A Chapter in American Orthodoxy: The Eruvin in Brooklyn

By: ADAM MINTZ

The history and *halakhah* of the *eruvin* in Brooklyn are both complicated and controversial. Jews began to move to Brooklyn in significant numbers after the completion of the Brooklyn Bridge in 1883, many moving from the overcrowded Lower East Side and looking for open space and more affordable housing. With the building of the subways in the first decade of the twentieth century and the completion of the Williamsburg Bridge in 1903, Williamsburg became the first Jewish community in Brooklyn with synagogues and other Jewish institutions and shops opening in the neighborhood. By 1927, 35 percent of Brooklyn's population was Jewish and Samuel Abelow, an early historian of Jewish Brooklyn, wrote that "The growth of the Jewish community was one of the remarkable social phenomena in history."[1] Yet, as the Orthodox community continued to expand throughout Brooklyn in the middle decades of the century, there was no recorded attempt to create an *eruv* enclosing either the entire borough or communities within it.[2]

The first mention of the possibility of an *eruv* in Brooklyn was included in one of the earliest discussions regarding the creation of

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1 Samuel P. Abelow, *History of Brooklyn Jewry* (Brooklyn, NY, 1937) 13.

2 For the history of the Jews of Brooklyn, see Abelow, *History of Brooklyn Jewry*, *Jews of Brooklyn*, edited by Ilana Abramovitch and Sean Galvin (Waltham, MA, 2002), 1–17 and the references in Deborah Dash Moore, *At Home in America: Second Generation New York Jews* (NY, 1981).

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the Manhattan *eruv*. On December 14, 1948, Rabbi Tzvi Eisenstadt wrote a work outlining the halakhic issues concerning the creation of an *eruv* that would surround Manhattan. He concluded this work as follows: "I have written all of this as a suggestion that should be addressed by the rabbinic authorities of the city. And, even if they find a problem with these conclusions according to one opposing view, they should consider whether it is preferable to permit carrying on the Sabbath according to most rabbinic authorities or to leave the situation as it is without any *eruv* at all."[3]

In April, 1949, Rabbi Michael Weissmandel, the head of the Nitra Yeshiva in Mt. Kisco, New York, responded to Rabbi Eisenstadt. In the letter, dated *erev* Pesach, 1949, he wrote a lengthy responsum about the possibility of creating an *eruv* around Brooklyn. He argued that such an *eruv* could be created. In addition, he encouraged Rabbi Eisenstadt to include Rabbi Yonatan Steif, "a rabbi in Brooklyn whose authority is respected by the masses," to lead the initiative of creating the *eruv* in Brooklyn.[4] It is noteworthy that, although Rabbi Eisenstadt had asked for Rabbi Weissmandel's opinion regarding the *eruv* in Manhattan, Rabbi Weissmandel responded regarding the *eruv* in Brooklyn, where Rabbi Weissmandel lived at the time.

In another letter Rabbi Weismandel wrote to Rabbi Eisenstadt on May 20, 1949, he explained that it would be more logical to first establish an *eruv* in Brooklyn and then create one in Manhattan. A Brooklyn *eruv*, he argued, involves the erecting of some *tzurot hapetaḥ*. Consequently, even uninformed people would assume that some activity was needed to establish the *eruv*. On the other hand, he said, the proposed Manhattan *eruv* did not involve any physical activity since the river walls created acceptable *eruv* boundaries. Consequently, uninformed people might conclude than an *eruv* can

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3 Rabbi Menaḥem Tzvi Eisenstadt, *Kuntres Haza'ah Le-Tikkun Eruvin Be-Ir Manhattan New York*, in Menaḥem Tzvi Eisenstadt, *Sefer Minḥat Tzvi* (New York, 2003), 28–38.

4 Weissmandel, *Torat Ḥemed* (Mt. Kisco, NY, 1958), no. 1, esp. 156-157.

be established without any physical alterations to the city's boundaries.[5]

In a letter dated May 25, 1950, Rabbi Steif addresses the possibility of an *eruv* in Brooklyn. He writes:

> According to all this, one can enclose the areas in both Manhattan and Brooklyn that do not have 600,000 people passing through with an *eruv* ... Especially, the area of Williamsburg that does not have an area of 600,000 passing through and the city (sic) of Brooklyn that can be enclosed neighborhood by neighborhood.[6]

In his elaboration of this letter entitled *Kuntres Tikkun Eruvin*, Rabbi Steif writes that "It is simple to create an *eruv* enclosing Williamsburg with *tzurat ha-petaḥ* just like an *eruv* was created around the large cities in Europe."[7] There is no record of any attempt to create an *eruv* in Williamsburg or any other section of Brooklyn at that time, and Rabbi Moshe Feinstein wrote a letter to Rabbi Eisenstadt in 1952 claiming that Rabbi Weissmandel's argument justifying a *eruv* in Brooklyn was halakhically incorrect.[8]

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5 See Rabbi Weissmandel's letter Yeshiva University MS 1300 1/9 reprinted in *Sefer Ḥai Anokhi Le-Olam* (Brooklyn 2003), 148 and *Divrei Menaḥem*, II: 10. See *Ḥai Anokhi Le-Olam*, 149-51 for Rabbi Weissmandel's hand-drawn maps of Williamsburg. It is interesting that Rabbi Weissmnadel imagined the utilization of mostly existing *eruv* boundaries, even though, when the *eruv* was finally completed in 1981, the boundaries consisted mainly of erected poles and wires. This may reflect the improvement in the relationship between the Jewish community and the local governmental authorities between 1949 and 1981, allowing the Jewish community to request assistance from the local electric company.

6 The undated responsum to Rabbi Eisenstadt can be found in *Sefer She'elot U-Teshuvot Ve-Ḥiddushei Mahari Steif* (Brooklyn, NY, 1968), no. 68, and a more complete version of the letter can be found in *Minḥat Tzvi*, 39–43. The original letter is found in Yeshiva University Archives MS. 1300 1/12. Rabbi Steif wrote additional material on the Manhattan *eruv* that was published in "Kuntres Tikkun Eruvin," *Ohr Yisroel* 8:4 (Sivan, 5763): 6–9 and *Ohr Yisroel* 9:1 (Tishrei: 5764): 6–15.

7 Steif, *Ohr Yisroe*l 8:4 (Sivan, 5763): 7.

8 *Iggerot Mosheh*, O.H. I:138.

In 1972, Rabbi Asher Anshel Krausz, the Ratzferter Rebbe, began a campaign to create an *eruv* in Williamsburg. Rabbi Krausz collected supporting letters from several of the local Hasidic rabbis in Williamsburg, including Rabbi Joseph Greenwald of Pupa, one of the leading rabbinic authorities in Williamsburg. In a letter dated October 10, 1972, Rabbi Greenwald wrote, "Therefore, be strengthened and benefit the entire community with the establishment of this *eruv*... May God support you to successfully complete this project."[9] In the summer of 1976, Rabbi Krausz was able to lease the area from the local governmental authorities, and he hired the local electric company to begin to install the necessary wires and poles. Due to his inability to raise the required funds, however, the *eruv* was not completed until the winter of 1982. At the time of the completion of the *eruv*, Rabbi Krausz received additional letters of support, including a letter from Rabbi Menashe Klein of Ungvar, one of the leading halakhic authorities on the laws of *eruvin* at the time. Rabbi Klein praised Rabbi Krausz for "restoring the tradition that dates to the period of King Solomon to establish *eruvin* in every community."[10]

There was, however, strong opposition within the Williamsburg Orthodox community to the creation of this *eruv*. This opposition was based on the claim that Rabbi Yoel Teitelbaum, the Satmar Rebbe and premier halakhic and religious authority in Williamsburg, was opposed to the creation of an *eruv* in that community. This claim is problematic since the Satmar Rebbe never publicly wrote or stated that he was opposed to the Williamsburg *eruv*. In 2002, the opponents of the Williamsburg *eruv* published a volume entitled *Yalkut Mikhtavim* containing anecdotes and letters from associates of the Satmar Rebbe attempting to prove his opposition to the *eruv*.[11] A volume entitled *Ḥai Anokhi Le-Olam* (no date) was

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9 *Al Mitzvat Eruv* (Brooklyn, 2000), 162.

10 Ibid., 182. For a record of all the letters supporting the *eruv*, see *Al Mitzvat Eruv*, 155-92.

11 There were attempts to create an *eruv* in Williamsburg in 1958 and 1966 that were never realized. See *Sefer Yalkut Mikhtavim* (Brooklyn, 2002). These stories were included in this volume in order to demonstrate the

published by the supporters of the eruv attempting to disprove all of the evidence provided in *Yalkut Mikhtavim*. The main claim of the *eruv* supporters was based on the lack of public opposition by the Satmar Rebbe to the establishment of the Williamsburg *eruv*. Had he opposed the *eruv*, they argued, he would have expressed his opinion publicly as was his manner in many other disputes. The dispute did not subside with the completion of the Williamsburg *eruv,* and the opponents of the *eruv* tore down the *eruv* wires and poles almost immediately upon its completion.[12]

The next phase in the history of Brooklyn *eruvin* centers on the *eruv* in Flatbush. In 1978, a number of rabbis, including Rabbis Solomon Sharfman and Max Schreier, approached Rabbi Feinstein, asking him whether an *eruv* could be created utilizing poles and wires to enclose Flatbush. Rabbi Feinstein answered in two responsa addressed to Rabbi Israel Poleyoff representing the other Flatbush rabbis. Rabbi Feinstein writes:

> When the two prominent rabbis, Rabbi Sharfman and Rabbi Schreier, came before me regarding the *eruv* in Flatbush, I did not want to get involved (*le-hitarev*) because there are many different opinions ... However, since the rumor has been spread that I am the rabbi who permitted the creation of this *eruv*, I must express my own opinion.[13]

Rabbi Feinstein continues and explains that he believes, due to several halakhic issues, that an *eruv* cannot be created in Brooklyn. Rabbi Feinstein's initial reluctance to get embroiled in the Flatbush *eruv* controversy is interesting, since he had been so involved in the Manhattan *eruv* controversy in the 1950s and 1960s.

The creation of a Flatbush *eruv* received the support of Rabbi Menashe Klein, who wrote a responsum dated December 13, 1978, in which he validates the building of an *eruv* even in a large city such as Brooklyn. He concludes his responsum as follows: "It is the

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opposition of Rabbi Yoel Teitelbaum to the creation of an *eruv* in Williamsburg. There is no other verification for these stories.

