

instead a “triangle.” When considering Ashkenazi Hasidim, we should also take into consideration chivalry and its mythology as the third point of this triangle. Some of the ideals attributed to the knighthood were adopted by the Hasidim as well as by the Franciscans. Most important of these attributions was the requirement to go above and beyond the call of duty in social life and in the practice of religious precepts.

Modern Boundaries: The *Eruv* in New York City in 1905

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The history of Orthodox Jews in New York City is a tale of a delicate balance between what Jeffrey Gurock has called “resisters and accommodators.”¹ As Orthodox Jews struggled to find their place in late nineteenth- and early twentieth-century New York, the city’s rabbinic leadership attempted to maintain the traditions and mindset of their Eastern European heritage. The delicate balance between resistance to change and adapting to the social and cultural mores of America played itself out in the creation of the first *eruv* in New York in 1905.

The device of the *eruv* has served to enhance Sabbath enjoyment and observance over the centuries. Originating in Roman Palestine, this rabbinic institution allowed for carrying of objects in a manner previously proscribed by the laws of Shabbat. Through the enclosure of a property and the unification of the Jewish members of that space,

¹ Jeffrey Gurock, “Resisters and Accommodators: Varieties of Orthodox Rabbis in America, 1886-1983,” *American Jewish Archives* (November 1983): 100-87; reprinted in *The American Rabbinate: A Century of Continuity and Change, 1883-1983*, ed. Jacob Rader Marcus and Abraham J. Peck (New York: KTAV, 1985), 10-97.

the property was transformed from a public space in which carrying was prohibited on Shabbat into a private area in which carrying was permitted. The unification of the Jewish residents was achieved through the double action of enclosing the space and collecting a loaf of bread to which each resident had contributed either flour or money. If the enclosed space included a non-Jewish residence, the rabbis introduced a leasing process in which the Jewish residents leased the property of the non-Jewish residents for the duration of Shabbat.

As the courtyards of the Roman period became the cities of medieval Europe, the rabbis introduced a leasing arrangement with the governmental authorities which enabled the establishment of an *eruv* around large communities and even cities. When the walls of medieval Europe were dismantled, *eruvim* were built in many early modern and modern European cities utilizing both natural and man-made *eruv* boundaries to enclose the cities and towns.²

Creating the *Eruv* in New York

By 1905, the Jewish community of the Lower East Side had evolved from a largely diverse and amorphous immigrant community into a community of second-generation American Jews. This community coalesced around synagogues and educational institutions as well as social and cultural organizations. It was this bond between the Lower East Side population and its local synagogue and rabbi that led to the creation of the first *eruv* in New York.

Rabbi Joshua Seigel, known as the Sherpser Rav, who had come to New York from Poland in 1882, was appointed rabbi of a small Polish synagogue on the Lower East Side consisting of both Hasidic and non-Hasidic families. He supplemented his income by giving kosher supervision to butchers in the area. In 1892, he was appointed the Rav Ha-Kollel of twenty Polish congregations on the Lower East Side

2 For a discussion of the history of the rabbinic *eruv*, see Adam Mintz, "Halakhah in America: The History of City Eruvin, 1894-1962" (PhD diss., New York University, 2011), 20-175 and Boaz Hutterer, *Eruv Ha-Hazerot Be-Merhav Ha-Ironi* (Ramat Gan: Bar-Ilan University, 2013).

which had split off from Chief Rabbi Jacob Joseph's community³ and continued, under R. Seigel's auspices, to provide private supervision for butchers and slaughterhouses. R. Seigel is listed among the opponents of the Agudath ha-Rabbonim, the rabbinic organization that was founded after the passing of the chief rabbi.⁴

The first reference to the possibility of creating an *eruv* that would enclose Manhattan is found in an undated responsum by R. Seigel. In this responsum, which is included in his collection entitled *Oznei Yehoshua*, he explored whether Manhattan was considered a *reshut ha-rabbim* (public sphere) thereby precluding the possibility of creating an *eruv* around it without enclosing it with walls and gates. Although R. Seigel concluded that Manhattan was not a *reshut ha-rabbim*, he raised several other issues that prevented the establishment of the *eruv*.⁵

In a later responsum dated September 5, 1905, R. Seigel wrote, "Now, religious Jews have approached me and suggested that there is a possibility to allow carrying [on Shabbat] at least on the east side of the city."⁶ He did not provide the reason for the request. Did these "religious people" nostalgically recall their *eruvim* in Poland or did they believe that now that they were feeling more comfortable in America, they had the self-confidence to request at least the exploration of the device that would allow for carrying on Shabbat. Whatever the rationale, R. Seigel penned a lengthy answer in which he concluded that the east side of Manhattan was properly enclosed by natural and pre-existing man-made boundaries thereby permitting carrying on Shabbat.

