repository of all rabbinic law and lore. Between the Bible and the Talmud we encounter the overwhelming majority of primary texts in Jewish Studies as they pertain to any intellectual discipline or practical application. Accordingly, *The Contemporary Eruv* is very much grounded in readings of Talmudic texts.

Generally, authoritative readings of Talmudic texts emerge from the works of medieval Jewish scholars and the various schools of thought that collectively comprise the *Rishonim*. Some of these rabbinic figures, like Rabbi Solomon Yitzhaki, popularly known by the acronym *Rashi* (1040-1105), wrote commentaries on the Talmud. Others, such as Maimonides (1135-1204), distilled discursive Talmudic texts into codified law. To understand the basis of the codified law it is necessary to reconstruct the codifier's reading of the Talmudic text. Much of *The Contemporary Eruv* compares, contrasts, and clarifies the Talmudic readings of the *Rishonim*. This entails not only analysis of opinions, but also careful analysis of the wording of the opinions. For example, much of chapter three of *The Contemporary Eruv* comprises a close analysis of the competing opinions of *Rashi* and Maimonides regarding the correct legal definition of the biblically posited "public domain," where carrying on the Sabbath is absolutely prohibited and no *eruvin* are possible. This study involves comparing and contrasting each scholar's stated views with the opinions of other *Rishonim*, clarifying their respective readings of the relevant Talmudic passages, and exploring interpretations and understandings of their positions suggested by later scholars.

The *Shulhan Arukh*, a sixteenth century codification of Jewish law written by Rabbi Joseph Karo (1488-1575), is taken by many to demarcate the transition from the period of the *Rishonim* to that of the *Ahronim*. It is often regarded as the most important codification of Jewish law, not because it is absolutely authoritative or represents the final word on legal issues, but because virtually all subsequent works of rabbinic legal analysis and decision making have been framed as commentaries on or responses to the *Shulhan Arukh*. More recent authoritative – but not definitive – codes include the nineteenth-century works, *Mishnah Berurah* and *Arukh Ha-shulhan*.[5] These codes all contain conceptually organized treatments of the issue of *eruvin*. As is the nature of codified law, however, these treatments are terse, definitive, general, and abstract; despite their authority, they are of only limited value in working out how traditional *eruv* principles and concepts should be applied in modern metropolitan contexts.

Alongside the Talmudic readings and codification materials is a third and important category of rabbinic literature, which is especially useful in the context of conceptualizing the principles of *eruv* for purposes of applying them to new realities. This genre, known as responsa, comprise published records of Jewish legal questions asked to various important scholars, and these

5Broyde and Bedzow (2012) published an initial analysis of the methodology of the *Mishnah Berurah,* which cross-references the *Aruch HaShulchan*. They hope to eventually publish comprehensive overviews of both works. See http://www.torahmusings.com/2013/01/mishnah-berurah-methodology/.

authorities' juridical responses thereto.[6] While the topical scope of individual responsa is obviously much narrower than that of the codes and often less directly conceptual than Talmudic commentaries, the responsa have the unique benefit of providing insights into the contextualized application of established Jewish legal norms to complex, real-world circumstances. Responsa specifically pertaining to metropolitan *eruvin* began to proliferate in the nineteenth century, when industrialization and urbanization led to the rise of metropolitan areas as major population and commercial centers, and when emancipation of European Jews provided new opportunities for Jews to enter city-based professions. As a result, many new questions regarding the application of *eruv* principles to nineteenth century urban spaces arose, and rabbinic guidance was sought. Much of *The Contemporary Eruv* consists of analysis and elucidation of this body of responsa literature. For example, chapter four crucially addresses several responsa dealing with the legal viability of using overhead telegraph and electricity cables as part of the symbolic *eruv* enclosure, ultimately rejecting the conclusions drawn in those materials. Building on the diffuse responsa literature, various secondary handbooks on the laws of *eruvin* began to appear – almost exclusively in Hebrew – during the second half of the twentieth century. These works do not take a conceptual approach to the problem of contemporary *eruvin*; they instead follow the code format, tersely listing legal rules and principles supported by references to earlier sources, but with only minimal in-depth or conceptual analysis of the goals, mechanisms, and applications of *eruvin* to modern urban spaces. *The Contemporary Eruv* cites these works and analytically correlates them with more authoritative, earlier sources.

Hands-On Experience

My examination and analysis of the traditional rabbinic literature on *eruvin* was important to establishing the doctrinal foundations of my work, and to situating my fresh application of traditional *eruv* rules to modern urban contexts within the stream of rabbinic discourse. Doctrine and theory, of course, is only part of the picture. Many prior secondary works on *eruvin* took a thoroughly abstract and theoretical approach to the topic; but this is an area of Jewish law where practice is infinitely more complex and variegated than theory might suggest. In my own work, therefore, I emphasized basing my application of traditional *eruv* doctrine to modern metropolitan areas on a thorough hand-on familiarity with the wide variety of urban landscapes

6SHE'ELOT U-TESHUBOT ("questions and answers," or "interpellations and decisions"): The Hebrew designation for the "responsa prudentium," connoting the written decisions and rulings given by eminent rabbis, teachers, or heads of academies to questions addressed to them in writing. These responsa constitute a special class of Talmudic and rabbinical literature, which in form differs both from the commentaries and from the codifications of rabbinical Judaism, yet in content is similar to both. While the commentaries are devoted solely to the exegesis and hermeneutics of the Bible, the Mishnah, the Talmud, and the older codes, and while the codes themselves and the writings of the casuists contain the rules and regulations for all ordinary incidents of life, the responsa include both these types of literature. Many of the questions were theoretical in character, since they requested information concerning all departments of knowledge. The responsa accordingly contain rulings on the philosophy of religion, astronomy, mathematics, chronology, and geography, as well as interpretations of difficult passages in the Bible, the Mishnah, and the Talmud. The older responsa in particular are important for readings and emendations of the Mishnah and the Talmud, affording valuable material for textual criticism. The questions were for the most part, however, practical in nature, since they were concerned with specific new contingencies for which no provision had been made in the codes, and the responsa thus supplement the literature of codification (Jewish Encyclopedia, 1906).

and features that constitute contemporary urban spaces. My initial fieldwork in *eruvin* was conducted from 1986-1989, when I assisted in a comprehensive assessment and reconstruction of the *eruv* in Far Rockaway, New York, an area that includes a variety of suburban and urban residential, commercial, recreational, and underutilized spaces. In the mid-1990s, I spent several years studying the areas contained within *eruvin* in the greater Chicago area and encountered the interaction between *eruvin* doctrine, the need to cross urban rivers, elevated subway systems, and pedestrian and automotive bridges and tunnels.

Conceptual Analysis

Placing my work on modern applications of *eruv* principles within the tradition of rabbinic discourse required a looking back, a thorough consideration of the rich and variegated literature addressing the rules and principles of *eruvin* from biblical to contemporary times. Understanding how these traditional concepts should apply in contemporary contexts then entailed looking at the present – in the first instance, a thorough appreciation of the realities of urban living and design in modern metropolitan spaces. Working out how Talmudic principles and codified rules of *halakhah* are to be applied in modern urban contexts that differ markedly from the ones in which they were conceived and formulated involves looking forward by conceptualizing ancient Jewish legal norms of *eruv* so as to determine how their community creating and space-demarcating aims are best actualized in modern metropolitan areas.

Original research on the history of metropolitan *eruvin* was essential to the establishment of the context of the topics that underpin contemporary metropolitan *eruvin*. Importantly, *The Contemporary Eruv* perforce had to develop and enhance the subject vocabulary to account for modern developments in the use of urban space. Establishing these definitions is one of the important secondary focuses of *The Contemporary Eruv. The Contemporary Eruv* is also original in its structuring of the *gestalt* of contemporary metropolitan *eruvin* by addressing the variables found in existing urban settings through comprehensive research. As I have already noted, the methodologies involved were mainly research on the literature and extensive fieldwork. Additional methodologies included verbal interviews and consultations with experts in the field and several experiences under the tutelage of such experts that can best be described as practicums in the conceptualization, design, and implementation phases of metropolitan *eruvin*.

7. Review of Recent Literature

Hart famously observed that a literature review should aim at

> 1. Distinguishing what has been done from what needs to be done. 2. Discovering important variables relevant to the topic. 3. Synthesizing and gaining a new perspective. 4. Identifying relationships between ideas and practice. 5. Establishing the context of the topic or problem. 6. Rationalizing the significance of the problem. 7. Enhancing and acquiring the subject vocabulary. 8. Understanding the structure of the subject. 9. Relating ideas and theories to applications. 10. Identifying the main methodologies and research techniques that have been used. 11. Placing the research in a historical context to show familiarity with state of the art developments (Hart, 1998, p. 27).

While Hart's framework provides a useful benchmark for the typical literature review, a literature review presented in both preface to and support of an already published body of work submitted as part of an application for a PhD by prior publication must necessarily differ in some respects in both objective and form. In this case, I aim to demonstrate how at the time it was produced my previously published work helped address an important gap in existing literature in the field of urban studies, and to show how since then this work has made a substantial contribution to the field.

Until the contemporary era, the overwhelming majority of the literature on *eruvin* consisted of obscure works in Hebrew, accessible to some Jewish studies specialists but largely incomprehensible to most general researchers in the fields of design and urban studies. Even within the disciplinary confines of academic Jewish studies and traditional rabbinic learning, the study of *eruvin* had yet to produce a comprehensive conceptual analysis of primary and secondary sources accompanied by fieldwork researching contemporary applications. In setting out to write *The Contemporary Eruv*, I sought to fill this critical gap by combining a conceptual analysis of the *eruv* as discussed in primary and secondary rabbinic sources with a thorough understanding of the realities of contemporary urban life in order to explain how traditional applications of the *eruv* might manifest in modern metropolitan areas. As even a cursory view of the table of contents of *The Contemporary Eruv* indicates, this fresh analysis required the clarification and synthesis of numerous variables – including legal concepts, patterns of life in modern cities, and principles and implementations of urban planning on construction – in order to produce a holistic perspective on the issues surrounding contemporary metropolitan *eruvin.*

As discussed above, *The Contemporary Eruv* engaged heavily with the breadth of prior rabbinic treatments and thinking on issues of *eruvin* in both traditional and modern contexts. At the same time, academic works on *eruvin* are almost completely unrepresented in my analysis and contextualization of my own work in *The Contemporary Eruv*. This is largely due to the fact that, simply put, prior to the publication of *The Contemporary Eruv* in 1998, the field of English-language academic *eruv* studies was virtually non-existent. I do not claim that *The Contemporary Eruv* initiated this field of study; indeed, as mentioned earlier, *The Contemporary Eruv* is fundamentally a work of rabbinic scholarship aimed at a rabbinic rather than academic readership. However, as the following brief review of some of the important academic

treatments of *eruvin* that have appeared since the publication of *The Contemporary Eruv* twenty years ago shows, many of the themes initially identified and developed in my earlier attempt to conceptualize the application of *eruv* doctrines to modern urban spaces find resonance in these later academic works.

The Contemporary Eruv essentially traced *eruvin* doctrines from the Talmud to modern times. Subsequently, Charlotte Fonrobert examined possible connections between the rabbinic laws of *eruvin* and passages found in the sectarian Dead Sea Scrolls in *From Separatism to Urbanism: The Dead Sea Scrolls and the Origins of the Rabbinic 'Eruv* (Fonrobert, 2004). While Fonrobert's forensic analysis of the parallels between the Dead Sea texts and the Talmud are intriguing from an historical perspective, her attempt to define the communality created by an *eruv* is of special conceptual interest. Explicating a theme we have explained earlier in this commentary, Fonrobert articulated how the *eruv* functions to symbolically demarcate community and space:

> [W]e can picture the '*eruv*-community in the image of concentric circles of establishing symbolic boundaries. The image works in the following way: the perimeter is constituted by the walls of the joined courtyard which frames the residential, potentially mixed community. This community includes non-Jews and other types of Jews or transgressing Jews. The outer circle of the '*eruv*-community is established by the more formal relationship of renting from non-Jews. Rather than ignoring the presence of a non-Jew altogether, renting is necessary towards the symbolic unification of the residential, mixed community of the urban neighborhood and thereby to identify the shared space as a unified *Reshut ha-yachid* with some symbolic integrity…
>
> The rabbinic '*eruv* can then be described as a project of constructing, maintaining and re-enacting a collective identity in relation to the residential space of the mixed urban courtyard. Its purpose is to create neighborhoods of what might be considered as intentional co-habitation. Finally, read on the background of the Qumranic attempts to protect the boundaries of its collective, the rabbinic '*eruv* appears as a concerted effort to formulate a theory of neighborhood (Fonrobert, 2004, p. 67).