12 For background of this controversy, see http://eruvonline.blogspot.com/2006/06/part-1-truth-about-satmar-rebbe-and.html.

13 *Iggerot Mosheh*, O.H., IV: 87.

tradition to create *eruvin* even in cities that have a population that exceeds 600,000, and we cannot contradict the facts."[14] The *eruv* was built in Flatbush under the auspices of these rabbis and with the halakhic support of Rabbi Klein.

The opposition to the creation of a Flatbush *eruv* started almost immediately. In December, 1978, an announcement was posted throughout Brooklyn.

Fig. a

אזהרה חמורה נגד תיקון עירובין בניו יאָרק

חיות שבזמן האחרון התחילו איזה אנשים בשכונת פלעטבוש לחרעיש אודות עירובין שם, אנו מפרסמים בזה דעת תורה שהוא דבר שכבר נאסר על ידי גדולי הרבנים שבארה"ב שבדורנו ושבדורות שלפנינו בין בניו יאָרק ובין בשאר עיירות גדולות בכל רחבי ארה"ב. וביום ח' סיון תשכ"ב התאספו באגודת הרבנים מגדולי ראשי הישיבות והרבנים מאורי ישראל ביזמת מרן הגאון ר' אהרן קאָטלער זצ"ל וחתמו על איסור לעשות עירוב בניו יאָרק וכתבו בין השאר „ואסור לטלטל במאנהעטן אף אחר התקונים שעשו או שיעשו איזה רבנים וכל מי שיסמוך על עירוב במאנהעטן יחשב למחלל שבת" והסכימו וחתמו על הנ"ל מרן הגאון ר' אהרן קאָטלער זצ"ל והגאון ר' חיים ביק זצ"ל והגאון ר' יוסף אליהו הענקין זצ"ל ויבלח"ט מרן הגאון ר' משה פיינשטיין שליט"א ומרן הגאון ר' יעקב קמנצקי שליט"א והגאון ר' נדליה שאר שליט"א ועוד כמה גדולי הרבנים. וכן כבר פירסם מרן הגאון ר' משה פיינשטיין שליט"א פסק דין להלכה למעשה בספרו הנדול אגרות משה, ובמכתבים לשואלים בנידון הנ"ל לאסור תיקון עירובין בניו יאָרק ובברוקלין.

ולכן באנו להודיע בשער בת רבים שאסור לתקן עירוב באיזו שכונה בניו יאָרק וברוקלין כלי שום הוראת היתר כלל. ואפי' אם יתקנו בה עירוב גם כן אסור לסלול בו בין גדולים ובין קטנים.

A strict warning against the establishment of Eruvin in New York

> Given that in the recent past some people in Flatbush have begun to debate regarding an *eruv* in Flatbush, we publicize this *daas Torah* that this is something that has already been prohibited by great rabbis in America in our generation and previous ones, both in New York and in other large cities throughout America. On 18 Sivvan 5762 the Agudath Ha-Rabbanim gathered the leading rabbis at the request of Rabbi Aharon Kotler and they signed a prohibition against establishing an *eruv* in New York and they wrote, "It is prohibited to carry in Manhattan even after the improvements that were made or that certain rabbis will make, and anyone who relies on this Manhattan *eruv* will be considered a *meḥalel Shabbat*." This proc-

[14] Rabbi Menashe Klein, "Om Ani Ḥomah," *Sha'arei Halakhot* (Brooklyn, 1980): 61. Rabbi Klein published *Om Ani Ḥomah* in three different versions, each one adding material to the previous issue. It was reprinted in *Om Ani Ḥomah* (Tammuz, 1981) and *Om Ani Ḥomah* (Jerusalem, 1999).

> lamation was agreed upon and signed by Rabbi Aharon Kotler, Rabbi Chaim Bick, Rabbi Yoseph Eliyahu Henkin, Rabbi Moshe Feinstein, Rabbi Yaakov Kamenetzky, Rabbi Gedaliah Schorr and several other esteemed rabbis. In addition, Rabbi Moshe Feinstein publicized a halakhic decision in his great work *Iggerot Moshe* and in letters on this issue prohibiting the creation of an *eruv* in Manhattan and Brooklyn.
> Therefore, we have come to proclaim to the public that it is prohibited to establish an *eruv* in any of the neighborhoods in New York and Brooklyn. In addition, if an *eruv* is already established it is still prohibited for both adults and children to carry.

This Proclamation itself became a matter of dispute between the two opposing groups. First, in the 1962 proclamation against the establishment of the Manhattan *eruv* (see below), Rabbi Henkin's signature does not appear. Although Rabbi Henkin had certain reservations about that *eruv*, he did not oppose its creation.[15]

Fig. c

חוברת ח' הפרדס שנה מ'

ע"ד תיקון עירוב במנהעמטן

אגודת הרבנים דארצות הברית וקנדה

ב"ה כ"ג ניסן, תשכ"ו.

בזה אנו באים להודיע שאספת דחופה של ועד ההנהלה — בהשתתפות הבר הנשיאות הנ"ם פינשטיין שליט"א — שהתקימה ביום א' דהתהם"פ שנה זו, התחליטה לאשר את האיסור על ערוב במאנהעטן סיום ח"י סיון, תשכ"ב. וזה לשון האיסור:

„בהשוב אגודת הרבנים שהתקיים ביום ו' ס' בהעלותך, ח"י סיון, תשכ"ב, התחלטו לחדיש ברכים את התוראה שיצאה מאגודת הרבנים זה כבר שנ"א בשום אופן לתקן ערוב במאנהעטן, ואפור לשלשל במאנהעטן אף אחר התקנים שעשו או שיעשו איזה רבנים. וכל מי שיסמוך על ערוב במאנהעטן יחשב למחלל שבת.

נאום אהרן קמלר (ז"ל) נאום משה פינשטיין
נאום יעקב קמנצקי נאום חיים בריק (ז"ל)
נאום גדל' הלוי שאר

בהתאם לחג"ל אנחנו דורשים מחבריגו הרבנים להזהיר את קהלותיהם שלא לסמוך בשום אופן על ערוב במאנהעטן.
ברב כבוד

הרב מאיר כהן, מנהל

1962 Agudath ha-Rabbanim Proclamation Against Establishment of Manhattan Eruv

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[15] See Adam Mintz, Halakhah in America: The History of City Eruvin, 1894–1962 (NYU, 2011 Dissertation), 341–405. <http://www.rabbimintz .com /wp-content/uploads/Mintz-Dissertation-Final.pdf>.

Furthermore, Rabbi Menashe Klein writes that he personally asked Rabbi Feinstein about the latter's alleged opposition to the establishment of *eruvin* in all large cities. According to Rabbi Klein, Rabbi Feinstein responded that he opposed only the *eruv* in Manhattan and that, if one were to check the 1962 proclamation of the Agudath Ha-Rabbonim, one would see that this proclamation was limited to the Manhattan *eruv*. Rabbi Klein concludes that Rabbi Feinstein informed him that this was also the opinion of Rabbi Aharon Kotler.[16]

Finally, in a letter written by Rabbi Menashe Klein in 1981, he claims that he has a copy of the original proclamation of 1979 and Rabbi Feinstein is not one of the signators. Rather, he argues, Rabbi Feinstein's name was added at a later date.[17]

The validity of these claims and the halakhic credibility of the *eruv* remained unresolved. Yet, the *eruv* was functional and was utilized by its proponents and their followers.

Rabbi Klein describes that, even though he wrote his responsum on the *eruv* in a theoretical and not practical vein, he was approached by many rabbis in Boro Park who urged him to create an *eruv* in Boro Park because so many religious people lived there. After gaining the support of several rabbis, including Rabbi Moshe Teitelbaum, the recently appointed Satmar Rebbe, Rabbi Klein convened a meeting of ten rabbinic authorities who agreed to supervise the building of the *eruv* in Boro Park. The *eruv* was built in early 1981 under the leadership of Rabbi Klein.[18]

In response to the creation of the *eruv* in Boro Park, Rabbi Moshe Feinstein wrote a long responsum dated February 6, 1981, refuting Rabbi Klein's arguments and concluding that an *eruv* could not be built in any part of Brooklyn.[19] In return, Rabbi Klein wrote a lengthy response to Rabbi Feinstein dated March 13, 1981. In the introduction to the responsum, Rabbi Klein writes, "Rabbi Feinstein has retracted from the position he stated to me two years ago

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16 Ibid., 14–16 reprinted in Rabbi Menashe Klein, *Om Ani Ḥomah* (Jerusalem, 1999), no. 7.

17 Ibid., no. 77.

18 *Om Ani Ḥomah* (Jerusalem, 1999), no. 56.

19 *Iggerot Mosheh*, *O.H.*, 5: 28.

permitting the building of an *eruv* in Boro Park ... and since I believe that Rabbi Feinstein's initial opinion is correct through which we can save thousands of Jews from Sabbath violations, I have chosen to review the rabbinic opinions on this matter and prove that it is permissible to create an *eruv* in Boro Park."[20]

Rabbi Klein describes many methods of intimidation that were used by the opponents of the *eruv* to force the rabbis to retract their support for the Boro Park *eruv*. These methods included calling the wife of a rabbi and threatening to kill him or cut off his hands and feet if he did not retract his support for the *eruv*. In addition, articles and proclamations were published in the Yiddish newspapers opposing the *eruv*. In the end, many of the rabbis withdrew their support.[21] The most significant proclamation opposing the *eruv* was signed by Rabbi Moshe Feinstein.

Fig. a

In this proclamation, written on the stationery of the Agudath Ha-Rabbonim, Rabbi Feinstein writes that anyone who relies on the Boro Park *eruv* is a "public Sabbath violator." Rabbi Klein writes that he does not believe that Rabbi Feinstein would ever

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20 *Om Ani Ḥomah* (Brooklyn, Tammuz, 1981): 28.