In order to create the necessary enclosure, R. Seigel utilized preexisting boundaries. On the north, east, and south sides of the island, he utilized the river walls. While R. Seigel justified the utilizing

3 Rabbi Jacob Joseph was chief rabbi of New York City's Association of American Orthodox Hebrew Congregations, a federation of Eastern European Jewish synagogues.

4 Mintz, "Halakhah in America," 229-41.

5 *Oznei Yehoshua* I (Jerusalem, 1914), 180.

6 *Eruv Ve-Hotza'ah* (New York, 1907), 1.

of these river walls, the tradition of river walls as *eruv* boundaries had been in practice since Talmudic times. However, although Manhattan is also surrounded on the west side by the Hudson River, in 1905 the Jewish community did not extend to the west side of the island and, therefore, that boundary was deemed to be too far from the Jewish community. Nevertheless, R. Seigel found the necessary western *eruv* boundary in the form of the elevated train tracks on the Third Avenue Elevated Train. The train tracks run across the vertical columns creating what R. Seigel describes as “an unequalled *tzurat ha-petah* [symbolic doorway].”⁷

Although it is impossible to guess what percentage of the community relied on R. Seigel’s *eruv*, there is a testimony from 1936 about the continued use of the *eruv*. Rabbi Yosef Eliyahu Henkin, the rabbinic authority on the Lower East Side at the time, wrote, “There are many observant Jews and especially those Hasidim from Poland who carry here on the street on Shabbat relying on the permission of Rabbi Joshua Seigel of Sherps.” The elevated train tracks on Third Avenue were dismantled in 1956.⁸

Opposition to the *Eruv*

There was, however, rabbinic opposition to R. Seigel’s *eruv*. The three rabbinic opponents of the *eruv* were leading members of the Agudath ha-Rabbonim. The first opponent was Rabbi Yehudah David Bernstein, a Lithuanian rabbi who immigrated to New York in 1894 and was one of the founders of the Rabbi Isaac Elchanan Theological Seminary. The second responsum opposing the *eruv* was written by Rabbi Aharon Gordon, a Lithuanian rabbi who immigrated to the United States in 1890 and served as a rabbi in Rochester, New York until he moved to New York City in 1900 and led a rabbinical court on the Lower East Side. The final responsum was written by Rabbi Azriel

7 For the halakhic rationale for utilizing the pre-existing natural and man-made *eruv* boundaries of New York, see Mintz, “Halakhah in America,” 255-65.

8 *Luah ha-Yovel shel Ezrat Torah* (Brooklyn, 1936), 62; reprinted in *Edut Le-Yisrael* (New York, 1949), 151.

Herman, a Galician rabbi who immigrated in 1891 and served as a rabbi on the Lower East Side until he moved to Brownsville, Brooklyn in 1917.

Each of these rabbis dedicated a lengthy responsum to disagreeing with different halakhic aspects of R. Seigel’s *eruv* including the validity of the river walls and the elevated train tracks as *eruv* boundaries. The argument rejecting the validity of the river walls based on the fact that the buildup of sediment on the banks of the river negates the necessary incline of the river walls is an argument that had been utilized in the past to reject the validity of urban *eruv*. R. Gordon provided a novel criticism to negate the use of the elevated train tracks. The Talmud explains that people crossing over an *eruv* boundary serve to nullify its acceptability as a boundary. This limitation generally referred to bridges that crossed over an *eruv* thereby nullifying the *eruv* underneath. However, in this instance, R. Gordon argued that the fact that the subway ran underneath the Third Avenue elevated train at several points nullified the *eruv* boundary on top of the subway. R. Gordon adapted the traditional Talmudic argument to the new phenomenon of subways running under the *eruv* boundary even though that extension is by no means self-evident.

Finally, in the 1930s R. Henkin argued that the bridges that had been built in Manhattan since R. Seigel’s responsum negated the *eruv* boundaries that were located underneath the bridges. In addition, R. Henkin explained that R. Seigel wrote that he only leased the city for a duration of ten years and that lease was never renewed.⁹

How Can You Lease Manhattan?