Fonrobert does not directly refer to *The Contemporary Eruv* in her 2004 work. Building on her earlier work, however, Fonrobert subsequently revisited *eruvin* in *The Political Symbolism of the Eruv* (Fonrobert, 2005), in which she does explicitly rely on some of the conceptual analysis developed in *The Contemporary Eruv.* Fonrobert concludes that later essay with an elaboration of the community established by an *eruv*:

> [T]he rabbinic theorizing of the *eruv* community, or the ritual system of the *eruv*, can be read as a powerful way to think about the importance of neighborhood for conceiving of community. This, I would add, has particular importance in a diaspora situation. That is, a nationalist concept of collectivity assumes sovereign control over territory, and this control functions as a guarantee for the construction (or imagination) of national identity by the population living within the borders of that territory. The *eruv* does construct a collective identity with respect to space, but it does so in the absence of having control or any form of sovereignty over that space. On the contrary, it maps a collectivity

> symbolically into space over which it does not claim control, political or otherwise. It maneuvers around the existing structures of control. Playing off of Arjun Appadurai's analysis of the contemporary crisis of the concept of the nation state, due to the dynamics of globalization, as "sovereignty without territoriality," I would suggest that the *eruv* offers a powerful model of a territoriality without sovereignty and, as such, would have much to offer to the current discussions about diaspora cultures (Fonrobert, 2005, p. 29).

Fonrobert supports her suggestion by referring to my formulation of the Halachic reasoning that underlies the law of contracting an *eruv* with a non-Jewish entity.[7] This is one of many instances in which *The Contemporary Eruv*'s original elucidation of the legal principles of *eruvin* underpins subsequent scholarship in the field.

Fonrobert's suggestion has led subsequent writers to somewhat extreme analogies.[8] Thus, we find Lees (2007) writing:

> The insistence of the Orthodox Jews of Tenafly upon their rights to be different, as symbolized by their demand for acceptance of their *eruv*, resonates with the insistence of diaspora groups in many areas of the world, particularly in Western Europe, where the general movement of the modern nation-state toward modernity (and secular government) has been challenged by the enormous influx of religiously committed immigrants. In some respects, then, the *eruv* resembles the headscarves of French Muslim girls who have been demanding the right to wear them in public schools (Lees, 2007, p. 67).

Lees' exploration of the definition of "Jewish space" in suburbia is based to a significant extent on the notion of an *eruv* as an "invisible wall," as elucidated extensively in *The Contemporary Eruv*.[9]

Fonrobert's suggestion is also echoed and elaborated by Herz (2008). Herz grounds his assertion in an unsourced creative homiletic discourse:

> The city – referring to the displacement of the desert – is transformed by the *eruv* on the Sabbath into a representation of the Temple and thus from the public into the private domain. If the *eruv* area is understood as the Temple of Jerusalem, the outer area is the desert, and movement into the *eruv* is an act of wandering that culminates in the appropriation of a place.
>
> The *eruv* uses a chain of signifiers to turn the city into a private space. As the ultimate private space is the Holy of Holies, it becomes necessary to "build" the Temple over the city. Because of the "technical" difficulties of doing so, the Temple was reduced to its roof, as a sign representing the Temple. The method used to signify a roof over the city is

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7See Fonrobert, 2005, pp. 27-28 for the reference to *The Contemporary Eruv*.

8In a later review essay (Fonrobert, 2009), Fonrobert herself notes the pit into which writers often fall when they separate their theoretical agendas – creative as they may be – from the actual practices of *eruvin* "as the *eruv* disappears into total abstraction" (Fonrobert, 2009, p. 163).

9See Lees, 2007, p. 45 for the reference to *The Contemporary Eruv*.

> to make a wall around it. Thus the *eruv* proceeds from the absurd act of making a roof over the city by building a wall. Every walled space has openings in it. In the representation of the roof, doorways are therefore equivalent to walls: a series of doorways represents a continuous solid wall. The city is circumscribed and delimited by a "wall" made in "the shape of the door," with its measurements taken from those of the Gate of the *Devir* — ten cubits high and at least three wide. In this way each door signifies the Gate, and entering the *eruv* becomes a holy act. The shapes of the doors are made according to the techniques used to build the Temple, namely, two posts and a cross beam. The posts and the beams can be made of any material of any thickness, as long as they are capable of withstanding an ordinary wind: a light cord stretched over thin poles is adequate. What becomes evident is that the construction of the boundary approximates an infinite chain of symbols that function independently of material support: from a private place to the Temple, from the Temple to a roof, from a roof to a wall, from a wall to gates, from gates to the shape of a door, from a door to a post and beam, from a post and beam to a cord. Only by possessing the key for deciphering this chain of symbols, can we read the cords that are stretched from the Temple over the street junctions in contemporary urban environments. Yet this chain of references is not purely linear; the symbols connect to other entities within and outside the chain. Each also refers to the ideal city, and therefore a complex structure of references and a multiplicity of meanings are established (Herz, 2008, p. 46).

While Herz does not source this homily, it seems highly probable that he is paraphrasing and elaborating the correlation between an *eruv* enclosure and the Holy Temple that is first suggested in *The Contemporary Eruv* (p. 119).

In another work, Mann (2012) asserts that

> discourse about the construction and meaning of the *eruv* frames the city as a space that is experienced differently by different groups, activities that occur simultaneously, without actually building (or destroying) anything of substantial physical measure. Perhaps the *eruv* is another portable spatial device; though produced through a specific set of geographic coordinates—doorways and sideposts—it best suits or approximates our sense of space in a postmodern world. To the extent that the *eruv* offers another way of making a home, it is a diaspora practice par excellence (Mann, 2012, p. 143).

Mann's conclusions emerge from the distinction between *eruvin* in Israel vs. *eruvin* in the diaspora that *The Contemporary Eruv* highlights, and from the conceptualization of *"eruv* frames" as independent of "actually building (or destroying)" that *The Contemporary Eruv* elucidates.[10]

While Fonrobert became the primary source for the perception of an *eruv* as territoriality without sovereignty, the question of the accuracy of that perception predates her formulation and informs much of the literature concerning the necessity or appropriateness of municipalities

10See Mann, 2012, p. 178 for the references to *The Contemporary Eruv.* It is noteworthy that one of the headings in her chapter on *Eruv* is "The Contemporary *Eruv*."

accommodating the construction of *eruvin* in light of separation of church and state concerns, which are especially prevalent in the American legal and political context. Essays examining this question include Valerie Stoker's comprehensive and nuanced work, *Drawing the Line: Hasidic Jews, Eruvim, and the Public Space of Outremont, Quebec*.[11] Stoker notes that there are, of course, other issues that *eruvin* present to the issue of the separation between church and state:

> For instance, in a recent court case in Tenafly, New Jersey, opponents argued that the *eruv* violated the U.S. Constitution's separation of church and state by permanently affixing religious symbols to public property (in this case, utility poles). Arguments at court emphasized the need to protect residents from the imposition of religious views onto the secular public domain as a critical intention of the First Amendment's establishment clause. The U.S. District Court of New Jersey sided with the city, citing the city's objection to "committing public property permanently for a religious purpose and the apparent entanglement with religion that might result." However, this decision was overturned on appeal in the Third District federal appellate court on the grounds that bylaws regarding use of public property must be interpreted to accommodate basic religious freedoms...
>
> In other locations, people have objected to *eruvim* on aesthetic grounds, claiming that they violate zoning laws. This aesthetic argument has been a key component of the ongoing *eruv* dispute in Barnet, England, where the suburban landscape requires not only the addition of wires but of poles from which to string them. Davina Cooper has argued that this style of opposition has deliberately sought to avoid the religion versus secularism question, in part so as not to make the campaign appear anti-Semitic. However, Cooper's analysis effectively demonstrates that the real dispute is not about the aesthetics of wires and poles but conflicting understandings of a community's self-image and which subgroups within the community should be allowed to shape that image (Stoker, 2003, pp. 21-22).

Nevertheless, writes Stoker, these other issues are parts of a larger problem:

> Thus, while *eruv* disputes typically have an official focus on legal and/or aesthetic issues, these issues are often a smoke screen for deeper community conflict. This explains why many requests for *eruvim* — including several on the island of Montreal — have been granted with no controversy. *Eruv* requests are contested in locations already marked by ethnic, religious, cultural, and other tensions and where an established and therefore "correct" community image is felt to be undermined by the *eruv*'s presence (Stoker, 2003, p. 23).

11See also Hecht, R. D. (2007) Active versus passive pluralism: A changing style of civil religion? *Annals of the American Academy of Political and Social Science, 612,* 133-151, for an overview of several contentious *eruv* controversies in the US and the UK. For a legal assessment of the legal issues in the Tenafly, NY, case, see the essay by the lawyer who argued the case, Nathan Lewin, in Lewin, N. (2004) Protecting Jewish observance in secular courts, *Tradition: A Journal of Orthodox Jewish Thought, 38(1),* 95-111.

This dichotomy between the religious function of an *eruv* – which is really limited to the "internal" transaction involving the bread by which the actual *eruvei hatzeirot* is accomplished – and the secular procedures of identifying the "invisible walls" and renting the area from municipal authorities – emerges from the presentation of the issues discussed in *The Contemporary Eruv*. Basing themselves on *The Contemporary Eruv* and other sources,[12] Vincent and Warf (2002) come to this conclusion:

> The built environment is always constitutive of meaning in ways that extend beyond its instrumental functionality. Architecture is always a dream, a function, an expression of utopia and an instrument of convenience (Barthes, 1979); a lived space imbued with symbols as well as purposes. The *eruv* suggests interventions in the city, which are small-scale, static and, for the most part, not material. Thus, it provides a model for pluralist uses of the city that do not exclude other readings of the same space. However, it is precisely the symbolic content of *eruvim* that frequently generates political opposition, from both Jews and gentiles, who contend that it represents the private religious appropriation of public space, the privileging of one group's identity over others, and a threat to the mythical Enlightenment ideal of the culturally homogeneous citizen bound by universal norms of rationality. This paper has argued that the question of *eruvim* is not one of simply imposing upon urban space an obscure religious practice, but rather the willingness of authorities and residents to sanction the city as a site of multiple readings. Given the heterogeneity of contemporary urban life, endlessly celebrated in the literature on post-modernism, *eruvim* are important reminders of the diversity of social and spatial practices that permeate the Western world, a diversity that extends to include even pre-modern forms tenaciously persisting in the face of widespread secularism. Indeed, given the global upsurge in ethnic and religious fundamentalism that has occurred as a backlash to globalization, there is no reason to suspect that urban forms such as *eruvim* will disappear; many have thrived and even grown in size (Vincent and Warf, 2002, p. 49).[13]

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12 See Vincent and Warf, 2002, p. 33 for the reference to *The Contemporary Eruv*.

13 An intriguing extension of Fonrobert's suggestion is advanced by Klein (2012). He analyses a remarkable Talmudic passage that considers whether groups of sages occupying a *triclinium* (in Talmudic Aramaic, a *traklin*) – a banquet hall – and its surrounding rooms can participate in a single *eruv* or must contract multiple *eruvin*:

By comparing the house/*triclinium* assembly of associations, a *bet midrash* of sorts, to an urban quarter, while at the same time placing it within one, the *Mishnah* and *Tosefta* mark this assembly as a paradigmatic rabbinic community, and so as an ideal neighborhood. Like other urban neighborhood communities, the rabbinic assembly is not monolithic but instead comprises subgroups defined by various identities, loyalties, and locations. Nevertheless, as in the case of the city and its diverse society, architecture can, when oriented by ritual, make a place for consensus and unity. It may be said, therefore, that the rabbinic community, which is positioned in the city through the framework of the *triclinium*, is ideal precisely because it represents the negotiation and reconciliation of difference both within this community and in regard to its outside world (Klein, 2012, p. 352).

The case of a *triclinium* as the envelope of one or multiple *eruvei hatzeirot* highlights the utterly secular character of an *eruv* enclosure, with its religious re-purposing manifest only in the mostly abstract transaction of the collection or designation of the *eruvei hatzeirot* bread.