21 *Om Ani Ḥomah* (Jerusalem, 1999), no. 56

have written such strong language and Rabbi Klein believes that Rabbi Feinstein's signature was forged on this letter.[22]

Rabbi Klein's *eruv* continued to be operative, but few Jews relied on it. In 2000, however, a new *eruv* was built in Boro Park. This *eruv* did not rely on telephone wires and poles as the previous *eruvin* had. Rather, it was built entirely from free-standing poles and wires that were erected solely for the purpose of the *eruv*. In addition, as the number of religious Jews in Boro Park continued to increase and the general atmosphere in Boro Park became more and more religious, with a majority of the shops and stores closed on the Sabbath and Jewish holidays, many of the rabbis agreed that an *eruv* would not lead to Sabbath violations. Finally, small *eruvin* were being built around groups of houses and even entire city blocks. The proliferation of these small *eruvin* led many rabbis to believe that the moment was right to expand the *eruv* to include the entire neighborhood.[23] However, opposition to the *eruv* continued, with proclamations declaring that the prohibitions of the rabbis of previous generations were still in effect. Although this battle remained divisive and often fierce, the Boro Park *eruv* continues to exist.[24]

In 2003 a new *eruv* was built in Williamsburg. The opposition to the *eruv* continues with the intermittent publication of a circular entitled *Mishmeret Ḥomoteinu*. In addition, an annual anti-*eruv* gathering takes place in Williamsburg, at which time rabbis from Flatbush and Boro Park assemble to express their opposition to the

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22 *Om Ani Ḥomah* (Jerusalem, 1999), no. 53. It is noteworthy that the typewriter font is smaller for Rabbi Feinstein's name than for the rest of the letter. Since a typewriter does not have the ability to type in different font sizes, this would seem to support the conclusion that Rabbi Feinstein's signature was added later. See <http://eruvonline.blogspot.com/2006/01/1981-boro-park-kol-korei-exposed_05.html> (viewed 12/22/11).

23 *Al Mitzvat Eruv*, 213-15.

24 See copies of the proclamations at the conclusion of Moshe Yitzchak Weissman, *Sefer Yetziot Ha-Shabbat* (Brooklyn, 2003).For the borders of the 2000 Boro Park *eruv*, see <http://www.boroparkeruv.org/web_documents/eruvmapnew.pdf> (viewed 12/22/11).

Williamsburg *eruv*.[25] An extreme example of the ferociousness of the Williamsburg *eruv* battle can be seen in the reaction to the death of Elimelech Weiss, who was hit by a car and died on Friday night December 9, 2011.[26] Mr. Weiss was involved in the building of the 2003 Williamsburg *eruv* and almost immediately a proclamation was distributed by the anti-*eruv* group claiming that he was killed because he was a Sabbath violator who relied on the *eruv* and the punishment for Sabbath violators is death.


מחללי שבת מות יומת !!!

דער עירשטער קרבן השבת
אין עיר ואם בישראל וויליאמסבורג המעטירה יע"א

א מחלל שבת באקומט סקולח!

הערט אויף צו מחלל זיין דעם שבת אין אונזער
הייליגע שטאט, ווייל דער שבת וועט זיך נקם
זיין אין אירע פארשוועכערים!

[25] For an example of the ongoing eruv opposition in Williamsburg, see <http://eruvonline.blogspot.com/2006/06/williamsburg-eruv-imbroglio-continues.html> (viewed 12/22/11).

[26] See <http://www.vosizneias.com/96630/2011/12/10/williamsburg-ny-pedestrian-crossing-street-friday-night-killed-by-car> (viewed 12/22/11).

In 2004, several rabbis from Flatbush embarked on a project to enhance the Flatbush *eruv* so that it would be acceptable according to all rabbinic authorities. Upon completion of this project, these rabbis approached Rabbi Benzion Wosner, the Rosh Beit Din, Shevet Halevi in Monsey and a well-known expert on the laws of *eruvin,* to issue a certification letter for the Flatbush *eruv*. On May 1, 2004, Rabbi Wosner wrote:

> I was asked by Rabbis of Flatbush, Brooklyn—included in this group were leaders of shuls, heads of yeshivos and knowledgeable and prominent Rabbanim—to express my opinion on the *eruv* they are erecting in their neighborhood according to the custom of our forefathers and rabbis from time immemorial all over the world. After repeated, in depth, and all-encompassing investigations, I find that they have successfully accomplished Hashem's wish to erect an *eruv* of very high standards that is primarily reliant on real mechitzos and mechitzos within mechitzos that surround the area on four sides... I would like to publicly announce that the Flatbush *eruv* is kosher for all without question.[27]

This *eruv* was announced to the members of the Flatbush community shortly after this letter was received.[28]

In January, 2005, the Vaad L'Tikkun Eruvin of Greater Flatbush published a volume entitled *The Community Eruv: A Discussion of the Halakhic Issues Regarding Eruvin in Brooklyn* containing additional rabbinic letters of support for the Flatbush *eruv,* a map delineating the *eruv* boundaries in Brooklyn and the borders of the Flatbush *eruv,* and a lengthy halakhic analysis by the anonymous author explaining that this *eruv* is acceptable according to all rabbinic authorities including Rabbi Moshe Feinstein. This volume was distributed in synagogues and in mailings throughout the Orthodox communities of Brooklyn.

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[27] This translation of Rabbi Wosner's letter can be found in *The Community Eruv: A Discussion of the Halakhic Issues Regarding Eruvin in Brooklyn* (Shevat 5765), 4-5 (English section). The original letter can be found in *The Community Eruv*, 22 (Hebrew section).

[28] See <http://torahmusings.com/2004/05/flatbush-eruv/> (viewed 8/28/12). This *eruv* was already "unveiled" by May 24, 2004.

In May, 2005, the Committee for the Sanctity of Shabbos published an opposition to the Flatbush *eruv* in a small pamphlet entitled *Our Gedolei Yisroel Oppose the Eruv in Flatbush*. It begins with the following note: "As is known, the issue of a Communal Eruv in Flatbush was once again awakened some two years ago. In order to clarify this issue we deem it necessary to publish a number of pertinent letters, each preceded by an explanatory introduction."[29] This small pamphlet contains letters from local *rashei yeshivah* and rabbis as well as endorsements from several prominent Israeli rabbis opposing the creation of the Flatbush *eruv*. One of the letters in the pamphlet was written by Rabbi Dovid Feinstein, son of Rabbi Moshe Feinstein. In this letter, highlighted by a color photograph of Rabbi Dovid Feinstein, Rav Dovid attempts to clarify his father's position regarding the Flatbush *eruv*. He writes:

> Over twenty years ago, a group of Flatbush Rabbonim came and asked my father *zt"l* if it is possible to make an Eruv in Flatbush. After it was clarified that there are over 2.5 million people living in Flatbush and its environs, he said that it is impossible to build this *Eruv*. This was known all these years, and now, after his passing, a few individuals want to falsify the issue and they say that he would agree to make an Eruv in Flatbush. This is utterly false, because I have heard directly from his holy mouth that it is prohibited, not by heresay [sic], and I plead with these people that they should cease disseminating this falsehood.[30]

This volume was also distributed in synagogues and in mailings throughout the Orthodox communities of Brooklyn.[31]

In October, 2006, the Vaad L'Tikkun Eruvin of Greater Flatbush published a pamphlet entitled *Questions and Answers Regarding the Flatbush Eruv*. In this pamphlet, the anonymous author ad-

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29 *Our Gedolei Yisroel Oppose the Eruv in Flatbush* (Brooklyn, 2005), 2.

30 *Our Gedolei Yisroel Oppose the Eruv in Flatbush*, 6 (English translation) and 7 (Hebrew original). See mention of this pamphlet in Gil Student, "The Decline and Fall of Local Rabbinic Authority," in *The Next Generation of Modern Orthodoxy*, edited by Shmuel Hain (NY, 2012), 94.

31 <http://hirhurim.blogspot.com/2005/06/flatbush-eruv.html> (viewed 8/28/12).

dresses many of the issues regarding the Flabush *eruv* in a question-and-answer format. Among the issues discussed in the pamphlet is the debate regarding Rabbi Moshe Feinstein's view on the Flatbush *eruv*. The author poses the question as follows: "But what about the brochure circulating Flatbush containing a letter from Hagaon Harav Dovid Feinstein *shlita* stating that his father Hagaon Harav Moshe Feinstein did not allow an *eruv* to be erected in Flatbush?" The author answers as follows:

> A careful reading of Rav Dovid's words in the original Hebrew [since the loose English translation can be misleading] shows that he is in fact referring to his father's position on the 1979 *eruv* and not his father *zt"l's* theoretical position on the current *eruv*. Rav Moshe based his *p'sak* regarding the 1979 Flatbush *eruv* on information that had been related to him at the time. Since the facts on the ground have been otherwise confirmed—such as the fact that the population of Boro Park and Flatbush is less than *shishim ribu* and the verified presence of *meḥitzos* encompassing Brooklyn—one can only extrapolate from Rav Moshe's *teshuvos* how he would pasken regarding an *eruv* today. In light of the current situation, Hagaon Harav Tuvia Goldstein zt"l, Rosh Yeshiva of Emek Halacha and a *Talmid/Chaver* of Hagaon Harav Moshe Feinstein *zt"l*, has said on numerous occasions that Rav Moshe himself would allow an eruv.[32]

This pamphlet was also distributed in synagogues and in mailings throughout the Orthodox communities of Brooklyn. There was no response to this pamphlet from the Committee for the Sanctity of Shabbos, and the Flatbush *eruv* continued to be operative.[33]

The debate regarding the Brooklyn *eruv* that began in 1949 continues to the present day. Yet, in spite of all the controversy and battles, the *eruvin* in Williamsburg, Flatbush and Boro Park con-

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[32] *Questions and Answers Regarding the Flatbush Eruv* (Tishrei, 5766), 7 (English section).

[33] More recently, see two Hebrew works (both written anonymously to protect the identity of their pro-*eruv* authors): *Kuntres VeAshivah Horfi Davar* (Brooklyn, 2010) and *Kuntres Arikhat Shulḥan HaLevi* (Brooklyn, 2012).

tinue to exist and to service many Jews who choose to rely upon them to carry on the Sabbath.

Given the complexity of the halakhic debate regarding the creation of *eruvin* in Brooklyn, this article will explore these halakhic issues and the multiple rabbinic views on each issue.[34]

Is Brooklyn a Reshut Ha-Rabbim?

Much of the debate regarding the establishment of *eruvin* in Brooklyn revolves around the question whether Brooklyn may be considered a *reshut ha-rabbim*, in which case an *eruv* would require an enclosure of walls and *tzurat ha-petaḥ* would not suffice. *Shulḥan Arukh* gives four conditions under which an area is considered a *reshut ha-rabbim*.