The debate regarding the validity of R. Seigel’s *eruv* was not limited to the physical *eruv* boundaries. R. Seigel argued that the necessary *sekhirat reshut* [leasing of the enclosed area from the local government] could be achieved through leasing the enclosed area from the local government official or his or her representative. He based his argument on the responsum of the fourteenth-century

9 A review of this material can be found in Mintz, “Halakhah in America,” 243-73.

Spanish authority, Rabbi Isaac ben Sheshet, who claimed that the Jewish community was allowed to lease the city from a government official if that official had the power to prohibit people from travelling on certain streets. R. Seigel explained that he had witnessed armed soldiers assigned by the mayor altering traffic patterns in Brooklyn during a strike. Alternatively, he wrote, the city could be leased from a policeman who also has the right to control the flow of traffic. He concluded this section of the responsum as follows: "So we did in practice to lease the city from the representative of the governmental official for the duration of ten years."¹⁰

R. Gordon argued that even though leasing from a governmental representative for the sake of *sekhirat reshut* had been practiced in many countries in Europe, it was not acceptable in America. He explained that America was unlike other countries in which "leadership passed from father to son." Rather, he wrote, "In a democracy, the mayor, policemen and even the president do not have the authority to enter people's homes without permission and that this is the criterion by which the authority of the leaser must be determined." He quoted as precedent the opinion of Rabbi Sholom Elchanan Jaffe who had rejected the St. Louis *eruv* several years earlier based on the fact that the lease from a government representative was not valid in a democracy.¹¹ The dispute between rabbis Seigel and Gordon reflects differing attitudes towards America and American government on the part of these immigrant rabbis. R. Seigel viewed this issue in a halakhic context and looked for precedent for the leasing of the city from a governmental official. For him the realities of American democracy were not a factor in his halakhic determination. At least in this area, R. Seigel seemed unaware or unconcerned about the details of the American governmental system and how it compared with governments throughout history. R. Gordon, on the other hand, tried to understand the intricacies of the authority of America government

¹⁰ *Eruv Ve-Hotza'ah*, 25.

¹¹ Aharon Gordon, "Teshuvah be-Niggud le-Hazaah le-Tikkun Eruvin Be-Helek Ha-Mizrah New York," in *Kol Zvi*, ed. Ari Zahtz and Michoel Zylberman, Vol. 7 (2005) New York, 37-48

officials. The fact that R. Seigel did not completely appreciate the subtleties of American democracy does not detract from his effort. The ability and willingness to address the realities of American life and how it affected the Jewish community was not to be taken for granted in the early decades of Eastern European Orthodoxy in America.

The Rabbis Address Different Types of Jews in Relation to the *Eruv*

Although the rabbinic arguments are framed around halakhic categories, the rabbis' appreciation and understanding of the socio-religious position of American Jews played a critical role in their support or rejection of this *eruv*. In R. Seigel's initial responsum regarding the creation of an *eruv* that would enclose the entire borough of Manhattan, he writes: "There will be a time in the future when the wealthy Jews will establish an *eruv* in Manhattan just like there are *eruvim* in all cities where Jews live."

R. Seigel believed that the only way in which Manhattan would be considered enclosed was when *tzurot ha-petah* would be built between the houses and the rivers. He describes this scenario as being "something that is all but impossible." It is not clear if he believed that the wealthy people had to provide the funds for the creation of these *tzurot ha-petah* or the political clout to allow for their construction. However, either way R. Seigel recognized that he could not create the *eruv* without communal participation.

He explained that he wrote his responsum justifying the establishment of the East Side *eruv* because "he was approached by God-fearing people who wanted to create an *eruv* in New York." R. Bernstein reacted to this description of "God-fearing people" and wrote: "Unfortunately in New York there are God-fearing people who carry based on the *eruv* suggested by one of the rabbis here who relied on arguments that have no basis. Therefore, I decided to publish this work to remove the stumbling block from the people." While these two rabbis disagreed about the halakhic acceptability of the *eruv*, they agreed that there were God-fearing people in New York City who

would not carry on Shabbat unless the city was enclosed by an *eruv*.

This description differs from the claim that had been made by Rabbi Zechariah Rosenfeld in St. Louis in 1896 that there was a need for an *eruv* there since otherwise religious people would carry their *tallitot* to the synagogue on Shabbat even though there was no *eruv*. While it is entirely possible that both types of Jewish populations existed in both cities, the difference of focus reflects two views about the need for an *eruv*; according to R. Rosenfeld the *eruv* was needed to prevent people from carrying on Shabbat, while rabbis Seigel and Bernstein argued that the *eruv* was being used by people who would not carry without it thus enhancing their enjoyment of Shabbat.¹²

R. Gordon also addressed the constituency to which the *eruv* was directed: "For whom did the rabbi work to permit the activity for which the punishment is stoning? If it is for Shabbat violators who sit in their stores on Shabbat selling and writing, smoking and extinguishing like on a weekday without any rabbinic dispensation, do they need an *eruv* as they are violating biblical prohibition?" Here, R. Gordon introduced a third group of Jews in early twentieth-century America; the Jews who completely rejected tradition and violated Shabbat openly and brazenly and for whom an *eruv* would be irrelevant. He further elaborated on this group: "Unfortunately, the epidemic has spread among the Jewish people especially in New York where Jews have removed the burden of the commandments... and they hate the observant Jews more than the non-Jews hate them, barely considering them to be human beings."