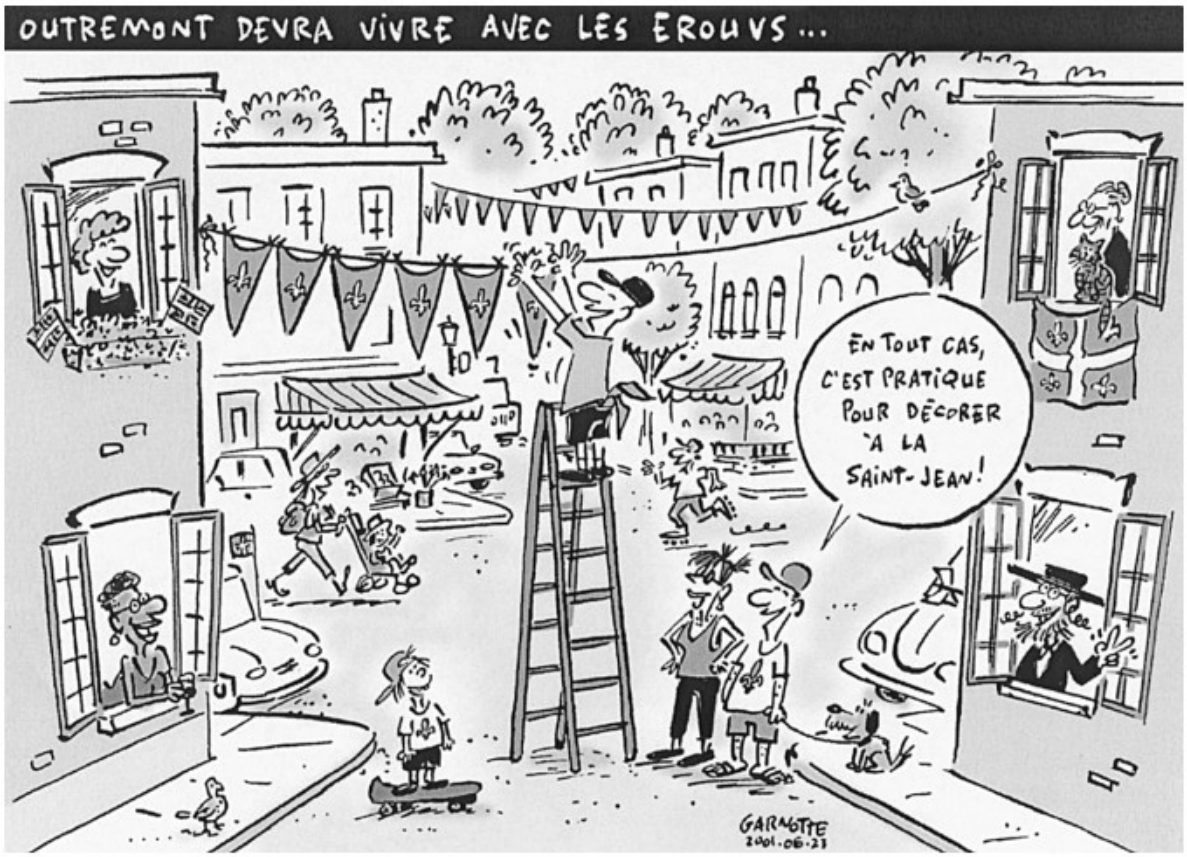

FIG. 1.—Cartoon by Garnotte (Michel Garneau), *Le devoir* (June 24, 2001), op-ed page.

Illustration 1: "Well, at least it makes it easier to decorate for St. Jean's."

Illustration 1, a cartoon that Stoker (2003) included in her 2003 essay discussing the *eruv* in Quebec, speaks volumes about how *eruvin* may function as territoriality without sovereignty and the elasticity of layers of meaning: The wire that serves for one culture as an *eruv* serves for another culture as a flag line. Each culture (and in this specific case, religion as well) infuses an otherwise mundane and neutral object with its own layer of meaning.

Nevertheless, *The Contemporary Eruv* has also been cited as a basis for "banning" *eruvin* in a secular state. For example, Susman (2009) selectively cites specific laws and principles that she construes to assert that *eruvin* should be considered unconstitutional.[14] Schlaff (2003), who also

14See Susman, 2009, pp. 93,94,95,99,100 for the references to *The Contemporary Eruv.* This essay was cited by Jack O'Dwyer in a polemical article urging the courts to overturn a Jan. 6, 2015, decision allowing the construction of an eruv in Westhampton, New York. See http://www.odwyerpr.com/story/public/3840/2015-01-12/ucla-law-prof-says-eruvim-are-unconstitutional.html.

cites *The Contemporary Eruv*, was far less certain that this should be the case.[15]

Fonrobert's perspective – rooted in *The Contemporary Eruv* – that the *eruv* helps demarcate territoriality in urban space can be taken very far – perhaps too far. Cousineau (2005) cites an extreme response to the "urban vision" of the *eruv*-builders in North London:

> A former Shadow Cabinet minister made a sinister comparison between the act of *eruv*-making and the Nazi construction of European ghettos. [He] . . . suggested that *eruv* users could be likened to the victims of the Holocaust whom Schindler was trying to save . . . Schindler's protégées were depicted as powerless, impoverished, and crowded ghetto dwellers, an image that plays on negative and even frightening images of enclosure. The author's intent was that, by analogy, *eruv*-using Jews should be perceived in this way. Although the *eruv* makers argued for the *eruv* as a space of liberation, opponents chose to interpret it as one of restriction. Holocaust survivors wrote statements about how, for them, the poles and wires of the *eruv* evoked visions of concentration camp fences. Other Holocaust survivors denied this image, engaging in a debate that highlighted the formal ambiguity of the structure and its openness to a variety of interpretations (Cousineau, 2005, pp. 51-52).

Although the "invisible walls" that constitute an *eruv* are not the focus of her essay, Cousineau does refer to their subtlety in an urban area, basing herself in part on *The Contemporary Eruv.*[16]

The Contemporary Eruv has thus served as an important work in subsequent academic and popular treatments of *eruvin* and the social, legal, and cultural implications of the *eruv* in modern urban spaces. Many other works that do not directly reference *The Contemporary Eruv* have nonetheless paraphrased ideas developed in *The Contemporary Eruv* and further developed by the subsequent works discussed above. These include Peach (2000, see p. 623); Siemiatycki (2005, see p. 257); Steinhart (2011, see p. 265). Additionally, studies of identities and socio-spatial issues cite *The Contemporary Eruv* (see Valins, 2000, pp. 581,582,583 and Valins, 2003, p. 162).

As we have seen, most of the works that we have cited in this literature review have utilized *The Contemporary Eruv* – which has come to be regarded as an important foundational English-language text on the parameters of contemporary metropolitan *eruvin*. These works tend to focus on the cultural and political issues surrounding *eruvin.*

Although *The Contemporary Eruv* does not deal directly and explicitly with the aesthetics of *eruvin,* the topic is addressed within the broader context of the spatial systems and structures of communal existence in the *eruv*. Thus, *The Contemporary Eruv* has been utilized as a resource in a relatively new genre that focuses on the aesthetics of *eruvin*. One salient example of such work was a recent 2012 exhibition at Yale University, *Shaping Community: Poetics and Politics of the*

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15 See Schlaff, 2003, p. 832 for the reference to *The Contemporary Eruv.*

16 See Cousineau, 2005, p. 57, for the reference to *The Contemporary Eruv.* Extensive discussion of various perspectives on the abstractions of boundary definitions created (or not!) by an *eruv* are considered in Rapoport, M. (2011) Creating place, creating community: The intangible boundaries of the Jewish 'eruv'. *Environment and Planning D: Society and Space, 29,* 891-904.

Eruv.[17] The curator of that exhibition, Professor Margaret Olin, has expanded this area of study (Olin, 2014).[18] Olin's work, as well as that of other scholars, such as Kingwell (Kingwell, 2008), draw in important ways on the material that was clarified and elucidated in *The Contemporary Eruv*.[19]

In another exhibition entitled *It's a Thin Line: The Eruv and Jewish Community in New York and Beyond*, which ran at the Yeshiva University Museum in 2012, displayed *The Contemporary Eruv* as a featured artefact in the display.[20] Many other examples of crossover analysis of socio-spatial analysis and *eruv* aesthetics can be found in various online outlets.[21] One interesting examination of the aesthetics of *eruvin* was undertaken by graduate students in landscape architecture at the University of Virginia; while the researchers interviewed me about my work, the project seems to have stalled at some point in 2012.[22] Even more abstract forms of "*eruv* art" have been based on the special and architectural explorations offered in *The Contemporary Eruv*, including a digital graffiti installation that follows the original boundaries of the late-nineteenth and early-twentieth century *eruv* that served the vibrant Jewish community of the Lower East Side of Manhattan, New York (Malkin, 2005). *The Contemporary Eruv* has also influenced at least one work of popular fiction in Michael Chabon's bestseller, *The Yiddish Policemen's Union*, where my work is acknowledged in the "Author's Note" at the end of the book (Chabon, 2007, p. 418).

The Contemporary Eruv touches relatively briefly on the history of metropolitan *eruvin* and the controversies surrounding them. Much more extensive treatments of the history have been written or edited by Mintz (Mintz, 2011, 2012, 2014). Particularly in his doctoral dissertation, *Halakhah in America: The History of City Eruvin, 1894-1962*, Mintz extensively details both ancient and modern *eruvin*. In several places Mintz relies on the original research first offered in *The Contemporary Eruv*. For instance, Mintz draws on discussions in *The Contemporary Eruv* of the Jewish law parameters of renting the space to be used to construct an *eruv* in an urban area, which emerged from rabbinic discussions regarding the proper method for building an *eruv* in late nineteenth century St. Louis, Missouri (Mintz, 2011, p. 213); the proper identification of *karpaf* domains in modern urban spaces (Mintz, 2011, p. 268); and the parameters of the use of telephone poles for an *eruv* that emerged from the early 20th century Toronto *eruv* (Mintz, 2011, p. 305).[23]

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17 See Olin, 2012, p. 30 for the reference to myself. (That publication, an illustrated overview of the exhibition, is at http://www.academia.edu/2140024/Shaping_Community_Poetics_and_Politics_of_the_Eruv.)

18 See Olin, 2014, p. 6, for the reference to *The Contemporary Eruv*.

19 See Kingwell, 2008, p. 261, for the reference to *The Contemporary Eruv*.

20 See the illustrated overview of the exhibition at http://yumuseum.tumblr.com/ItsAThinLine. See also http://tabletmag.com/jewish-arts-and-culture/128660/can-boundaries-cause-unity. See also the articles on an earlier installation at Paris's Museum of Jewish Art and History at http://www.thecjm.org/on-view/in-the-past/sophie-calle-public-places-private-space.

21 See, for example, http://paradoxcity.files.wordpress.com/2013/12/eruv_arch_boards_page_1.jpg.

22 See http://aspatialpractice.org/. I was interviewed by the researchers, but the project seems to have stalled sometime in 2012.

23 In an earlier crossover essay, combining history and theory with many illustrations, Cousineau (2006) also makes use of the original research in *The Contemporary Eruv*, specifically in regard to the late 19th century *eruv* in the

In rabbinic circles, the publication of *The Contemporary Eruv* has been followed by Shlomo Francis and Yonason Glenner's *The Laws of an Eruv: A Comprehensive Review of the Laws of Eruvin and Their Practical Applications* (2013). This work does not seem to be cited in *eruv* literature, though this may be due to its relatively recent appearance. Another article, *The Suburban Eruv: Orthodoxy on the Edge* (Rothstein, 2014), does cite Francis and Glenner's work, and is a comprehensive study in its own right that touches on most of the areas of *eruv* studies we have surveyed in this review. This last work is also accompanied by many excellent illustrations, which are of no small importance in a field of study that seeks to explain how principles governing architecture and use of space originally formatted in the ancient Mediterranean world should be applied in modern urban settings.[24]

Lower East Side of Manhattan. See Cousineau, 2008, pp. 81,83 for the references to *The Contemporary Eruv.*

24See Rothstein, 2014, pp. 4, 6, 17, 18, 19 for references to *The Contemporary Eruv* and quotes from an interview with me.

8. Other Supporting Published Works

The following published articles, and one additional unpublished work currently under review for publication with the JOURNAL NAME have been included in the dossier in addition to *The Contemporary Eruv* in support of this application for the degree of PhD by prior publication.

1. Bechhofer, Y. G. (2009). Pathways: Easements in Halacha. *Journal Of Halacha And Contemporary Society, (LVII),* 65-72.

This paper is the first comprehensive survey in the English language of the parameters of easements in Jewish Law. It traces the development of the concept from the Talmud through the 20th century authorities. The research and analysis are original. Like the study of *eruvin*, this work addresses the interface of Judaism with historic and contemporary issues of public vs. private space and the quasi-ownership by the public of space that is the property of another entity.

2. Bechhofer, Y. G. (2013). May You Invite for Shabbat Someone Who May Desecrate the Sabbath to Attend?. *Journal Of Halacha And Contemporary Society, (LXVI),* 23-38.