1. It contains a street or marketplace that is at least 16 *amot* wide.
2. It does not have a roof.
3. The street runs straight from city gate to city gate (*mefulash*).
4. According to the *Shulḥan Arukh*, it must have 600,000 people traversing in it daily.[35]

Since all four criteria must be satisfied for an area to be considered a *reshut ha-rabbim*, if even one of them is not met, an enclosure of *tzurat ha-petaḥ* can be utilized to create the *eruv*.[36]

The rabbinic authorities involved in this debate address each one of these conditions separately. Interestingly, the main discussion revolves around the question whether Brooklyn is surrounded by walls, thereby creating an *eruv* even if it has the status of a *reshut ha-rabbim*. The author of the *Shulḥan Arukh* writes that an area that is surrounded by three walls is considered an enclosed area according to Biblical law and the requirement to enclose the fourth side is a rabbinic one. This distinction between Biblical and rabbinic law is significant, because any area that is prohibited only by rabbinic law

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[34] For an important summary of the halakhic issues relating to city *eruvin*, see Rabbi Chaim Jachter, *Gray Matter* (Teaneck, NJ, 2000), 165–199.

[35] *Shulḥan Arukh*, *O.H.*, 345:7.

[36] *Mishnah Berurah O.H.* 364:5. See also *The Community Eruv,* 16–20 (English section).

can be enclosed utilizing a *tzurat ha-petaḥ*.[37] In 1949, Rabbi Weissmandel was the first one to argue that Brooklyn is enclosed on three sides by the water or man-made sea walls that divide the waterways from the land.[38] All subsequent rabbinic authorities who have supported the creation of an *eruv* in Brooklyn have based their argument on the fact that Brooklyn is surrounded on three sides by man-made sea walls.[39] Once it has been established that Brooklyn is not a *reshut ha-rabbim* according to Biblical law, there are two alternatives for completing the *eruv*. A *tzurat ha-petaḥ* could be built to enclose the fourth side of Brooklyn. Alternatively, an *eruv* comprised completely of *tzurat ha-petaḥ* could be built within the Borough of Brooklyn. Rabbi Menashe Klein provides a precedent for the situation in Brooklyn. In 1936, Rabbi Chaim Ozer Grodzinski of Vilna was asked whether an *eruv* could be built around Paris. He responded that since Paris is enclosed on three sides by waterways, a *tzurat ha-petaḥ* could be utilized on the fourth side to create an acceptable *eruv*. Although the onset of World War II prevented the creation of the Paris *eruv*, Rabbi Klein writes that the situation is identical in Brooklyn.[40]

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37 *Shulḥan Arukh*, *O.H.* 363:1.

38 Weissmandel, *Torat Ḥemed*, no. 1. The issue whether natural riverbanks serve as acceptable river walls is a matter of dispute among the rabbinic authorities. Rabbi Seigel utilized the river banks in his 1905 *eruv* on the East Side of Manhattan. However, the *Mishnah Berurah* references a disagreement between the rabbinic authorities whether these natural waterways are valid *eruv* boundaries (*Mishnah Berurah O.H.* 363:118). Therefore, the discussion of the Brooklyn *eruv* relies on man-made walls that enclose the waterways surrounding Brooklyn and the gates and boardwalk that enclose Brooklyn. All rabbinic authorities maintain that man-made *eruv* boundaries are valid.

39 See Steif, "Kuntres Tikkun Eruvin," *Ohr Yisroel* 8:4 (Sivan, 5763): 7, Klein, *Om Ani Ḥomah* (Jerusalem, 1999), no. 40. See also the letter from Rabbi Yechezkel Roth, who writes that since Brooklyn is enclosed on three sides by sea walls, "everyone may rely on the *eruv* that was built in Boro Park." (*The Community Eruv*, 76 (English section) and Yechezkel Roth, *Emek Ha-Teshuvah* (Brooklyn, 2004), 5:19).

40 Rabbi Chaim Ozer Grodzinski, *Sefer Aḥiezer* (Jerusalem, 1986), 4:8. Rabbi Grodzinski argued that the natural *meḥitzot* would not suffice as *eruv* boundaries. However, he explained that the riverbanks in Paris were for-

The opponents of the Brooklyn *eruvin* utilize several different arguments to reject the use of the sea walls as acceptable *eruv* boundaries. Rabbi Feinstein believed that, even if an area is enclosed on three sides by walls, that area requires *dlatot,* gates to enclose the open side if the enclosed area has a population that exceeds 600,000. Therefore, regardless of whether the sea walls surrounding Brooklyn were acceptable *eruv* boundaries, according to Rabbi Feinstein, a *tzurat ha-petaḥ eruv* would still not be acceptable if the population of Brooklyn exceeded 600,000.[41] Rabbi Moshe Weissman, one of the leading opponents of the Boro Park *eruv* and the person to whom Rabbi Feinstein addressed his responsum opposing that *eruv*, explains that Brooklyn is surrounded only on two sides by acceptable *eruv* boundaries and therefore is still considered a *reshut ha-rabbim* according to Torah law around which a *tzurat ha-petaḥ eruv* cannot be built. He argues that the east side of Brooklyn at Coney Island and Brighton Beach (see map below) does not have an acceptable *eruv* boundary, because the water on that side gradually flows into the beach and an *eruv* boundary requires that the water create a wall and not gradually deepen.[42]

The supporters of the *eruv* respond as follows. First, they disagree with the opponents of the *eruv* regarding the interpretation of Rabbi Feinstein's position. In his *teshuvah* on the Boro Park *eruv*, Rabbi Feinstein writes, "Until now they [the *meḥitzot*] did not exist, but now they can be investigated."[43] The supporters contend that Brooklyn is enclosed by three acceptable *eruv* walls even ac-

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tified to avoid flooding and these fortifications can serve as man-made *meḥitzot* which would suffice as *eruv* boundaries. See the discussion of this opinion in *Om Ani Ḥomah* (Jerusalem, 1999), no. 40. The anonymous author of *The Community Eruv* (p. 24 English section) explains that Rabbi Eliyashiv permitted the *eruv* in Toronto based on the fact that three sides of Toronto were enclosed by actual walls, thereby allowing the completion of the eruv utilizing a *tzurat ha-petaḥ* (see http://www.torontoeruv.org/).

41 *Iggerot Mosheh, O.H.* I:139:3 and V:28:5.

42 Rabbi Moshe Weissman, *Sefer Yetziot ha-Shabbat* (Brooklyn, 2003), no. 7. This volume was printed in an earlier edition at the time of the first Boro Park *eruv* controversy in 1981.

43 *Iggerot Mosheh*, *O.H.* V:28:5.

cording to Rabbi Feinstein. They argue that the *Shulḥan Arukh* writes that the *eruv* walls are valid as long as they are *omed merubah al ha-parutz*—a majority of the area is walled.[44] Therefore, in Brooklyn even though there are breaks in the *eruv* wall at points where the water gradually flows into the beach, since a majority of the three sides are enclosed by valid *eruv* walls the *eruv* walls are valid.[45] Moreover, the supporters of the *eruv* contend that, since the boardwalk runs along the beach at Coney Island, the boardwalk can be part of the *eruv* wall. Therefore, almost 95% of the three sides of Brooklyn are enclosed within the man-made *eruv* walls.[46] Finally, they argue that Rabbi Feinstein's contention that *dlatot* are required even though the area is enclosed by walls applied only to the proposed creation of an *eruv* in Manhattan, which would encompass the entire borough. However, since the Brooklyn *eruvin* enclosed only specific neighborhoods within Brooklyn, Rabbi Feinstein would not require *dlatot* in these Brooklyn *eruvin*.[47]

44 *Shulḥan Arukh*, *O.H.*, 362:9.

45 For a summary of these opinions supporting the *eruv*, see *The Community Eruv*, 13 fn. 2 (English section).

46 Ibid., 61-3. See also *Questions and Answers Regarding the Flatbush Eruv*, 7-8 (English section).

47 See a detailed explanation of this position in *The Community Eruv*, 39–42 (English section).

Rabbi Moshe Weissman, one of the most vocal opponents of the Boro Park *eruv*, argues that Rabbi Feinstein disagrees with the conclusion of these *eruv* supporters regarding the utilization of the principle of *omed merubah al ha-parutz*. Rabbi Weissman argues that this principle that the *eruv* is valid as long as a majority of the area is enclosed applies only if the area being enclosed is not considered a *reshut ha-rabbim* because its population does not exceed 600,000. However, since Brooklyn would be considered a *reshut ha-rabbim* due its large population, a break in those walls, albeit a small portion of the walls, would invalidate the *eruv* enclosure and Brooklyn would remain a *reshut ha-rabbim*.[48]

The next issue that is addressed by the rabbinic combatants on the validity of the Brooklyn *eruv* relates to the population of Brooklyn. According to the *eruv* supporters, even if the population exceeds 600,000, the *eruv* is still valid. This is because Brooklyn is enclosed by three man-made walls and is thus a *reshut ha-yaḥid* regardless of the population of the enclosed area as previously mentioned. The issue of the population arises according to Rabbi Feinstein and the opponents of the *eruv* who follow Rabbi Feinstein's view. According to Rabbi Feinstein, the three-sided enclosure does not adequately create an *eruv* for Brooklyn since the population of the enclosed area exceeds 600,000.