He continued, "And, if it is for the sake of those for whom the spark of Judaism has not been extinguished from their hearts and they observe Shabbat, do we need to seek leniencies for them... for if so, the laws and spirit of Shabbat will be completely forgotten from the Jewish people?"

12 See Mintz, "Halakhah in America," 273-74. For a discussion of the St. Louis *eruv* and the controversy regarding its establishment, see Mintz, "Halakhah in America," 176-228.

R. Gordon's explanation that an *eruv* should not be created for the religious Jews shone a different light on this group. He explained that an *eruv* would lead them to forget or ignore the laws and spirit of Shabbat. Both rabbis Seigel and Bernstein had agreed that an *eruv* would be appropriate for these religious Jews with no mention of the risks that an *eruv* would create. R. Gordon sensed a fragility in the religious state of these American Jews. Any leniency in the observance of Shabbat, he believed, would inevitably lead to a movement away from observance.

R. Gordon's willingness to negate the importance of the *eruv* is further explained at the conclusion of his responsum: "The observant Jews among us never saw with their eyes an *eruv*, even in small cities, allowing people to carry. Now, they have come to the metropolis of New York and they find leniencies to allow them to violate Shabbat." Could it be that R. Gordon was unaware of *eruvim* in the many cities and towns in Eastern Europe? Rather it would seem, he exaggerated in order to strengthen his argument about the risks of creating *eruvim* in America.¹³

In the end, although the rationale of each rabbi is not entirely clear, the existence of these three groups of American Jews; the God-fearing, the brazen Sabbath violators, and the synagogue attendees who carried their *tallitot* even without an *eruv* reflects the complexity of the American Jewish community and the challenges confronting these rabbis.

Should the needs of the God-fearing Jews be supported and, if so, at what cost? R. Gordon believed that it would be at the expense of their own religious lives, while the other rabbis recognized the potential risks for those less observant who might expect further leniencies. The *eruv* serves as a test case for these rabbinic leaders as it symbolizes both the benefits and risks of a halakhic innovation.

13 Zahtz and Zylberman, *Kol Zvi*, 42

Conclusion

The New York *eruv* of 1905 was the second *eruv* created in America. Yet, until the early 1960s only one more *eruv* was built in North America, in Toronto. The complexities displayed on the Lower East Side in the first decade of the twentieth century were a reflection of the general condition of Orthodoxy in America in the first half of the century. Orthodox rabbis did not yet feel at home in the structure of American democracy. As we have seen, some rabbis saw the democratic system as a roadblock to the creation of the *eruv*.

Even the rabbis who were not bothered by the details of American democracy struggled to find the person from whom to lease the city who had sufficient authority yet was accessible to the rabbi. The use of the local policeman by R. Seigel represents a concession to his feeling of marginalization within the American public square. This feeling of marginalization remained an integral aspect of the American Jewish community until the last third of the twentieth century. Therefore, the leasing of cities and the request to build *eruv* boundaries was difficult, if not impossible, for most rabbis.

As American Jews gained access to the American public square, relationships with the local and national government officials were made possible. Not only was permission granted to lease the cities and to construct *eruv* boundaries, official proclamations were issued in the 1970s in several communities authorizing the creation of a local *eruv*. Furthermore, as the Orthodox community became more comfortable in America, its members became more ritually observant. All of a sudden, young couples whose parents would have pushed baby carriages to the synagogue even without an *eruv* would only move to a community that had an *eruv*.

The creation of a community *eruv* had become both a necessity and a realistic opportunity for these rabbis and their communities. Yet, in many ways, it was the resolution of the considerations raised by the rabbis in 1905 that allowed for the *eruv* explosion of the last third of the twentieth century.¹⁴

14 For an analysis of the social considerations in the creation of the Manhattan *eruv* in 1962, see Jeffrey Gurock, "A Gateway into Orthodoxy in Gotham in the 20th-21st Centuries, in *It's a Thin Line: Eruv from Talmudic to Modern Culture*, ed. Adam Mintz (New York: KTAV, 2014), 91-104.