This paper is the first comprehensive survey in the English language of the parameters of relationships between observant and non-observant Jews in this particular area of Sabbath observance. It traces the development of the issue from the Talmud through the 20th century authorities. The research and analysis are original. Like the study of *eruvin*, this work addresses the different ways in which Judaism treats observant vs. non-observant adherents, and the social and societal issues that surround the topic.

3. Bechhofer, Y. G. (2014). Does Psak Apply to Matters of Hashkafa?. *Journal Of Halacha And Contemporary Society, (LXVII),* 23-36.

Hashkafah is one of the synonyms for Jewish thought. This paper is the first comprehensive survey in the English language of the interface of Jewish law and Jewish thought. It considers the similarities and dichotomies between the two major component areas of Judaism. The research and analysis are original. This is a "next frontier" contribution, as my published research to this point has been concerned mostly with Jewish Law.

4. Bechhofer, Robert Y. G. (2017) The Non-Territoriality of an Eruv: Ritual Bearings in Jewish Urban Life, *Journal of Architecture and Urbanism, (41)3,* 199-209.

This paper considers the definition and meaning of an *eruv* as "territoriality without sovereignty" in Jewish tradition (Fonrobert 2005). It begins by exploring the origin and development of the term *eruv* itself, as well as its applications in different urban settings. It distinguishes between, on the one hand, the "enclosure" of the *eruv* that is made up of various natural and artificial structures that define its perimeter and, on the other hand, the "ritual community" created by the symbolic collection of bread that is known as *eruvei hatzeirot*. It suggests that much of the controversy, including legal issues of separation of church and state, as well as emotional issues such as the charge of "ghetto-ization", surrounding urban *eruvin* (plural of *eruv*) may be connected to the identification of the area demarcated by an *eruv* as a "territoriality". It argues

that the enclosure of an *eruv* is not in itself religious in nature but rather makes up a completely arbitrary and generic "space", and that it is only through and on account of the *eruvei hatzeirot* that this space becomes meaningful as a purely symbolic "place" one day a week (on the Sabbath). In the course of this analysis, it considers the one "weekday" on which an *eruv* may be significant – the Jewish holiday of Purim – and how on that day it may be a tool by which the area defined as part of a given city may be extended.

9. Areas for Future Research

In this section, I briefly describe five distinct areas of research that provide likely avenues for further scholarly exploration into the applications and implications of contemporary *eruv* construction and use in modern metropolitan areas. These areas include inquiries into the interaction of *eruvin* and architecture, law, sociology, culture, and ethics.

Eruvin and Architecture

One potentially fruitful area of further research might explore the theory and practice of *eruv* design and construction from architectural, landscaping, and aesthetic perspectives. *Eruvin* both impact and are impacted by each of these three concerns. For reasons of both cost and convenience, *eruvin* often make use of existing architectural features to form the symbolic "wall" boundaries of the *eruv*-community, and in some cases where Jewish law determines that symbolic boundaries are insufficient, existing architectural forms may be utilized as actual barriers around the enclosed *eruv* space. These features – from the terraformed shorelines of Manhattan island, to elevated subway tracks, dense high-rise apartment buildings, and wide pedestrian malls all impact the topographic limits of possible *eruv* construction. Landscaping and urban beautification projects likewise relate closely to the construction of *eruvin*, as parks and greenspaces can impact the legal viability of symbolic *eruv* boundaries that enclose them, and at the same time, the concentration of Jewish populations in *eruv*-enclosed areas and rising property values tend to affect urban development in many ways. Finally, the aesthetic implications of *eruv* construction directly – and the indirect impacts on local planned land use in light of the needs of traditional Jewish residents – is worthy of study.

Eruvin and the Law

Numerous recent controversies related to the proposed construction of *eruvin* in suburban American communities highlight the continued relevance and value of the study of the interaction between *eruv* construction and the law. Indeed, especially in the United States, *eruvin* pose an interesting case study of the tense crossroads of American constitutional commitments to both a government-enforced freedom of religious practice and the governmental non-establishment of religion. On the one hand, *eruvin* are a critical piece of Jewish communal infrastructure that enables traditional Jews to develop residential roots and strong local communities in accordance with the limitations imposed by rabbinic Sabbath restrictions on carrying. Opposition to the construction of *eruvin* – often thinly veiled attempts by predominantly white Protestant neighborhoods to prevent the religious "other" from moving in next door – thus impose burdens on Jews' ability to freely practice their faith. At the same time, the construction of *eruvin* almost always relies on using existing utility poles and other governmental resources and permissions to develop the kinds of symbolic *eruv* boundaries that comply with rigorous Jewish legal standards. This latter reality thus implicates not insubstantial religious establishment concerns, as it requires government to at the very least permit, and

sometimes even actively support the observance of a religious practice. In an important sense, then, *eruvin* represent a particular instance of the kinds of conflicts between freedom for religion and freedom from religion that continue to animate much political and legal policymaking in the United States today, the implications of which should be more fully explored.

Eruvin and Sociology

The construction and maintenance of *eruvin* raise a number of fascinating sociological questions and concerns. *Eruvin*, of course, are a communal institution designed to create and facilitate the existence of Jewish community in public space. As a communal phenomenon, however, *eruvin* have proven to be fascinatingly divisive. Some Jews will use a given *eruv* boundary to carry on the Sabbath, while others will not; some rabbis are recognized as reliable experts in the construction and maintenance of *eruvin* while others are not; some communities and denominations view *eruvin* as a positive religious feature that promotes community and ease of religious practice, others relate to *eruv* as a religiously harmful and impious legal loophole, and still others treat *eruvin* with substantial disdain precisely because they view the use of *eruvin* as an anachronistic ritual best left in the past. What helps explain these very different attitudes and perspectives towards *eruvin*? Might they correlate to other sociological phenomena, such as communal and religious attitudes to the ideal public or private roles of women (who are often primary beneficiaries of *eruvin*)? How might the democratization of religious knowledge and authority impact perceptions about the kinds of expertise necessary to construct *eruvin*? These kinds of questions have not been adequately addressed to date, and will likely offer important insights into the ways Jewish (and other) social groups function and evolve.

Eruvin and Culture

Eruvin have, to date, made appearances in a *New York Times* bestselling novel, Jon Stewart's popular television program, *The Daily Show*, and other media outlets as something both newsworthy and entertaining.[25] Future research might explore how and why it is that *eruvin* – as distinct, perhaps, from many other similarly obscure Jewish practices – have made such substantial inroads into general consciousness. Further projects might also seek to assess the impact that the prominence of *eruvin* in media has on public perceptions of both *eruv* construction itself, as well as of Jewish ritual observances and Jews more generally.

25http://thedailyshow.cc.com/videos/1jsrl7/the-thin-jew-line; An episode of a popular television show, "The Good Wife," had a plot surrounding the issue of an *eruv* – http://blogs.wsj.com/speakeasy/2009/11/10/the-good-wife-season-1-episode-7-unorthodox-tv-recap. An episode of another popular television show, "Babylon 5," had a plot based on the concept of *eruv*. See http://www.absoluteastronomy.com/topics/Day_of_the_Dead_%28Babylon_5%29. Other examples of the appearance of *eruvin* in popular culture include the 2012 prize-winning poem *Eruv* by Eryn Green (see http://yalepress.yale.edu/youngerpoets.asp, see also http://www.amazon.com/Eruv-Yale-Series-Younger-Poets/dp/0300201222) ; the 2009 prize-winning short story *Eruv* by David Milofsky. See http://blr.med.nyu.edu/content/editors-picks/eruv ; and Adam Langer's 2005 novel for young adults, *The Washington Story: A Novel in Five Spheres* (Penguin Group), which involves an *eruv* with which I was somewhat involved, in the West Rogers Park neighborhood of Chicago.

Eruvin and Ethics

Questions regarding the intersection of *eruvin* and ethical concerns are not wholly new. A recent exhibit on *eruvin* held at the Yeshiva University Museum in 2012 noted that the construction of *eruvin* raise a number of important concerns:

> How far should and do civic authorities go to accommodate religious practices? How does the creation of an *eruv* impact community, and affect the demographics and character of a neighborhood? And where do you draw the line between public and private? From a notorious segment on The Daily Show about the proposed Westhampton Beach *eruv* to city hall debates around the world, eruvs are still a hot-button issue (Yeshiva University Museum, 2012).

This passage succinctly references a number of ethical issues that arise from the relationships between modern *eruvin* and their impacts on demographics, property values, and the sense of belonging or alienation that may be felt by neighborhood residents as a result of *eruv* construction. Earlier in this commentary, we briefly referred to the way in which some opponents of *eruvin* views these enclosures as a form of ghettoization. *Eruvin* create community, to be sure, and they do so through the symbolic demarcation of space rather than the construction of physical barriers. But undeniably, such markers risk leaving those living within *eruv*-spaces but who are not members of the local Jewish community feeling isolated in their own neighborhoods, while also potentially encouraging Jews living within *eruv*-spaces to become more isolated and take less interest in the affairs of the broader community. These are not insubstantial concerns, and the answers do not cut in only one direction. Continued research into the impacts that *eruvin* have on both Jewish and non-Jewish communities is necessary.

My personal experience as an expert in the field of *eruvin* has also alerted me to important personal and professional ethical concerns. Rabbinic Judaism is a decentralized, non-hierarchical tradition, and for at least the last fifteen-hundred years, all rabbinic authority has been persuasive rather than coercive; rabbis and Jewish law decision-making are always "an" authority rather than "in" authority. In effect, this means that specialized expertise in discrete areas of Jewish law and practice are the principal currency of rabbinic persuasiveness. At the same time, rabbinic Judaism has a very strong tradition of deference to local rabbinic figures, even against the more authoritative opinions of greater experts living in other locales. For many reasons, including the demise of official state-sanctioned Jewish communities, or *kehillot*, mobility, and the proliferation of access to information, the importance of local rabbinic authorities has waned over time. Still, tensions exist between the prerogatives of local scholars to determine local questions of Jewish law, and the perceived greater expertise of geographically distant but perhaps more important rabbinic figures. These realities raise important ethical questions in the context of practical *eruv* work, especially as it relates to non-local experts in the laws of *eruvin* impinging upon the prerogatives of local rabbinic leaders.

To illustrate this issue, I reproduce below a 2012 correspondence between myself and the rabbi of a small community in the greater New York area. The letters have been slightly edited, and some of the Hebrew terminology translated. Following a hands-on exploration of the local

community's *eruv* with a number of my own students, I sent the following note to the local rabbi expressing concerns about the acceptability of the *eruv* under normative Jewish law:

> Dear Rabbi A.
>
> I am an instructor in a local yeshiva high school and the author of *The Contemporary Eruv: Eruvin in Modern Metropolitan Areas*. As a school trip, two classes recently toured the [location] *eruv*, following the map published on the synagogue's website. We chose [location] because of its convenience and proximity.
>
> For several weeks I have been agonizing as to whether it is appropriate for me to "report" to you on an unsolicited inspection. In the end, obviously, I have decided that it is appropriate. Therefore, I am reporting that following the route on the map we had difficulty finding even a single kosher *lechi*, and lost the continuation of the *eruv* altogether (crossing [street] on [street]). Based on my experience in the field, it seems to me that the *eruv* was built properly, but has deteriorated over time to the point where it is virtually non-existent.
>
> I would be happy to elaborate and/or work with you to rectify the situation. You can reach me by return email, or by phone at my cell, 845 216 1617.
>
> Sincerely,
>
> Yosef Bechhofer

Shortly thereafter, I received the following reply from the rabbi to whom my original message was addressed:

> Dear Rabbi Bechhofer,
>
> Thank you for your message and your concern re. the [location] *eruv*. Please be aware that the recently published *eruv* map on the website was based upon an older construction and not updated, which would explain some of the inaccuracies. I have contacted our *eruv* supervisor, Rabbi B., and asked him to contact you and walk you through the *eruv*, even to take you around, if that would help.
>
> I am however, concerned that you would take two classes of young students around a community *eruv* without contacting the community's rabbi or the *eruv* builder to explain the legal rulings they relied upon. There are now dozens of young men who are under the impression that the [location] *eruv* is invalid. I believe that that is an irresponsible act on your part and I hope that, if your questions are answered, you will inform your students of that.
>
> Sincerely,
>
> Rabbi A.

That was the extent of the correspondence. There was no further follow up. At the time, Rabbi B. was desperately ill, and passed away shortly thereafter. I never did complete an on-site review of the local *eruv* per Rabbi A.'s recommendation.