Rabbi Feinstein clarifies his view as follows: Since the domains regarding the laws of Shabbat are derived from the different camps in the desert, the basis for population numbers in the contemporary cities and neighborhoods must be based on the population in the Israelite camps in the desert. Rabbi Feinstein explains that there were 600,000 men aged 20 to 60 in the Israelite camp. However, Rabbi Feinstein argues that the 600,000 people must traverse the city or neighborhood on a daily basis in order for that area to be considered a *reshut ha-rabbim*. In order to reach this daily requirement of traffic, argues Rabbi Feinstein, any area that has a population that exceeds 3 million is a *reshut ha-rabbim* and cannot be en-

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[48] See Weissman, *Sefer Yetziot ha-Shabbat*, no. 11, in which he argues that this opinion negating the use of the principle of *omed merubah al ha-parutz* is actually the opinion of a majority of the rabbinic authorities including Rabbi Aharon Kotler.

closed by a *tzurat ha-petaḥ eruv*.[49] However, Rabbi Feinstein adds that if the area within this *reshut ha-rabbim* does not itself have a population of 600,000, a *tzurat ha-petaḥ eruv* is valid around that neighborhood. This explains the basis for the *eruvin* in small sections of large cities in Europe where the *eruv* enclosed only the smaller Jewish neighborhood that did not have a population of 600,000, even though the population of the city exceeded three million.[50]

Therefore, according to Rabbi Feinstein, a *tzurat ha-petaḥ eruv* would not be permitted in the neighborhoods in Brooklyn for the following combination of reasons. First, there are breaks in the *eruv* walls surrounding Brooklyn. Second, the population of Brooklyn exceeds 3 million and the populations of Boro Park and Flatbush around which the *eruv* is built exceed 600,000.[51] Rabbi Feinstein writes in his responsum concerning the Flatbush *eruv* that he was told that the population of Brooklyn is somewhat less than 3 million. However, he maintains that Brooklyn is nevertheless a *reshut ha-rabbim*, since more than a million people enter the borough each day for work.[52] The 2000 Census records the population of Brooklyn as 2,465,326. The number of people who commute into Brooklyn for work is 235,918.[53] Therefore, in truth, Brooklyn does not reach the required population of 3 million to be considered a *reshut ha-rabbim* in 2000 and definitely not in 1981 when Rabbi Feinstein wrote his responsum. Rabbi Moshe Weissman claims that there are over a million people who utilize the Brooklyn beaches.[54] However, Rabbi Feinstein does not consider this group within the total popu-

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[49] This concept is first introduced in Rabbi Feinstein's responsum concerning the Manhattan *eruv*. See *Iggerot Mosheh O.H.* I:139:5. However, Rabbi Feinstein does not specify the exact number of inhabitants that would create a *reshut ha-rabbim*. Rabbi Feinstein clarifies the population of 3 million in his two responsa on the Boro Park *eruv*. See *Iggerot Mosheh O.H.* V:28:5 and V:29. The derivation from the Israelite camp in the desert can be found in *Iggerot Mosheh O.H.* I: 139:5: and IV:87.

[50] *Iggerot Mosheh O.H.* V: 28:5.

[51] *Iggerot Mosheh O.H.* IV: 87-88 and V: 28:5 and V:Addendum to 89.

[52] *Iggerot Mosheh*, *O.H.* IV: 88.

[53] 2000 US Census Bureau Summary File 1.

[54] *Yetziot ha-Shabbat*, no. 8.

lation since, according to Rabbi Feinstein, the total population includes only those people who traverse Brooklyn on a daily basis.[55]

Regarding the populations of Boro Park and Flatbush, Rabbi Feinstein writes that they each have a population that exceeds 600,000.[56] However, in 2002, the Department of City Planning stated the population of Boro Park at less than 100,000 and the population of Flatbush at less than 200,000.[57] This being the case, it would seem that Rabbi Feinstein would allow an *eruv* to be built in Boro Park and Flatbush. However, in a responsum written in August, 1980, regarding the creation of an *eruv* in Detroit, Rabbi Feinstein altered his view in a significant manner. He wrote that he knew from the police that Brooklyn did not have a population of 600,000. Yet, since most people are not familiar with the exact population, he believed that *eruvin* should not be built in any big city.[58] This meant that Rabbi Feinstein saw the prohibition against building an *eruv* in Brooklyn as a precautionary measure and his opposition was not based on the realities of the population size in Brooklyn.

Rabbi Menashe Klein responds to Rabbi Feinstein's rejection of the Boro Park and Flatbush *eruvin* based on the total populations of these neighborhoods. First, he notes that neither Flatbush nor Boro Park had populations that exceeded 600,000. Furthermore, he disagrees with Rabbi Feinstein's claim that the *eruvin* in Warsaw and other cities surrounded only the small Jewish neighborhoods that did not have populations of 600,000. Rabbi Klein points out that in Warsaw the *eruv* enclosed the entire city, and he quotes the letter of Rabbi Shlomo Kahane validating the *eruv* in Warsaw even though the population exceeded 600,000. Furthermore, Rabbi Klein claims that the planned *eruv* in Paris was going to enclose the entire city whose population far exceeded 600,000. Finally, the *eruv* on the East Side of Manhattan in 1905 that was supported by several of the great rabbinic authorities of Poland enclosed an area whose population exceeded 600,000.[59]

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55 *Iggerot Mosheh* O.H. IV:88.

56 *Iggerot Mosheh, O.H.* V:28:5 and V:Addendum to 89.

57 NYC Department of City Planning, Community District Files 2002.

58 *Iggerot Mosheh* O.H. V:29.

59 *Om Ani Ḥomah* (Jerusalem, 1999), no.41.

The third criterion required in order for an area to be considered a *reshut ha-rabbim* is that its streets *be mefulash u-mekhuvanim mi-shaar le-shaar*—running directly from one end of the city to the other. Since there is no street or highway in Brooklyn that runs directly from one end of the Borough to the other end, this criterion is not met.[60] Rabbi Feinstein, however, argues that the requirement that an area have streets that run from one end to the other applies only in a walled city. However, he says, if the city is not walled, the city can be considered a *reshut ha-rabbim* even if its streets are not open from one end of the city to the other. Therefore, in Brooklyn, which Rabbi Feinstein considers to be an unwalled city, the fact that there are no streets that are *mefulash* does not impact whether Brooklyn is considered a *reshut ha-rabbim*.[61] Rabbi Klein responds to Rabbi Feinstein by quoting 18 rabbinic authorities dating back to the Geonic period who believe that *mefulash* is a condition for a *reshut ha-rabbim* even in an unwalled city. In addition, all the *eruvin* that were built in cities relied on the fact that the city was not a *reshut ha-rabbim* since its streets were not *mefulash*.[62]

In the context of his discussion whether Brooklyn is considered a *reshut ha-rabbim*, Rabbi Menashe Klein raises some creative halakhic possibilities that are rejected by Rabbi Feinstein. First, Rabbi Klein suggests that since it is illegal for pedestrians to walk in the middle of traffic, streets with cars on it create a *meḥitzah*, a separation, and disqualify the area from being considered a *reshut ha-rabbim*. He brings a proof from *Tosafot* who distinguish between the role of *meḥitzot* regarding the laws of *Shabbat* and the laws of *succah*. *Tosafot* write that pertaining to the laws of Shabbat, *meḥitzot* are considered valid as long as they prevent access. It is only when building a *succah* that physical walls are needed.[63] Furthermore, Rabbi Klein quotes Rabbi Avraham Bornstein, a late nineteenth-century Hasidic leader and author of the *Avnei Nezer*, who writes that in a case in which *dlatot* are required, if the law of the land for-

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60 See *The Community Eruv*, 21-22 (English section).

61 *Iggerot Mosheh O.H.* V:28:7.

62 *Om Ani Ḥomah* (Jerusalem, 1999), no. 42 and *The Community Eruv*, 21-2 (English section).

63 *Tosafot, Sukkah* 4b s.v. *paḥot*.

bids travel through the gates of the city, the city is considered enclosed by *dlatot* even though the gates of the city are never closed. In this case as well, the role of the *meḥitzot* or *dlatot* is not to have physical walls but rather to prevent travel or access.[64]

Second, Rabbi Klein explains that he heard the following argument from Rabbi Yekutiel Yehudah Halberstam, the Klausenberger Rebbe: since the streets in America have traffic lights and stop signs that prevent unrestricted movement and access, the streets in America do not have the status of a *reshut ha-rabbim*. Rabbi Klein argues that Tosafot's definition of *meḥitzot* regarding Shabbat serves as the basis for this ruling of Rabbi Halberstam.[65] Finally, Rabbi Klein argues that, since during rush hour the traffic in New York is so heavy, the cars that are not able to move create their own *meḥitzah*, thereby providing yet another way to negate the status of Brooklyn as a *reshut ha-rabbim*.[66]

Rabbi Feinstein disagrees with Rabbi Klein's assertions for two reasons. First, he argues that the distinction that *Tosafot* draw between *meḥitzot* regarding the building of a *succah* and regarding creating an *eruv* on Shabbat does not relate to whether or not the *meḥitzot* are actual walls or not. Rather, Rabbi Feinstein explains that regarding the laws of the Sabbath, the *meḥitzot* need to fulfill the halakhic requirements of an enclosure with two poles and a crossbeam. The status of these *meḥitzot* has nothing to do with the question of preventing access or passage. Second, Rabbi Feinstein claims that Rabbi Klein misunderstood the role of traffic lights and stop signs. Rabbi Feinstein explains that traffic lights and stop signs are needed, not to prevent passage but to make passage safer and more orderly. Therefore, Rabbi Feinstein rejected these arguments

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64 Rabbi Avraham Bornstein, *Shut Avnei Nezer* (New York, 1965), 267:5. See Rabbi Klein's discussion of this issue in *Om Ani Ḥomah* (Jerusalem, 1999), no. 15.

65 *Om Ani Ḥomah* (Jerusalem, 1999), no. 16. This opinion of Rabbi Halberstam can be found in his collection of responsa, *Divrei Yetziv O.H.* II:172:14.

66 Ibid., no. 19.

and continued to maintain that Brooklyn had the status of a *reshut ha-rabbim*.[67]

Leasing the City

The acceptability of leasing the city from the local authorities in order to create the necessary *sekhirat reshut* has been well established since the time of the *Shulḥan Arukh*.[68] In the modern period, a rabbinic debate ensued whether this leasing process is valid only in order to lease the property of non-Jews living in the city, or whether it is even valid to lease the property of non-observant Jews living in the city. Although this debate continued to be an issue in many of the modern *eruvin* in Europe and the United States, the validity of all modern *eruvin* was dependent on accepting the view that the leasing from the governmental official applied to all property within the city, regardless of whether it belonged to a Jew or non-Jew. Otherwise, the property of the non-observant Jew living within the enclosed area would invalidate the entire *eruv*.[69]

The Brooklyn *eruv* dispute raised a new issue regarding the leasing of the city. The Brooklyn *eruv* was the first recorded *eruv* in which there was a sizable part of the Orthodox community that did not accept the *eruv*. The question arose whether the leasing of the city from the governmental authority includes the property of those Orthodox Jews who choose not to accept the validity of the *eruv*. Rabbi Halberstam addressed this question in a responsum that he wrote in 1981 concerning the first Boro Park *eruv*. Rabbi Halberstam quotes a responsum of Rabbi Malkiel of Lomza, regarding the *eruv* in Odessa in 1900, which discusses the issue of leasing from the governmental official. Rabbi Malkiel quotes Rabbi Naftali Zvi Yehudah Berlin (Netziv) who claims that leasing from the governmental official includes only the property of non-Jews. The Netziv explains that since the rabbis required leasing the property of a non-Jew only to encourage Jews to live in different neighborhoods than non-Jews, this largely symbolic leasing from the gov-

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67 *Iggerot Mosheh O.H.* V:28:2.

