Jewish Space in Suburbia: 
Interpreting the Eruv Conflict in Tenafly, New Jersey

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Abstract

Although the ostensible purpose of an eruv, a symbolic enclosure inhabited by a fictive food-sharing household, is to allow observant Orthodox Jews to “carry” on the Sabbath, its wider purpose (even in early rabbinic tractates) as understood by its members is to establish a community distinct from both non-Jewish and non-Orthodox Jewish neighbors co-habiting the same space. This examination of a bitter conflict over the right to establish an eruv in a prosperous New Jersey suburb demonstrates the multi-layered conceptions of the meaning of the eruv as related to Jewish identity, practice, and belonging in a modern, pluralistic secular state. Legal briefs, courtroom testimony, and statements in public meetings, as well as opinions expressed in the media, form the evidence presented for the feelings and motivations of the actors in this case.

Introduction: Eruv as a “Theory of Community”

Last Chance! If you don’t want Tenafly to be enclosed by an Eruv and the separation of church and state “given away”… speak up! (Flyer distributed in Tenafly, NJ, Spring 2003.)

In June 2003, a three-year legal battle over whether or not the town of Tenafly, New Jersey could prohibit the use by Orthodox Jews of symbolic markers in public spaces to define the boundaries of an eruv in the town finally appeared to come to a close, when the United States Supreme Court declined to hear the case. This was the last of a series of appeals and counter-appeals, the outcome of a bitter and emotional struggle in this small, prosperous suburb of 13,000 people. There are many eruvs (or, eruvim) in the United States and elsewhere in the world, and most of them are established without a fight. A few, however, such as those of North London in the Britain, and Palo Alto, California, have involved extensive legal conflicts and received substantial media coverage. These legal conflicts capture public discourse in explicit statements
about rights, obligations, and identity—ideas that often are only obscurely present when conflict does not erupt.

In this paper I use such statements (as recorded in public meetings, in court hearings, in the press and on the internet—all intended specifically for a public audience) to get at some contemporary concepts of community, both modern Jewish Orthodox (Orthodox) and secular, through the vehicle of discourses about the eruv. My aim is to make an argument analogous to that of Charlotte Fonrobert (2004), in which she used rabbinic literature as evidence that, at the point of its earliest formation, the ancient eruv (or more specifically, an “eruv hatzeirot,” or “intercommunity of courts,”)

can 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... the rabbinic ‘eruv appears as a concerted effort to formulate a theory of neighborhood (Fonrobert, 2004:71).

The public discourse that emerged in the eruv conflict in Tenafly and very similar discourse in other eruv conflicts expresses ideas about how Orthodox Jews live (or should live) together and among others—both Jews who do not subscribe to the eruv as belief or practice, and non-Jews. Fonrobert’s study argues that the early rabbinic writings on eruvin were exactly about this issue: how the community of Israelites (rabbinic Jews) could establish themselves as a community living among other Jews who did not share their beliefs and practices, and among non-Jews, in a diverse urban setting. I would extend this argument to say that the legal disputes today about eruvin in the suburbs are the extension of ideas that began with the very origins of rabbinic Judaism, about Jews in a larger world, particularly a world of diaspora (although early rabbinic Judaism in the Land of Israel also had to contend with other variants of Judaism and non-Jews as well). The focus of this paper, unlike Fonrobert’s, includes the public responses of those others. The discourses on both sides of this dispute—eruv supporters and eruv opponents—together display a struggle about negotiating issues of inclusion and exclusion in contemporary residential spaces.

Rabbinic law now, as in the days of the inception of the laws of the eruv, does not allow the establishment of an eruv secretively or clandestinely, but requires negotiating the use of this space with other Jews and with non-Jewish residents wherever they may be incorporated into the