Rabbi A. may well have been right, that I had no right to conduct a public review of the *eruv* in his community. On the other hand, an *eruv* – particularly one for which a map has been publicly posted – would seem to be open for anyone to observe and inspect. What right and/or responsibility does a scholar with special expertise in the field of *eruvin* have to examine and assess an *eruv* overseen by a local rabbi who may lack such expertise? In what sense might an *eruv* construction be "good enough," and concern for the prestige and prerogatives of the local rabbinic authority sufficiently weighty as to justify ignoring what to the expert may appear to be serious Jewish law defects with the local *eruv*? On some level, the famous aphorism, "To a hammer everything is a nail," may indeed be true; does specialized expertise in a particular field – whether *eruvin* or otherwise – compromise one's ability to see the bigger picture?

I describe concerns arising from a similar incident to which I was a party in the preface to the third edition of *The Contemporary Eruv*:

> I was recently asked to inspect an *eruv* that was entering its fifteenth year of operation. Shortly after beginning our tour of the *eruv*, I discovered that the *eruv* had been invalid from day one! The problem – a prevalent, yet frequently overlooked, problem – was that an elevated roadway that ran high above the *eruv*'s (meticulously constructed) perimeter, came down to ground level in the middle of the *eruv*. Were the roadway not to have had ramps onto or off of it within the perimeter of the *eruv*, the *eruv* would have been perfectly valid. But since the ramps did come down in the middle of the *eruv*, they constituted [a serious bar to the *eruv*'s validity]. . . In a similar, earlier experience, one expert in *Hilchos Eruvin* [the laws of *eruvin*] discovered, in a certain *eruv* that had been built under the auspices of distinguished local *Rabbonim* [rabbis], an abandoned railway bridge that generated the same problem. In an even earlier experience, I discovered that a certain distinguished *Rav* [rabbi] who had supervised the construction of an *eruv* in a metropolitan area was unaware [of a fairly basic Jewish law requirement that had simply been ignored in the construction of the local *eruv*].

These foregoing incidents raise similar ethical concerns to those discussed above. While Jewish law does not recognize any formal hierarchy of juridical authority, there is often a consensus as to the expertise of one authority over another authority in specific legal areas. How such a consensus comes to be established, and the extent to which it gives one rabbi the right to render a ruling concerning another rabbi's *eruv* is an ethical issue which warrants further research. In reaching conclusions in *The Contemporary Eruv*, I am asserting that some of the rabbis whose works I cite, as well as some of the rabbis with whom I have corresponded, possess greater authority than other rabbis. In truth, however, such claims are far from self-evident. It would be interesting to explore the ethics involved in preferring the ruling of one rabbi over that of another rabbi.

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The Non-Territoriality of an *Eruv: Ritual Bearings in Jewish Urban Life*

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Abstract

This paper considers the definition and meaning of an *eruv*[1] as "territoriality without sovereignty" in Jewish tradition (Fonrobert 2005). It begins by exploring the origin and development of the term *eruv* itself, as well as its applications in different urban settings. It distinguishes between, on the one hand, the "enclosure" of the *eruv* that is made up of various natural and artificial structures that define its perimeter and, on the other hand, the "ritual community" created by the symbolic collection of bread that is known as *eruvei chatzeirot*. It suggests that much of the controversy, including legal issues of separation of church and state, as well as emotional issues such as the charge of "ghetto-ization," surrounding urban *eruvin* (plural of *eruv*) may be connected to the identification of the area demarcated by an *eruv* as a "territoriality." It argues that the enclosure of an *eruv* is not in itself religious in nature but rather makes up a completely arbitrary and generic "space," and that it is only through and on account of the *eruvei chatzeirot* that this space becomes meaningful as a purely symbolic "place" one day a week (on the Sabbath). In the course of this analysis, it considers the one "weekday" on which an *eruv* may be significant – the Jewish holiday of Purim – and how on that day it may be a tool by which the area defined as part of a given city may be extended.

The Biblical and Talmudic Origins of *Eruv*

The study of the *eruv* in the ritual life of cities reveals a complex and little understood aspect of Jewish tradition that has a particular bearing on the way urban spaces in contemporary cities are used and occupied. In describing the laws of the Jewish Sabbath, Scripture (*Exodus* 16:29) forbids a person situated in a public domain (*reshut ha-rabbim*) to carry or convey objects any further than four cubits (Babylonian Talmud, *Eruvin* 48a). The Biblical context is the manna that sustained the Israelites in the desert. The verses explain that manna would not fall on the Sabbath so that the Israelites not have to collect, carry, and transport it that day. R. Samson Raphael Hirsch posits that the explicit Biblical ban on the inappropriate transportation of an object (most of the laws of the Sabbath are not explicit in the Bible but were transmitted orally) was necessary so as to underline that transporting an object is no less a creative activity than the other 38 forms of activity proscribed on the Sabbath (Hirsch 2005: 284-287).[2] As the public domain in the desert was an open expanse, one of the criteria of a *reshut ha-rabbim* is that it not be enclosed, which is defined as being surrounded three or more walls.

According to Talmudic tradition (Babylonian Talmud, *Eruvin* 21b), King Solomon extended the prohibition to enclosed public areas that do not fall into the category of *reshut ha-rabbim.*[3] At the same

1 Sometimes spelled '*eruv*.

2 See also (Bechhofer 1998: 119).

3 There are several forms of land use that fit into this category. Generally, an area that is linked by proximity and usage to

time it was stipulated that the Solomonic prohibition (as opposed to the Scriptural ban) could be remedied by an *eruv*.

The word *eruv* (plural: *eruvin* or *eruvim*) means "mixture" or "unification." In the Talmud, it refers to the symbolic amalgamation of all the residents in houses that surrounded a common courtyard via a common meal. This unification allows those residents to carry from their houses into the courtyard and vice versa. In common usage, the term *eruv* is a shortened form of the complete phrase *eruvei chatzeirot*, referring to "unifications of courtyards" (a *chatzer* is a courtyard, plural: *chatzeirot*).

As the areas to which it was applied were enclosed courtyards, the term *eruv* was originally unconnected to the enclosure of an area. It referred to the symbolic unification. This unification was (and still is) accomplished by setting aside a certain amount of bread before the Sabbath, pronouncing an appropriate blessing, and stating that this *eruv* permits residents and guests to carry to and from their homes to the common area, and from home to home as well. Through this mechanism, ritual enactments and their spatially enclosed settings are demonstrably bound and interconnected. Indeed, in the Talmud the term extends *only* to houses and courtyards. Carrying into, from, and within an area that encompasses streets was allowed, following proper enclosure, by a similar but different mechanism: *shitufei mevo'ot,* "partnership in streets" (a *mavoi* is an alley or a street, plural: *mevo'ot*). When a courtyard or street was populated by both Jews and non-Jews (or non-Sabbath-observing Jews), an additional mechanism was (and is) required: *sechirat reshut,* "renting of the domain" (*sechirat* means the "renting of") from those individuals who are not Sabbath-observant, either individually or collectively.[4]

The focal point of the enactment of *eruvei chatzeirot* was the collection of the bread:

> R. Joshua said: Why do we make *eruvei chatzeirot*? For "pathways of peace" (*darchei shalom*). It once happened that a woman thought she was detested by another woman [who lived in the same courtyard]. The first woman sent her young son with the *eruv* [her contribution to the communal collection of bread] to the second woman. The second woman took the bread and hugged and kissed the boy. The boy went back to his mother and told her what happened. The first woman said: "She loves me so much? I did not know!" As a result they made peace between themselves. As Scripture (*Proverbs* 3:17) says: *Its [the Torah's] ways are ways of pleasantness and all its pathways are peace* (Jerusalem Talmud, *Eruvin* 3:2).

Only once, however, in the form of a verb, does the Talmud use the term *eruv* to refer to the enclosure.[5] The first times we find it used in the form of a noun to reference to the enclosure that is a precondition for the *eruvei chatzeirot* are, in the East, in the 8th-century Babylonian Halachic work, *Halachot Gedolot* (Kayyara 1888: 127) and in the West in the 13th-century Italian Halachic work, *Piskei HaRid* (Di-Trani 1966: 44).[6]

houses and other structures is defined as a private domain (*reshut ha-yachid*), while areas that are not directly linked to structures are defined as *karmelit*, a term that translates roughly into "half-baked." See (Bechhofer 1998: 6-26) for a fuller analysis of the Sabbath domains and prohibitions and their remedies.

4 See (Bechhofer 1998): 103-118) for a fuller analysis of these mechanisms.

5 Babylonian Talmud, *Eruvin* 6a. The Talmud there considers whether certain structures can be used to make an *eruv* in a *reshut ha-rabbim.* The actual word *eruv* as a noun does not appear there. It appears in the form of a verb – *me'arvin*, "make an *eruv*."

6 See also http://eruvonline.blogspot.co.il/2006/02/part-1a-various-issues-regarding.html. It would be interesting to explore whether the discrepancy reflects a discrepancy in the spreading of urban populations beyond ancient walls in

Contemporary Urban *Eruvin*

For thousands of years, however, cities were generally surrounded by walls. While there were concerns about breaks in the walls and gateways, few additional structures were necessary (see Illustration 1). Thus, to enable themselves to carry on the Sabbath within a city, the Jewish residents needed only to rent the right to carry from the authorities (*sechirat reshut*)[7] and perform the *eruvei chatzeirot*.

Over time, older cities outgrew their walls. Newer cities were built without walls altogether. These developments posed quandaries for the Jewish populations of urban areas.

> We have very interesting examples from the Polish lands occupied by Prussia after 1795 and 1815, when reformers from Berlin came to these eastern regions and decided to start modernisation with the destruction of city walls – not knowing that in this process they also destroyed the existing *eruvs* (Schlör 2007: 2-3).

For the first time, Halachic (Jewish Law) authorities were forced to grapple with the challenge of effectively enclosing a city in a way that would be acceptable to the civil authorities. The least obtrusive and most economical Halachic method of enclosing an area is a *tzurat ha-petach,* "the form of a doorway." A *tzurat ha-petach* consists of two poles (the doorposts) with a wire across the top (the lintel) and the variations on that theme. The rationale of this solution is that a door frame is an Halachically valid form of enclosure (*Eruvin* 11b). *Eruvin* of this sort enclose areas as small as a backyard and as large as entire neighborhoods or cities (see Illustration 2).

The invention of the telegraph and telephone and the resulting proliferation of poles and wires in metropolitan areas made this method especially prevalent and expedient. In ancient and Medieval cities (with their more clearly defined boundaries, gates, and thresholds), disputes and controversies were rare. Walls are walls. The development of complex utilitarian infrastructural elements in the modern city (such as electricity cables and poles) and their casting as parts of *eruv* perimeters has given rise to more disputes and controversies concerning the legality of contemporary *eruvin* from both Jewish and secular perspectives.

A communal or urban *eruv* usually entails little installation of wire and poles. For the most part, pre-existing structures serve as part of the communal enclosure (see Illustration 3). To utilize these pre-existing structures, urban *eruvin* often follow seemingly illogical patterns, such as including a sidewalk on one side of a street while excluding the sidewalk on the other side, cutting through alleys, or encompassing broad areas with few Jews. These structures are often actual walls: fences, embankments, riverbanks, sides of buildings, etc. Almost invariably, however, urban *eruvin* incorporate long spans of overhead cable and the poles to which this cable is attached. Each segment in a series of poles with overhead wires is modified as needed so as to form a *tzurat ha-petach*.

Academic research often speculates on the spatial definitions and dispositions of the *eruv* throughout history, with particular emphasis on its role in validating Jewish urban life in a broadly secular society.

Italy vs. Babylon.

7 For an overview of the procedure see (Bechhofer 1998: 111-116). Some of my interest in *eruv* stems from my excitement at being present, as a young lad of 10, when in 1972 "Hempstead Town today symbolically leased a square mile of West Hempstead to an Orthodox Jewish Congregation" (*The New York Times*, March 28, 1972). The term was twenty years for a consideration of one dollar.

These are not uniquely Jewish areas of research. One researcher (Smith 2007) draws a parallel to Searle's (1995) example of a primitive tribe that built an actual wall to demarcate its territory, which over time decayed into a line of stones that was still recognized as the tribal boundary.

> The line of stones now has a function that is not performed in virtue of sheer physics but in virtue of collective intentionality…. The line of stones performs the same function as a physical barrier but it does not do so in virtue of its physical construction, but because it has been collectively assigned a new status, the status of a boundary marker (Searle 1995: 40).

It is important to identify and define that "line of stones" and the "collective intentionality" as they emerge from the application of the ancient Solomonic traditions of *eruv* to the contemporary city, with its pre-existing instrumental (technologically driven) urban infrastructure. What appear in everyday urban life as prosaic – such as poles and fences – carry potentially problematic implications in mapping the dynamics of *eruv* communities in the contemporary city. Yet it is important to note that such mapping of communal activity is relevant and in effect only one day a week – on the Sabbath. As Schlör states:

> A certain space, which during the week has the same appearance and the same function for Jews and non-Jews, on the Sabbath changes its meaning for the Jews because of Jewish law, whereas for their non-Jewish neighbors it does not (Schlör 2007: 2).