68 *Shulḥan Arukh*, *O.H.* 391:1.

69 See Mintz, *Halakhah in America,* 208-13.

ernmental authority is valid. However, the Netziv argues, this enactment applies only to the property of a non-Jew. The property of the Jew, who is not included in this rabbinic enactment, must be leased directly from the Jew.[70] Rabbi Malkiel writes that the property of a non-observant Jew is considered like the property of a non-Jew and, therefore, his property is included within the rental from the governmental authority.[71] This argument, says Rabbi Halberstam, could not be extended to the property of an observant Jew who rejects the Boro Park *eruv* and, therefore, following the view of the Netziv, his property must be leased directly from him. However, Rabbi Halberstam also quotes the opinion of Rabbi Shlomo Kluger, who argues that the leasing of the city from the governmental authority includes all property within the city, since the official has the power, either directly or indirectly, to enter the houses in the city. According to this view, even the houses of observant Jews would be included in this lease.[72] Rabbi Halberstam concludes, however, that he does not want to bundle leniencies on top of leniencies regarding this *eruv* and, therefore, although there is an opinion that is lenient, he believes that the property of the observant Jew who rejects the *eruv* is not included in the communal lease of Boro Park.[73]

Rabbi Klein addresses this question in two letters that he wrote in 1981 to Rabbi Shlomo Miller in Toronto. Rabbi Klein argues that many great rabbinic authorities have opposed or disapproved of *eruvin*. Yet, there has never been an opinion that their opposition would invalidate the lease of the city thereby nullifying the *eruv*. Rabbi Klein explains that any Jew who opposes a particular *eruv* does not reject the concept of *eruvin* in general. He accepts the principle of *eruvin*. He just believes that the *halakhah* does not permit a specific *eruv* around a specific city. Such a person would

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70 Rabbi Naftali Tzvi Yehudah Berlin, *Shut Meishiv Davar* (Jerusalem, 1968), *O.H.* no. 26.

71 *Divrei Malkiel*, III:18.

72 Rabbi Shlomo Kluger, *Sefer U-Vaḥarta Ba-Hayyim* (Brooklyn, n.d.), no. 126.

73 *Divrei Yetziv*, *O.H.* II:173:5-6.

definitely be considered a part of the *eruv* community and his property would not need to be leased separately.[74]

In a 1999 volume of the rabbinic journal *Ohr Yisroel* dedicated to a discussion of the Boro Park *eruv* controversy, Rabbi Moshe Yosef Unsdorfer, from the "Eruv Committee," analyzes Rabbi Halberstam's position. He argues that Rabbi Halberstam agrees that Rabbi Shlomo Kluger, the outstanding rabbinic authority in Galicia in the nineteenth century, argued that the property of the observant Jews is also included in the lease. Yet, Rabbi Halberstam believed that one should not combine too many leniencies in such a case. Rabbi Unsdorfer argues that Rabbi Halberstam was addressing the 1981 Boro Park *eruv* around which there was much controversy. However, he says, regarding the 2000 Boro Park *eruv* most rabbinic authorities agree that the *eruv* is valid, at least to allow sick people to carry on the Sabbath. Therefore, the opponents of the *eruv* would not be in the category of those who actually reject the *eruv*. Rather, they would be people who choose not to rely on the *eruv*. Furthermore, even if there are a few rabbis who genuinely oppose the *eruv*, there have always been opponents to local *eruvin* and these few opponents never negated the *eruvin* of the past. Therefore, Rabbi Unsdorfer claims, even Rabbi Halberstam would agree that in the present Boro Park *eruv*, all property would be included in the lease.[75]

Social-Religious Aspects of the Eruv

Another issue that was contested regarding the Brooklyn *eruv* was whether the ability to carry on the Sabbath thereby enhancing the observance and enjoyment of the Sabbath should be a consideration in seeking to permit the erection of *eruvin* in Brooklyn. However, even if the Jews would benefit through the ability to carry on the Sabbath, does this benefit involve certain pitfalls that need to be avoided? Rabbi Klein first addresses this issue in 1980 in his first edition of *Om Ani Ḥomah*. Although he does not mention this let-

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74 *Om Ani Ḥomah* (Jerusalem, 1999), Nos. 67-8.

75 Rabbi Moshe Yosef Unsdorfer, "Birrur Shitat Rabbotainu Odot Anashim Ha-Mohim Ba-Eruv," *Ohr Yisroel* 5:3 (Adar II: 5760): 231-4.

ter specifically, he seems to be responding to a letter written by Rabbi Feinstein in 1959 regarding the creation of the Manhattan *eruv*. Rabbi Feinstein writes:

> I do not see a need to establish an *eruv* here for it is not similar to the cities in Europe where there was a need for an *eruv* in order to survive as it was impossible to prepare water for the animals and other similar things that were crucial for people. However, here everything is in the home and there are even *siddurim* and *ḥumashim* in the synagogues. It is only for the sake of the sinners who violate all the laws of the Torah in order to remove the prohibition of carrying on the Sabbath. This must be balanced with the dangerous state that will be created for the religious Jews who will rely on the lenient view without knowing the opinions of the more stringent ones... However, if after proper consideration the supporters of the *eruv* consider it a necessity for the children or those who carry unintentionally, I do not object but I can not participate with them.[76]

Rabbi Klein responds to Rabbi Feinstein as follows:

> Praised is the position of our Master [Rabbi Feinstein] who sits in the Holy of Holies and whose eyes have not witnessed Sabbath violations and who does not feel that it is necessary to remove the prohibition of carrying from the Sabbath violators. However, I have seen with my human eyes that the *eruv* is required specifically for the religious Jews, for many observant Jews who are generally Sabbath observant go out on the street with young children and I have seen them pick them up and carry them, which according to the *Magen Avraham* is a Sabbath violation. Furthermore, many observant Jews carry a house key in the street since they are afraid to leave the house unlocked.[77]

Rabbi Klein goes on to list other instances in which Sabbath-observant Jews benefit from the creation of an *eruv*. He mentions that many men are unable to study in the *beit midrash* since they

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[76] Rabbi Moshe Feinstein in Rabbi Pirutinsky, *HaPardes* 33:9 (Sivan 5719): 13.

[77] *Om Ani Ḥomah,* (Brooklyn, 1980), netiv 26.

must stay home with the children. If there was an *eruv*, he argues, the children could go outside (or be brought outside) to the park and the men could go learn. In addition, women are unable to carry their *niddah* clothes to the rabbis on the Sabbath for inspection, thereby preventing them from immersing in the mikveh at the proper time. Also, he writes, most of the *sukkot* are in public places and observant Jews carry to the *sukkah* on the Sabbath of Sukkot. Finally, doctors carry medicines for their patients even in situations that are not life-threatening and therefore prohibited without an *eruv*.[78]

The debate between Rabbis Feinstein and Klein centers on two questions. First, whether *eruvin* should be constructed only in situations where survival is at stake or whether *eruvin* should be constructed in order to enhance the enjoyment of the Sabbath. Second, whether the *eruv* is constructed for the sake of the Sabbath violators to protect them from the violation of carrying on the Sabbath or for the sake of the Sabbath observer who requires the *eruv* for Sabbath observance and enjoyment.

Rabbi Feinstein responds to Rabbi Klein in two responsa that he wrote in 1980 and 1981. In a responsum dated August 20, 1980, that he writes concerning the building of an *eruv* in Detroit, he addresses the social aspect of the *eruv*. He explains that there is no obligation to build an *eruv* to prevent the Sabbath violators from violating the Sabbath. Then he argues that there are very few people who forget the law and carry on the Sabbath and for their sakes one should not build an *eruv* because sometimes the *eruv* is not operative and they will carry anyway. However, he adds that recently people have begun demanding *eruvin* since women are very troubled by their inability to take the children outside on the Sabbath and in some instances they take the children outside even without an *eruv*. Therefore, Rabbi Feinstein concludes that each rabbi must determine the level of need in his community but a rabbi should definitely not reprimand those who build an *eruv* due to the needs of the women.[79]

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78 Ibid. See also the letter written by Rabbi Klein in 1978 in *Om Ani Ḥomah* (Jerusalem, 1999), no. 70.

79 *Iggerot Mosheh, O.H.* V:29.

Interestingly, in his responsum written on February 6, 1981 regarding the Boro Park *eruv* in which Rabbi Feinstein systematically refutes all of Rabbi Klein's claims in *Om Ani Ḥomah*, he takes a more restrictive view towards the creation of *eruvin* due to social considerations. He writes that the women have begun demanding the creation of an *eruv* in order to be able to take the children outside on the Sabbath. Rabbi Feinstein admits that this is a consideration. However, he states clearly that this is not a necessity as it was in Europe. Furthermore, he warns that if *eruvin* are built, people will forget that carrying is prohibited on the Sabbath. This is because since the *eruv* is created through the construction of wires and poles on the outskirts of the city, no one realizes that the only reason they are permitted to carry is the *eruv*. He suggests that a sign be placed in every synagogue to alert everyone to the presence of the *eruv*. However, he concludes that even this is insufficient since many people do not go to the synagogue on a weekly basis.[80]

Rabbi Klein makes several arguments in response to Rabbi Feinstein. First, Rabbi Klein claims that the purpose of the *eruv* is not only to prevent Sabbath violators from Sabbath desecration; it is for the sake of the thousands of Jews in Brooklyn who don't properly know or understand the laws of the Sabbath and therefore carry on that day. In addition, it is for the sake of the *baalei teshuvah*, the recent returnees to tradition, who do not yet know all the intricacies of the Sabbath laws. Rabbi Klein reiterates all of the inconveniences that he believes necessitate the building of *eruvin*. He adds the following story that was told to him by Rabbi Levi Yitzchak Horowitz, the Bostoner Rebbe. The Bostoner Rebbe, who lived in Brookline, Massachusetts, which did not have an *eruv* at the time, describes a woman with four children who came to him complaining that the Sabbath was her most agonizing day of the week, rather than her most enjoyable one, because she could not take her young children outdoors. She confessed to the Bostoner Rebbe that, due to this situation, she would make sure not to give birth to any more children. Rabbi Klein comments that the lack of *eruvin* can create such terrible and sinful episodes. Finally, Rabbi Klein acknowledges Rabbi Feinstein's concern that people be made

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[80] Ibid., V:28:21.