The *Eruv* as a "Territoriality"

The identification of this thematic of a Jewish community – its "invisible" arrangement of symbolic relationships within the visible (and tangible) systems of a secularized and instrumental world – raises important questions about the capacity for such co-existence in an increasingly globalized and fragmentary age. For example, does such invisibility, except in the eyes of observant Jews, simply mask underlying conflicts and potential territorial divisions? Fonrobert (2005), however, advances the idea that an *eruv* actually creates "territoriality without sovereignty."

> The rabbinic theorizing of the *eruv* community, or the ritual system of the *eruv*, can be read as a powerful way to think about the importance of neighborhood for conceiving of community. This, I would add, has particular importance in a diaspora situation. That is, a nationalist concept of collectivity assumes sovereign control over territory, and this control functions as a guarantee for the construction (or imagination) of national identity by the population living within the borders of that territory. The *eruv* does construct a collective identity with respect to space, but it does so in the absence of having control or any form of sovereignty over that space. On the contrary, it maps a collectivity symbolically into space over which it does not claim control, political or otherwise. It maneuvers around the existing structures of control. Playing off of Arjun Appadurai's analysis of the contemporary crisis of the concept of the nation state, due to the dynamics of globalization, as "sovereignty without territoriality," I would suggest that the *eruv* offers a powerful model of a territoriality without sovereignty and, as such, would have much to offer to the current discussions about diaspora cultures (Fonrobert 2005: 29).

This idea has ramifications. In our day and age, in which online "virtual communities" are often perceived as threats to "real communities" (such as when subversive and terrorist groups use their

virtual communities for their own frightening and destructive ends), the spatial virtual community of the *eruv* may be perceived as an invasive and even oppressive network of exchange (specifically, a religious/orthodox community) that runs counter to the "safe" homogeneity and undifferentiated nature of modern urban space. The use of the term "sovereignty" in itself triggers such perceptions. For example, in his review of Medina's and Hepner's work on the spaces and places of terrorism, Roberts mentions: "Nationalist/separatist groups such as Hamas seek to force a change in Israeli policies for more sovereignty" (Roberts 2013: 106). The term "territoriality" is even more suspect:

> In human territoriality, there were three basic territorial principles of efficiency: territoriality (which I will now simply describe as place) can increase efficiency by the way it (a) communicates rules at the boundary, (b) defines what things are intended to be controlled, and (c) enforces access to things (Sack 2010: 230).

As Sack (1986) puts it very succinctly right at the beginning of *Human Territoriality*: "Territoriality for humans is a powerful geographic strategy to control people and things by controlling area… Territoriality is a primary geographical expression of power" (Sack 1986: 5).

If an *eruv* delimits a certain territory for periodic appropriation, it "powerfully" imposes these characteristics on the area it encompasses. This imposition of a new character on a neighborhood will almost certainly lead to disputes and controversies. But does *eruv*, in fact, constitute territoriality?

What Does an *Eruv* Do?

In an attempt to ground the modern urban *eruv* in ancient sources, Fonrobert (2004) examines the possible connections between the laws of *eruvin* and passages in the Dead Sea Scrolls found at Qumran. *Inter alia*, she also attempts to define the communality created by an *eruv*:

> The rabbinic '*eruv* can then be described as a project of constructing, maintaining and re-enacting a collective identity in relation to the residential space of the mixed urban courtyard. Its purpose is to create neighborhoods of what might be considered as intentional co-habitation. Finally, read on the background of the Qumranic attempts to protect the boundaries of its collective, the rabbinic '*eruv* appears as a concerted effort to formulate a theory of neighborhood (Fonrobert 2004: 67).

Fonrobert's definition has led subsequent writers to somewhat extreme analogies.[8] Lees (2007), for example, writing about the controversy surrounding an *eruv* in Tenafly, New Jersey, acknowledges:

> The devices that mark the existence of the invisible walls usually are undetectable by the uninformed eye – very thin wires attached to poles that might be placed, or exist in the midst of, numerous other poles for a variety of utilities. If you didn't know there was an *eruv* in a town, you would be unlikely to see such markers, and even if you did know, you might be at some pains to find them (Lees 2007: 45).

8 In a later review essay (Fonrobert 2009), Fonrobert herself notes the pit into which writers often fall when they separate their theoretical agendas – creative as they may be – from the actual practices of *eruvin* "as the *eruv* disappears into total abstraction" (Fonrobert 2009: 163).

Accordingly, she asserts, the conflict in Tenafly cannot have been about the markers or the invisible walls. Rather, basing her understanding on Fonrobert, Lees asserts that the *eruv* was controversial because it created "a kind of residential commune." She posits that an *eruv* "excludes or distances non-Jews and co-resident Jews" and that this exclusion was at the heart of the bitter *eruv* controversies in Tenafly and elsewhere. She concludes with an interesting analogy:

> The insistence of the Orthodox Jews of Tenafly upon their rights to be different, as symbolized by their demand for acceptance of their *eruv*, resonates with the insistence of diaspora groups in many areas of the world, particularly in Western Europe, where the general movement of the modern nation-state toward modernity (and secular government) has been challenged by the enormous influx of religiously committed immigrants. In some respects, then, the *eruv* resembles the headscarves of French Muslim girls who have been demanding the right to wear them in public schools (Lees 2007:67).

Lees' exploration of the definition of "Jewish space" in suburbia is based to a significant extent on the notion of an *eruv* as primarily an "invisible wall," with the secondary aspect of communality achieved by the symbolic joint ownership of food. This Jewish space could be construed as Fonrobert's territoriality without sovereignty. Yet her own analogy to the very visible headscarves worn by French Muslim girls highlights the very *in*visible walls of an *eruv*.

Moreover, Lees' premise is based on a misunderstanding of the notion of an invisible wall in Jewish law. This notion is captured by a well-known joke concerning another Jewish legal institution that makes use of "invisible walls:"

> My father, of blessed memory, used to tell a favorite joke: a jerry-built *sukkah* [the ritual temporary booth in which Jews celebrate the eponymous autumn holiday of *Sukkos*] was broken into by a Cossack who stole all the family belongings. The two yeshiva boys who discovered the break-in were totally puzzled by the theft. "How could he even get in?" one asked. "This [incomplete] wall is legally projected to the end; that vertical frame is legally projected to the ground. So where did the Cossack find an opening and get in?" To which the other answered: "You see, the Cossack is an ignoramus who did not know the law of the projection of the wall" (Greenberg 1993: 100).

Playfully presented, the point is nevertheless made: The Cossack is *not* an ignoramus. Virtual walls are virtual walls; they are legal loopholes, not real barriers that set off and exclude.

More importantly, these virtual walls are modern substitutions for the real walls of the ancient courtyard or city. The walls themselves – whether they are visible or invisible – have nothing to do with religion *per sé*. While in Judaism a wall can map ritual purposes – for example, a leper is to be excluded from the walls of a city, and the walls of Jerusalem defined the area in which sanctified tithes and sacrificial offerings may be eaten – the wall itself does not acquire religious significance, except, perhaps, as a powerful metaphor of Divine protection such as in the "walled garden of Eden" or the wall of "Heavenly Jerusalem." Walls are multipurpose. Unlike the Muslim headscarves, the walls of an *eruv* do not present exclusively religious functions.

Fonrobert's suggestion is also echoed and elaborated by Herz (2008), who links the territoriality

accomplished by an *eruv* to the Holy Temple that stood in Jerusalem. Herz grounds his assertion in an unsourced creative homiletic discourse:

> The city – referring to the displacement of the desert – is transformed by the *eruv* on the Sabbath into a representation of the Temple and thus from the public into the private domain. If the *eruv* area is understood as the Temple of Jerusalem, the outer area is the desert, and movement into the *eruv* is an act of wandering that culminates in the appropriation of a place (Herz 2008: 46).

Herz goes on to argue that the parameters of an *eruv*'s invisible walls are derived from the parameters of the construction of the Holy Temple in Jerusalem, and that the *eruv* perimeter is meant to symbolically "'build' the Temple over the city." While his original homiletic insight is intriguing, Herz's premise is flawed. The primary source for any understanding of the symbolism of the *eruv* must be the Talmud, the primarily – and essentially exclusive – basis of subsequent Jewish law. The Talmud pays little attention to the walls – their existence is assumed. The focus is on the communal collection of bread. That collection, asserts the Talmud, is meant to bring peace and harmony to the community – not to make the *eruv*'s space into a massive symbolic temple.[9]

Mann (2012) suggests a slightly different perspective, yet harks back to Fonrobert's framing the significance of an *eruv* in a "diaspora" situation (notwithstanding the fact that the Solomonic enactment of *eruv* precedes the exile and subsequent diaspora by hundreds of years).[10] She suggests that an *eruv* is a "portable spatial device; though produced through a specific set of geographic coordinates – doorways and sideposts," and that it makes up a "home" in a diaspora setting.

Looking at an *eruv* as a territoriality, a kind of Holy Temple, or even a home, implies that the nature of the space contained within an *eruv* has somehow been transformed. None of the classic sources that necessarily serve as the basis for analyzing *eruvin* would seem to support these contentions. On the contrary, the origin of *eruvin* in walled courtyards and towns indicates that the perimeter of an *eruv* is entirely mundane. Moreover, the limited duration of an *eruv* – one day a week – indicates that no transformation is implied. The form and function of an *eruv* is analogous to the form and function of an enclosed park in which a picnic or carnival is being held. Using the definition of place as "a space with meaning and a distinct character" (Cowan 2005: 290), an *eruv* should be seen as defining the space that allows for the creation of a symbolic place by means of the *eruvei chatzeirot* and its companion procedure of *sechirat reshut*.

The non-territoriality of an *eruv* may be explained by reference to Lefebvre's linkage of the concepts of state, space and territory. As Brenner and Elden note, Lefebvre insists "that there is no state without a

9 Fonrobert (2005: 12-21) does consider the *eruv* as defined by the symbolism and significance of the collection of bread. Although some of her suggestions are conjectural, her analysis of the rabbinic sources is far-reaching and admirable. It is the leap of logic from the perception of the collection of bread as a "unification" to a perception of the *eruv* as a "territoriality" that I argue is a leap too far.

10 I would argue that any discussion of the *eruv* should be anchored in the Talmudic texts from which such discussions emerge. It is on this basis that I argue here that the *eruv*, since it dates to Solomon, cannot be considered as framed in a diaspora situation. I recognize that this argument may seem ahistorical, as it takes the Talmud at face value and does not consider the problematic of the Talmud itself, which was framed in a Diasporic era and situation. I acknowledge that Fonrobert, Mann *et al* might counter that they are constrained to read all primary sources historically. I, in turn, would counter that their readings are conjectural, and as such require significant evidence that I find lacking. In contrast, my readings are minimalist, constrained by what we can ascertain from the texts themselves.

territory, and concomitantly, there is no territory without a state" (Brenner and Elden 2009: 362). The limited community formed by the *eruv* has none of the characteristics of "state space" (*l'espace étatique*) that Lefebvre includes in the "broad range of processes, transformations , conflicts and struggles associated with the modern state at all spacial scales" (Brenner and Elden 2009: 358). Moreover, although Jewish law abounds with "'absolute' spaces of precapitalist social formations, which were organized with reference to politico-religious differentiations among sacred and profane locations" (Brenner and Elden 2009: 358), an *eruv* des not fall into any of these categories either.

Purim

At first glance it would seem that Fonrobert's definition of an *eruv* as a territoriality may be sustained on the basis of an obscure application of the concept of *eruv* – one that extends beyond the laws of the Sabbath to which it is normally relevant.

The holiday of Purim is celebrated in the lunar month of Adar. On Purim, as part of the festivities, the Book of Esther, which relates the events that the holiday celebrates, is festively read evening and morning. The Book of Esther recounts that, in the hinterlands of the Persian empire, the salvation of the Jews from their enemies was celebrated on the 14th day of Adar, while in the capital, Shushan (Susa), the celebration took place on the 15th day of Adar. This difference was formalized in Jewish law by an enactment that residents of cities that were walled in ancient times (and that in this respect are similar to Shushan) read the Book of Esther the evening and morning of the 15th day of Adar, while residents of all other locations read it the evening and morning of the 14th day of Adar. Today, in the overwhelming majority of locations it is read on the 14th day of Adar. The most notable exception is Jerusalem, in which it is read on the 15th day of Adar.[11]

So long as the entire population of Jerusalem was ensconced within its ancient walls, the application of this law was straightforward. Beginning in the 19th century, however, the population began extending outside the walls of the Old City. The Talmud deals with such a contingency, and states that in areas that are either physically or visually contiguous (*samuch or nireh*) to a walled city, the Book of Esther should also be read on the 15th (Schnall 2011: 70).[12]

Beginning in the mid-20th century, however, Jerusalem began expanding far beyond what might be defined as contiguous. The question then arose whether the more remote neighborhoods of the metropolis should read the Book of Esther on the 14th or the 15th of Adar. One suggestion that was raised was to define the boundaries of the city by its *eruv*, regardless of the vastness of the area it encloses. This idea is examined by Schnall (2011):

11 The law (see Babylonian Talmud, *Megillah* 2a) is that besides Shushan, only cities walled from the time of Joshua may read the Book of Esther on the 15th. This is because at the time of the Purim events, the Land of Israel – having been recently ravaged – was bereft of walled cities. Of course, there were many walled cities in the Land of Israel – both already standing and newly built – during the era of Joshua's conquest and division of the land. Thus, the Sages preserved the centrality of the Land of Israel even in regard to events that took place beyond its borders (Jerusalem Talmud, *Megillah* 1:1).

12 This extension of the reach of a long-held tradition *fuori le mura* based on visible or spatial contiguity is diametrically opposed to Pope Julius II (1503-13) plan for *extra muros* Rome:

> Communicated through papal sermons and eulogies, this essentially humanist 'project' enabled Rome to be reconceptualised as the redeemed city, whose physical transformations were visibly and spatially juxtaposed against the older and moribund counterparts of the medieval city (Temple 2011: 1).

> This opinion has been advanced by R. Shlomo Zalman Auerbach, R. Yosef Shalom Elyashiv, and others.[13] According to this line of reasoning, any region surrounded by an *eruv* that also encompasses a walled city would observe Purim on the 15th of Adar. Several arguments have been made to counter this position… As a result, some… have rejected the use of *eruv* vis-à-vis Purim and require true proximity for the rules of *samuch* and *nireh* (Schnall: 70-71).

It would seem that the opinion that an *eruv* can demarcate a city for the purpose of reading the Book of Esther on the 15th would sustain the notion of an *eruv* as a form of territoriality. It does not, however, sustain that notion on Fonrobert's terms. According to Fonrobert *et al*, the linkage of the *eruv* boundaries with the symbolic community of shared food creates a kind of "Jewish" territoriality – which would play into issues of church and state. The use of the *eruv* for Purim is as a "sovereignty without territoriality." The *eruv* functions like a secular wall, extending the sovereignty of the municipal entity to non-contiguous territories by virtue of the enclosure. Just as the walls of a city are not a function of a religious community, so too the *eruv* in this context functions without *eruvei chatzeirot*. Moreover, R. Auerbach's (1999: 220) essay on this issue relates specifically to the Hadassah Hospital in Ein Kerem, which, at the time (1964), was physically remote from the inhabited area of the Jerusalem municipality. Accordingly, part of his argument was that a city hospital is essential to a city, and that thousands of people travel daily back and forth from the main city to the hospital – and on that account, the *tzurat ha-petach* of the Jerusalem *eruv* could extend the parameters of the city to the hospital.[14] In the case of Purim, the *eruv* walls serve a very different purpose. Their interaction with the *l'espace étatique* of the municipality may well define a Lefebvresque territoriality. A rough analogy may exist between the case of Purim and a case analyzed by Brenner and Eldan, that of "the Israeli 'wall' built in Palestinian territory" (Brenner and Eldan 2009: 366).[15]

Another Perspective on *Eruv*

While Fonrobert is the primary source for the perception of an *eruv* as territoriality without sovereignty, the question of the accuracy of such a judgment predates her formulation. It informs much of the literature concerning separation of church and state vs. accommodating an *eruv*. Researchers covering this question include Stoker (2003), who considers some of the issues raised in the Tenafly case. She contrasts the case of Tenafly, in which it was argued that "permanently affixing religious symbols to public property (in this case, utility poles)," violated the separation of church and state, with other cases that involved other issues. She suggests that these issues "are often a smoke screen for deeper community conflict."

> In other locations, people have objected to *eruvim* on aesthetic grounds, claiming that they violate zoning laws. This aesthetic argument has been a key component of the ongoing *eruv* dispute in Barnet, England, where the suburban landscape requires not only the addition of wires but of poles from which to string them. Davina Cooper has argued that this style of opposition has deliberately sought to avoid the religion versus secularism question, in part so as not to make the campaign appear anti-Semitic. However, Cooper's analysis effectively demonstrates that the real dispute is not about the aesthetics of wires and poles but conflicting

13 From (Slonim 1979: 184).

14 R. Auerbach posits that even if the *eruv* were to be "down" on Purim, the law would be the same, as the extension of the *eruv* to the hospital as a demonstration of the intent to include the hospital in the municipal sphere remains in place in any event.

15 See, however, Ballvè's (2011) critique of that analysis.

> understandings of a community's self-image and which subgroups within the community should be allowed to shape that image… *Eruv* requests are contested in locations already marked by ethnic, religious, cultural, and other tensions and where an established and therefore "correct" community image is felt to be undermined by the *eruv*'s presence (Stoker 2003: 21- 23).[16]

If an *eruv* is a "territoriality without sovereignty," then it is natural to perceive its construction as "the imposition of religious views onto the secular public domain." But if the "walls" of an *eruv* are understood as inherently areligious, and that the locus of the symbolic *place* is the collection of bread, the *space* remains the secular public domain – for the Sabbath it is made into a place in the same way that, say, a party held in a gymnasium does not impinge upon its ongoing "real" function. Indeed, since an *eruv* does not disallow any form of usage within its perimeter, it is more precise to see it as a gymnasium that is in use as a gymnasium, while in the corner a quiet party is being held, unnoticed and unremarked. Vincent and Warf (2002) express this perspective:

> The *eruv* suggests interventions in the city, which are small-scale, static and, for the most part, not material. Thus, it provides a model for pluralist uses of the city that do not exclude other readings of the same space (Vincent and Warf 2002: 49).

Vincent and Warf posit that the "symbolic content of *eruvim*" that has been perceived in various ways as a threat – even as "a threat to the mythical Enlightenment ideal of the culturally homogenous citizen bound by universal norms of rationality" – would be alleviated by "the willingness of authorities and residents to sanction the city as a site of multiple readings." On the contrary, "*eruvim* are important reminders of the diversity of social and spatial practices that permeate the Western world, a diversity that extends to include even pre-modern forms tenaciously persisting in the face of widespread secularism."

Let us turn to a parallel scenario,– one that involves *eruvei chatzeirot*, but no *eruv*, a case involving multiple *eruvei chatzeirot* within a structure. Klein (2012) analyzes a Talmudic passage that considers whether groups of sages occupying a *triclinium* (in Talmudic Aramaic, a *traklin*) – a banquet hall – and its surrounding rooms can participate in a single *eruv* or must contract multiple *eruvin*:

> Nevertheless, as in the case of the city and its diverse society, architecture can, when oriented by ritual, make a place for consensus and unity (Klein 2012: 352).

The case of a *triclinium* as the envelope of one or multiple *eruvei chatzeirot* highlights the utterly symbolic character of an *eruv* enclosure, with its religious re-purposing manifest only in the collection of the *eruvei chatzeirot* bread. Correctly contextualizing the "ritual" aspect of the *eruv* as manifest exclusively in the *eruvei chatzeirot* collection of bread leads us to reject Rapoport's (2011) contention that, by "defining a boundary that unites the characteristics of tangible bodies and virtual horizons in the making of a temporal place for a particular community, the *Eruv* facilitates the revelation and manifestation of transcendence through the mundane, echoed in the daily activities permitted on the holiest of days." He writes in almost mystical terms:

16 See also (Hecht 2007)for an overview of several contentious *eruv* controversies in the US and the UK. For a legal assessment of the legal issues in the Tenafly, NJ, case, see the essay by the lawyer who argued the case, Nathan Lewin, in (Lewin, 2004).

> A bridge between heaven and earth, the sacred and the commonplace, is thus formed through the 'ontological passage from one mode of being to another' (Eliade 1957: 63). *Eruv* thus simultaneously separates and connects the binary poles of the human experience of the holy and the commonplace; it clears a place in which the everyday human actions are imbued with transcendent meaning (Rapoport 2011).

Rapoport blurs the lines between the *eruv* and the *eruvei chatzeirot* and conflates their purposes, arguing that the *space* of an *eruv* is rendered "transcendent." The introduction of the terms "sacred" and "transcendent" is dubious. Even the *eruvei chatzeirot* bread has no holiness – its consumption is not subject to Jewish legal proscriptions on who, when, and how it can be eaten as are all other holy substances. It is *darchei shalom* – unity and community, not sanctity – that an *eruv* is meant to enhance.[17]

In the vein of a picture being worth a thousand words, a cartoon (see Illustration 4) that Stoker (2003) includes in her essay says as much as many paragraphs about the question of an *eruv* as "territoriality without sovereignty" and the elasticity of layers of meaning: the wire that serves one culture as an *eruv* serves for another culture as a flag line. Each culture (and in this specific case, religion as well) infuses an otherwise mundane and neutral object with its own layer of meaning. The person in the street is saying, "Well, at least it makes it easier to decorate for St. Jean's" (a French Catholic holiday celebrated as Nation of Quebec Day.)[18]

Taking to Extremes

Some opponents of *eruvin* have taken the conceptualization of an *eruv* as a territoriality very far. Cousineau (2005) cites an extreme response to the "urban vision" of the *eruv*-builders in North London:

> A former Shadow Cabinet minister made a sinister comparison between the act of *eruv*-making and the Nazi construction of European ghettoes. [He]… suggested that *eruv* users could be likened to the victims of the Holocaust whom Schindler [of *Schindler's List* fame] was trying to save… Schindler's protégées were depicted as powerless, impoverished, and crowded ghetto dwellers, an image that plays on negative and even frightening images of enclosure. The author's intent was that, by analogy, *eruv*-using Jews should be perceived in this way. Although the *eruv* makers argued for the *eruv* as a space of liberation, opponents chose to interpret it as one of restriction. Holocaust survivors wrote statements about how, for them, the poles and wires of the *eruv* evoked visions of concentration camp fences. Other Holocaust survivors denied this image, engaging in a debate that highlighted the formal ambiguity of the structure

17 This is in interesting contrast to St. Augustine, who saw the community of Christian souls, – embodied in the term *domus ecclesiae* ("home of the church"), as being synonymous with the sacred: without one there can't be the other. An obvious distinction is that *ecclesiae* at first meant the congregation or Christian community, then in the fourth century became the term used to describe a Christian house of worship (see Miller 2000: 262). Thus, the Christian community was so grounded in a religious structure that the term eventually came to represent an actual structure of the religion. The community of an *eruv*, on the other hand, is grounded in domesticity and represents peace among the domiciles it encompasses.

18 This understanding of the character of an *eruv* would also argue against Susman (2009), who selectively cites specific laws and principles that she construes to assert that *eruvin* should be considered unconstitutional. Her essay was recently cited by Jack O'Dwyer in a polemical article urging the courts to overturn a Jan. 6, 2015, decision allowing the construction of an eruv in Westhampton, New York (O'Dwyer 2015).

> and its openness to a variety of interpretations (Cousineau 2005: 51-52).

Such extreme comparisons are only possible if an *eruv* is perceived as territoriality. This perception reminds one of the classic British film, *Passport to Pimlico,* as interpreted by Feigenbaum and Frenzel (2013), who note that some "protest camps" claim space and go on to "claim to be autonomous political entities or 'free' states and republics."

Our understanding of the function of an *eruv* would seem more in the vein of Temple's (2014) understanding of the function of rituals, which may be everyday, even mundane practicesthat would include creating a collection of bread within a specific space. Temple posits that, "ritual gives both continuity of beliefs or values and ensures a degree of cohesion of a particular social or religious order." While the ritual itself is primary, it "is always grounded in a topography or setting, whether locally (in the form of liturgical or ceremonial responses to particular artefacts within a space such as a religious rite or a meal) or extra-territorially (through the navigation of architectural or topographical features within a landscape or urban space)."

While Temple goes on to state that a ritual also "constitutes in some form a re-enactment of a primordial event or significant act," in the case of *eruv* the "significant act" (of unification) is itself repeated on a weekly basis.

> Whether disclosed in a landscape, a room, or the surface of a table, the sacramental objects of ritual are brought into a sustained dialogue through the interaction between their various topographical settings and the bodies of the participants present (Temple 2014: 171-173).