aware of the existence of the *eruv* and suggests that each synagogue have an announcement whether the *eruv* is operative each Sabbath and that a phone number be designated so that people can check the status of the *eruv*.[81]

The question whether the request made by the women for the creation of *eruvin* is a serious consideration is further reflected in a dispute concerning the potential immodesty of having men and women walking the streets at the same time on the Sabbath. In a lengthy letter that Rabbi Moshe Brief wrote to Rabbi Klein, he writes, "Due to the creation of an *eruv*, men and women will walk the streets together and modesty will be compromised." Although he clarifies later in this letter that this is not the main reason for invalidating the *eruv*, he argues that this is a consideration that must be addressed.[82] Rabbi Moshe Leib Rabinovich, the Munkacser Rebbe, offers a sharp rebuke to those who claim that the *eruv* will breach the rules of modesty in the community. In a letter written in 2000, he declares, "In conclusion, I have come to refute that which I have heard that people are predicting that the *eruv* will breach the rules of modesty. In my opinion, these are words that should not be spoken and it is forbidden to listen to."[83]

Reliance on Precedent

Rabbi Menashe Klein maintains throughout *Om Ani Ḥomah* that the *eruvin* in Brooklyn are following a tradition of *eruvin* in big cities throughout Europe. In the introduction to the first edition of *Om Ani Ḥomah*, Rabbi Klein writes:

> I have not come to disagree. Rather, I have come to explain the views of the rabbis and our forefathers in Ashkenaz in every generation who have striven to create *eruvin* in every city known to us, both big and small, in all areas of Ashkenaz, Poland, Lithuania, Russia, Hungary and others. *Eruvin* have even

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81 *Om Ani Ḥomah* (Tammuz 1981), netiv 20–22.

82 *Yalkut Mikhtavim*, 116-29. See also the letter by Rabbi Raphael Blum who is also concerned about the breach in modesty that will be created by the eruv (*Yalkut Mikhtavim*, 90-1).

83 Rabbi Moshe Yehuda Rabinowitz, *Mikhtav le-Anshei Shlomeinu Bi-Dvar Hashem Zo Halakhah* (Brooklyn, 2000).

> been created in cities whose population exceeds 600,000. Most famously, Warsaw, the capital that had a population several times 600,000, proves this point as there were over half a million Jews in Warsaw prior to the War and there was an *eruv* there with no one objecting or casting doubts on the righteous people who lived there. In Antwerp and Paris the great sages Ḥazon Ish and Rabbi Ḥayyim Ozer Grodzinski allowed an *eruv*. And the leading authority of his generation, the Maharsham and the author of the *Harei Besamim* and the author of the *Tirosh Ve-Yitzhar* allowed for an *eruv* in New York.[84]

Rabbi Klein concludes his first edition of *Om Ani Ḥomah* by repeating the fact that great rabbinic authorities have created *eruvin* in some of the largest and most important Jewish communities in Europe and America. He adds that "In 1895, Rabbi Yitzchak Elchanan agreed to have Rabbi Jacob Joseph, the Chief Rabbi of New York, create an *eruv* in St. Louis."[85]

Although it is important that Rabbi Klein relies so heavily on the precedent of city *eruvin* in Europe and America and uses this fact as an important consideration in the creation of *eruvin* in cities with populations that exceed 600,000, the manner in which he mentions the American *eruvin* is noteworthy. When mentioning the eruv of 1905 in New York, he does not mention Rabbi Yehoshua Seigel, the creator of that *eruv*.[86] Rather, he mentions the approbations of Maharsham (Rabbi Shalom Mordekhai Schwadron of Brezhen) and the authors of *Harei Besamim* (Aryeh Leib Horowitz) and *Tirosh Ve-Yitzhar* (Ezekiel Zevi Michaelson). In his conclusion to *Om Ani Ḥomah*, he adds the other Polish rabbis who gave approbations to Rabbi Seigel's *eruv*. When describing the St. Louis *eruv*, he does not mention Rabbi Zekhariah Rosenfeld, the creator of that *eruv*.[87] Rather, he focuses on the fact that Rabbi Yizchak

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84 *Om Ani Ḥomah,* (Brooklyn, 1980), 2-3.

85 Ibid., 61.

86 See Rabbi Yehoshua Seigel, *Eruv Ve-Hoza'ah* (New York, 1907). See the discussion of this eruv in Mintz, *Halakhah in America*, 176–228.

87 See Zekhariah Rosenfeld, Tikvat Zekhariah II (Chicago, 1896). See the discussion of this eruv in Mintz, *Halakhah in America*, 229–282.

Elchanan Spektor instructed Rabbi Jacob Joseph to investigate the possibility of an *eruv* in St. Louis and that Rabbi Spektor did not claim that an *eruv* could not be built in St. Louis.

In addition, in a letter written in 1980, Rabbi Klein addresses the evidence that the Maharsham had retracted his approbation to the New York *eruv*. Rabbi Klein writes that the Maharsham never retracted his approbation. The only thing that the Maharsham retracted was his initial statement to Rabbi Seigel that the *eruv* was acceptable only in emergency situations. However, in Maharsham's second letter, he clarified that now that he understands the situation, one can rely on the *eruv* in all situations. Furthermore, Rabbi Klein explains that even if the Maharsham did retract his approbation, we do not have to retract our acceptance of the 1905 eruv since the arguments of the Maharsham supporting the *eruv* were strong and convincing ones.[88]

Although Rabbi Klein looks to the precedent of earlier American city *eruvin* to support his validation of the Brooklyn *eruvin*, he finds justification only in the views of the Eastern European rabbinic authorities and the *eruvin* they created. Even regarding the American *eruvin*, which would seem to offer the best justification for Rabbi Klein, he finds support only in the approbation of the Eastern European rabbis to those *eruvin* and not in the fact that they were created by Rabbis Rosenfeld and Seigel. Even in the last decades of the twentieth century, Rabbi Klein felt that the tradition of *eruvin* was a continuation of the eastern European tradition and not the earlier experiences of American Orthodoxy.

There was, however, one American rabbinic authority whose halakhic opinions Rabbi Klein and the proponents of the Brooklyn *eruvin* took very seriously, and that was Rabbi Moshe Feinstein. This is evident from the attention that Rabbi Klein pays to Rabbi Feinstein and his views concerning the Brooklyn *eruvin*. At the conclusion of his first edition of *Om Ani Ḥomah*, Rabbi Klein recounts the history of the Manhattan *eruv* of 1962. He includes Rabbi Steif, Rabbi Weissmandel and Rabbi Henkin as supporters of the idea of establishing an *eruv* in Manhattan. He adds that Rabbis Weissmandel and Steif approved the establishment of an *eruv* in

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88 *Om Ani Ḥomah* (Jerusalem, 1980), no. 69.

neighborhoods in Brooklyn, even though that project was not realized at the time. Finally, Rabbi Klein quotes Rabbi Feinstein's reaction to the idea of a Manhattan *eruv* as told to Rabbi Pirutinsky. Rabbi Feinstein argued that there was no need for an *eruv* in Manhattan as there had been in Europe. "However, if after proper consideration the supporters of the *eruv* consider it a necessity for the children or those who carry unintentionally, I do not object but I cannot participate with them."[89]

Earlier in this edition of *Om Ani Ḥomah*, Rabbi Klein recounts the following story regarding Rabbi Feinstein's view on creating an *eruv* in Brooklyn. Rabbi Klein describes that he was once in the home of Rabbi Feinstein and asked him about his view on establishing *eruvin* in large cities. Rabbi Feinstein replied that "It is a falsehood what people claim in my name [that I oppose these *eruvin*] and I believe that it is a *mitzvah* to create *eruvin* in all cities." According to Rabbi Klein, Rabbi Feinstein further stated that the decision of the Agudath ha-Rabbanim in 1962 prohibiting *eruvin* in large cities was limited to the Manhattan *eruv*. Rabbi Klein writes that he then asked Rabbi Feinstein about establishing an *eruv* in Boro Park, to which he responded, "It is preferable not to have disagreement among the rabbis since where there is disagreement it will be difficult to create an *eruv*."[90]

In spite of this conversation with Rabbi Klein and the earlier claim that he would not oppose the *eruv* in Manhattan, Rabbi Feinstein wrote a lengthy refutation of *Om Ani Ḥomah* on February 6, 1981. In this responsum, Rabbi Feinstein refutes Rabbi Klein's arguments one by one and concludes that "It is impossible to establish an *eruv* in Brooklyn."[91] On March 13, 1981, Rabbi Klein responds to Rabbi Feinstein upon receiving his responsum. Rabbi Klein writes that Rabbi Feinstein has retracted his permissive ruling that he personally related to Rabbi Klein two years earlier. Rabbi Klein

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89 Rabbi Moshe Feinstein in Rabbi Pirutinsky, *HaPardes* 33:9 (Sivan 5719): 13. See Rabbi Klein's discussion in *Om Ani Ḥomah* (Brooklyn, 1980), netiv 26.

90 *Om Ani Ḥomah* (Brooklyn, 1980), netiv 6.