Temple brings meals and topographies together as examples in which "ideological shifts" that "are communicated by means of their dimensional settings" allow "us to recall… certain exemplary historical/fictive models." These mundane activities and settings are transformed into rituals. Such a ritual "gives both continuity of beliefs or values and ensures a degree of cohesion of a particular social or religious order." Presumably, when Temple wrote this chapter he did not have *eruvin* in mind. Yet the correlation of his analysis with the issues and concepts of *eruvin* is remarkable. Paradoxically (but not illogically), the enclosure ofan *eruv* is only a precondition for the "liberation" of that space through the situational conditions of *eruvei chatzeirot,* the ritual practice of the *eruv* that is distinct and different from its boundaries.

Conclusion

One particular, and rather contentious, view of the meaning of the *eruv* is made by Olin (2014):

> An understanding of the material nature of the *eruv* does not center on religious iconography but rather on spatial demarcation, a performance around a quintessential product of conceptual street art, a drawing in space (Olin 2014).

I am not sure I am willing to regard an *eruv* as street art performance, but the point is well taken. Contemporary urban contexts, which are largely denuded of explicit physical or ceremonial boundaries,

often require substantial construction to achieve an acceptable – albeit mostly imperceptible – analog of the walls of the ancient city. Yet notwithstanding the employment of Jewish legal loopholes to allow these "walls" to remain largely notional and invisible, the walls are inherently areligious, and can serve multiple purposes. It is the *eruvei chatzeirot* that is the religious ritual that creates, in fact, an extra-territorial community of unity (*darchei shalom*), not the *eruv*'s poles and wires (*tzurat ha-petach*). It is difficult, if not impossible, to see a community with a locus in a collection of bread as a territoriality. As we saw in the passage from the Jerusalem Talmud that explains the institution of *eruv*, the assumption of explicit territorial "demarcations" that may emerge from focusing on the boundaries of an *eruv* is inconsistent with the embodied meaning of *eruv* with respect to the shared (communal) collection of bread.

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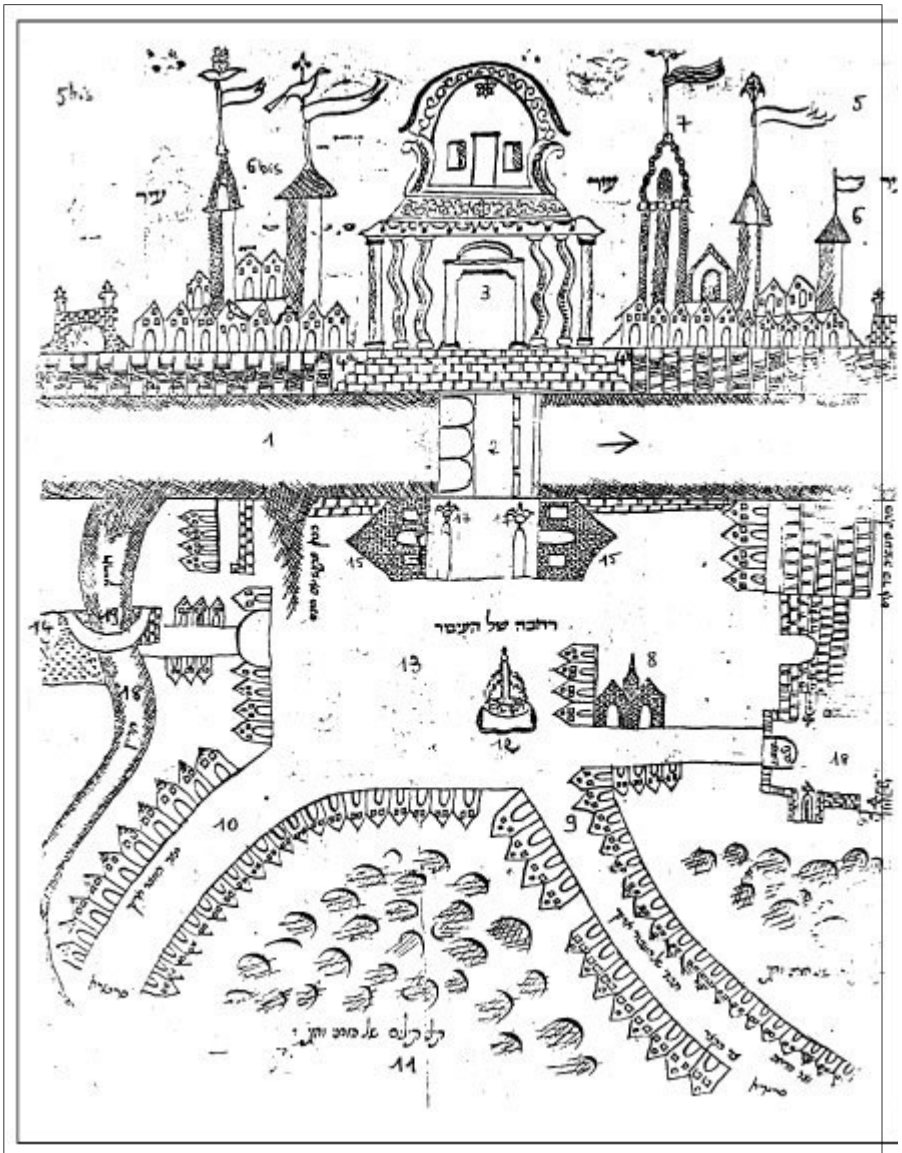

Illustration 1: The earliest known "eruv map" depicting the walls surrounding the city of Bayonne, Italy, ca. 1730. Taken from Hutterer (2016).

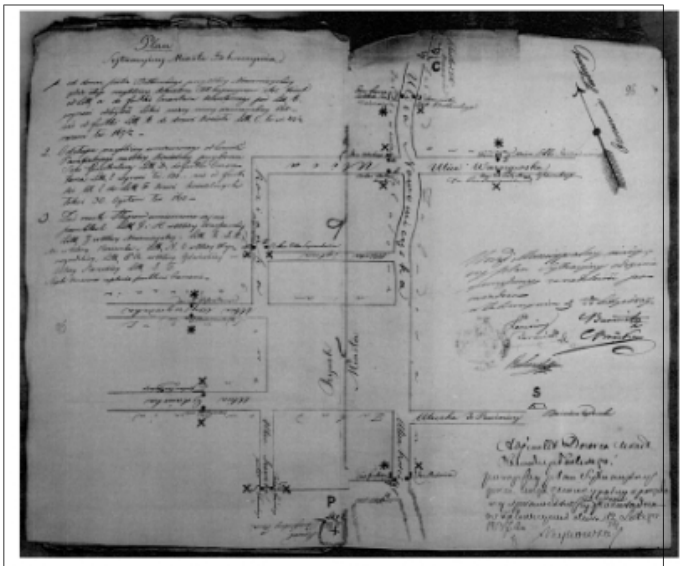

Fig. 3. Map of the town of Zakroczym, of 1837, on which the position of the *eyruv* poles is marked, and their distance from churches is particularly noted in the adjacent description. AGAD, CWW, file No. 1410, pp. 95 and 96. Additional marks: P – Parish Church; C – Capuchin church and convent; S – synagogue; * – Jewish-owned house; x Christian-owned house.

Illustration 2: An early map of a tzurat ha-petach based eruv. Taken from Beraman (2002)

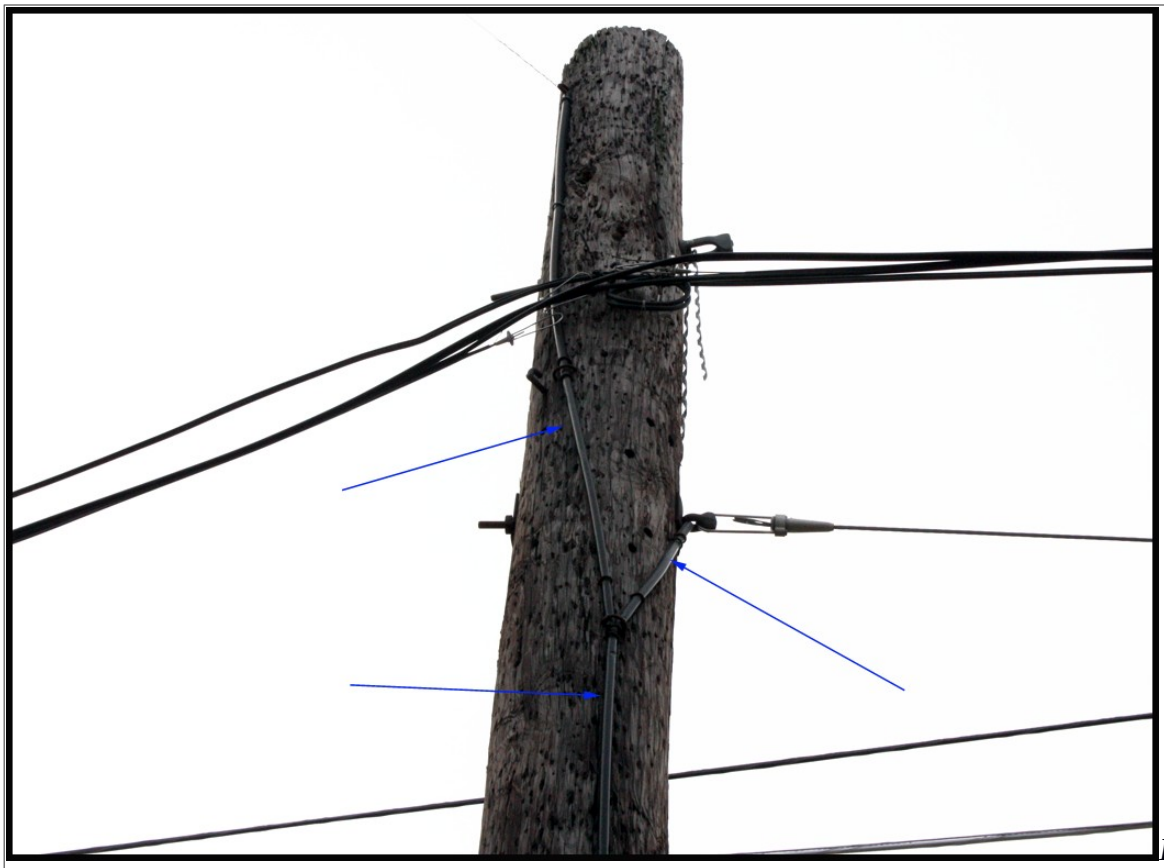

Illustration 3: The blue arrows highlight the "sideposts" for the overhead "lintel" in a utility pole tzurat ha-petach. Taken from Rotenstein (2010).

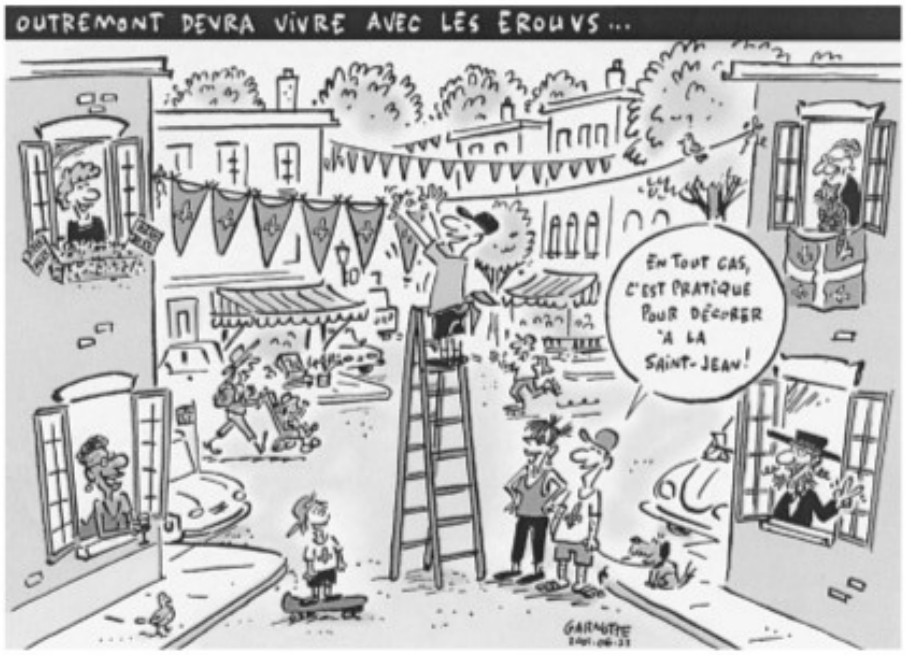

FIG. 1.—Cartoon by Garnotte (Michel Garneau), *Le devoir* (June 24, 2001), op-ed page.

Illustration 4: Taken from Stoker (2003).