91 *Om Ani Ḥomah* (Brooklyn, Tammuz, 1981), 9–24, reprinted in *Iggerot Mosheh O.H.* V:28.

adds that in order to save many thousands of people from Sabbath violation, he has decided to respond to Rabbi Feinstein's responsum point by point and defend his own understanding of the rabbinic opinions validating the Boro Park *eruv*. In addition, Rabbi Klein writes, by accepting his arguments concerning the validity of the Boro Park *eruv*, Rabbi Feinstein will be able to rely on his earlier permissive ruling and will not be considered as someone who has changed his mind.[92]

In the course of the second edition of *Om Ani Ḥomah*, in which Rabbi Klein responds to Rabbi Feinstein's arguments, he once again addresses the issue of Rabbi Feinstein's change of heart regarding the creation of the Brooklyn *eruv*. Rabbi Klein begins by referring to Rabbi Feinstein's letter to Rabbi Peretz Steinberg on April 1, 1974, regarding the *eruv* that Rabbi Steinberg had built in Kew Gardens Hills. Rabbi Feinstein wrote regarding that *eruv*, "I see great value in this *eruv* protecting both the intentional and unintentional sinner and it is not like the *eruv* in New York of which I did not approve ... because New York is a large city and Kew Gardens Hills is a small city regarding these matters."[93] Rabbi Klein asks why Boro Park is different from Kew Gardens Hills. In truth, Kew Gardens is not surrounded by real walls and the traffic is much heavier through Queens since it is close to Kennedy Airport. Rabbi Klein adds that Rabbi Feinstein also supported the creation of an *eruv* in Detroit even though it is a larger city than Boro Park.[94] Finally, Rabbi Klein quotes Rabbi Feinstein's responsum regarding the Flatbush *eruv* in which he writes that although he opposes the *eruv*, he does not want to issue a "decision" regarding this *eruv*.[95] Given all this evidence, Rabbi Klein writes that he cannot understand how Rabbi Feinstein could have signed the proclamation of the Agudath Ha-Rabbanim claiming that anyone who relies on the Boro Park *eruv* is a Sabbath violator, and reiterates his claim that Rabbi Feinstein's name was forged on the proclamation and that Rabbi Feinstein never really agreed to that proclamation calling an-

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92 *Om Ani Ḥomah* (Brooklyn, Tammuz 1981), 28.
93 *Iggerot Mosheh*, *O.H.* IV: 86.
94 Ibid., *O.H.* V:29.
95 Ibid., *O.H.* IV:87.

yone who carries in Boro Park a Sabbath violator.[96] Furthermore, even if Rabbi Feinstein changed his mind and now opposed the Boro Park *eruv*, he would never oppose it publicly since he had written explicitly that he would not publicly oppose the *eruv* in Manhattan and that he did not want to offer a "decision" regarding the Flatbush *eruv*.[97] Rabbi Klein concludes the second edition of *Om Ani Ḥomah* as follows: "Therefore, the original words of Rabbi Feinstein stand that is permissible to build an *eruv* in Boro Park and he did not err in his earlier decision. Rather, the holy spirit emanated from him to decide according to the law."[98]

The attempt by the proponents of the Brooklyn *eruvin* to prove that Rabbi Feinstein supported the creation of these *eruvin* is elaborated upon by the author of *The Community Eruv*. The anonymous author concludes that Brooklyn is not a *reshut ha-rabbim* and, therefore, *eruvin* can be created in the neighborhoods within Brooklyn. Then the author adds a chapter on Rabbi Feinstein's reasons for opposing the *eruvin* in Brooklyn. However, he adds an even longer discussion outlining the fact that the reasons for Rabbi Feinstein's opposition either no longer apply or never were correct. The author concludes this section as follows: "In light of these facts it is obvious that Rav Moshe's approach to *eruvin* in Boro Park and Flatbush was based on a totally different set of circumstances and if he would have known the particulars of our situation, he would have allowed an *eruv* to be erected."[99]

This attempt to prove that Rabbi Feinstein did not oppose and even supported the creation of the Brooklyn *eruvin* must be compared with the attitude of the proponents of the Manhattan *eruv* of 1962 to the opposition of Rabbi Feinstein. In 1952, Rabbi Feinstein wrote two responsa to Rabbi Eisenstadt explaining in great detail

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96 *Om Ani Ḥomah* (Brooklyn 1999), no. 77.

97 *Om Ani Ḥomah* (Brooklyn, Tammuz, 1981), netiv 15, no. 31.

98 *Om Ani Ḥomah* (Brooklyn, Tammuz, 1981), netiv 23. Interestingly, in a letter written on November 13, 1980, Rabbi Klein reprimands someone who criticizes and makes fun of Rabbi Feinstein because it is prohibited to make fun of a Torah scholar. (See *Om Ani Ḥomah* (Brooklyn, 1999), no. 78.)

99 *The Community Eruv*, 42 (English Section). See a similar argument in *Questions and Answers Regarding the Flatbush Eruv*, 7-8 (English section).

that he believed that an *eruv* could not created to enclose Manhattan. In 1959, Rabbi Pirutinsky quotes Rabbi Feinstein that although he opposed the Manhattan *eruv*, he would not publicly criticize its creation. Rabbi Feinstein reiterates this point in a letter that he wrote to Rabbi Leo Jung of The Jewish Center in Manhattan on December 16, 1960. Rabbi Feinstein writes that, although he has decided that it is not acceptable to create an *eruv* around Manhattan, nevertheless, since there are many reputable rabbis who support the *eruv*, he does not criticize them even though he will not join in their effort. However, he warns Rabbi Jung that this *eruv* will cause religious Jews to carry based on these lenient opinions, which are not acceptable according to many rabbinic authorities.[100] In June 1962, the Agudath HaRabbanim distributed a letter that reported on a meeting that took place on June 20, 1962, on which Rabbi Feinstein was one of the signators. The letter stated that it was forbidden to create an *eruv* in Manhattan and therefore it is forbidden to carry in Manhattan.

Although Rabbi Feinstein is clearly one of the important rabbinic authorities in the Manhattan *eruv* debate, there is not even one attempt by the proponents of the *eruv* to argue that Rabbi Feinstein actually supported the *eruv*. In addition, no rabbinic authority points out that there seems to be a contradiction between Rabbi Feinstein's statements to Rabbis Pirutinsky and Jung that he will not publicly oppose the *eruv* and his later public condemnation of the *eruv* in 1962. Ironically, Rabbi Klein is the first one to point out this contradiction in his discussion of Rabbi Feinstein's position regarding the Boro Park *eruv*.[101] The proclamation opposing the *eruv* in 1962 came after the *eruv* was already in operation and, although it may have stopped some people from carrying in Manhattan, it did not impact the creation of the *eruv*.

The distinction in the manner in which Rabbi Feinstein's opposition to the *eruv* was viewed in these two instances reflects an important element in the evolution of rabbinic authority in America. In the 1950s, Rabbi Feinstein was a recognized rabbinic authority in America. Yet, he was by no means the pre-eminent authority in

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100 *Iggerot Mosheh*, *O.H.*, IV:89.

101 *Om Ani Ḥomah* (Brooklyn 1999), no. 77.

American Orthodoxy. His collection of responsa *Iggerot Mosheh* began to be published only in 1959 and Rabbi Henkin, his colleague on the Lower East Side, was fourteen years his senior and was acknowledged as the rabbinic authority of the Lower East Side. Interestingly, the title by which Jews referred to Rabbi Feinstein was "the rosh yeshiva," as his main function was as head of Mesivta Tiferet Yerushalayim on the Lower East Side. In addition, in the decades following the Holocaust, many of the surviving rabbis came to the United States, and their reputations and stature from Europe carried much prestige in the post–World War II generation. It is therefore not surprising that, although Rabbi Feinstein was one of the respected rabbinic authorities involved in the debate on the Manhattan *eruv*, he was not the ultimate authority and the *eruv* could be created even without his consent.

By 1979 and the onset of the Brooklyn *eruv* controversies, Rabbi Feinstein had become the premier rabbinic authority in the United States. His responsa were published and widely circulated and he was consulted on all the major halakhic decisions of the time. In addition, many of the rabbinic scholars of the pre-War era had passed away, and many of the next generation of rabbis and scholars were students of Rabbi Feinstein. It is therefore not surprising that his opinion was taken very seriously by Rabbi Klein regarding the Brooklyn *eruv* even though Rabbi Klein had disregarded the earlier American precedent of city *eruvin*. In addition, it is not surprising that the proponents of the *eruv* realized that in order to gain acceptance for the *eruv* it was vital to gain Rabbi Feinstein's consent. This is not to suggest that Rabbi Klein did not actually believe that Rabbi Feinstein had approved the Boro Park *eruv* or that the author of *The Community Eruv* did not believe that had Rabbi Feinstein had all the facts he would have permitted the Brooklyn *eruvin*. However, their decision to focus on Rabbi Feinstein's opinion rather than just validate the *eruv* based on its other proponents points to the level of authority that Rabbi Feinstein had assumed in American Orthodoxy. One of the rabbis who supported the Flatbush eruv in 1979 reported that the rabbis approached Rab-

bi Feinstein because "he was the last word in all matters of *halakhah*."[102]

Conclusion

The debate regarding the establishment of an *eruv* in Brooklyn began in 1949 at a time when American Orthodoxy was struggling to find its place and its future was far from certain. The evolution of this debate has developed as the Orthodox community has grown in numbers and commitment to a halakhic lifestyle. Orthodox communities across America have come to recognize that they cannot be successful unless they are enclosed by an *eruv* and *eruvin* are constructed in communities, big and small, with little, if any, opposition. Yet, the debates in Brooklyn persist. The *eruv* proponents have continuously worked to improve their *eruvin* halakhically and to garner additional rabbinic support. The *eruv* opponents continue to cite halakhic precedent to support their opposition to these *eruvin*. Although the arguments have occasionally turned personal and nasty, at their core the two sides are both committed to the interpretation and application of the halakhic and historical precedent as it applies to the American reality.[103]

In the volume *Questions and Answers Regarding the Flatbush Eruv*, the author asks the following question: "Why is it that there is more of a *maḥlokes* when an *eruv* is established than when any other community issue is raised?" His answer is instructive for both the supporters and the opponents of the *eruv*. He writes: "*Eruvin* is different than other halakhic issues in one significant aspect. *Eruvin* more than any other issue vests a certain amount of centralized power to the *baal ha'machsher* [supervising rabbi]. A person publicly carrying in a rav's *eruv* is a clear sign of the *posek's* influence and support in the community, unlike relying on the rav's *hekhsher* on

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102 Personal conversation with an anonymous rabbi, December, 2011.

103 The creation of an *eruv* in London, completed in 2003, also resulted in severe intra-communal strife. For a discussion of this *eruv* and the controversy surrounding it, see Jennifer Cousineau, "Rabbinic Urbanism in London: Rituals and the Material Culture of the Sabbath" in *Jewish Social Studies, New Series* 11:3 (Spring-Summer 2005): 36–57.

food, which is a more private matter."[104] The public nature of *eruvin* is the factor that allows for the largely uniform acceptance of the local *eruv* in many communities in which identification and participation with the community on the Sabbath is often dependent on the reliance on the *kashrut* of the *eruv*.

In the communities of Brooklyn, which combine Orthodox Jews from rich but diverse backgrounds and practices, the public nature of relying on the *eruv* has led to acrimonious disputes and fierce battles that incorporate both halakhic and social considerations rooted in the affiliations of the antagonists. In the final analysis, it is in the best interests of all parties that these disputes be conducted in a mutually respectful manner, in accord with the rabbinic teaching, "Those declare contaminated and those pronounce it clean; those prohibit and those permit; those disqualify and those declare proper; perhaps a man will come to say, how can I ever learn Torah? Therefore, it is written, 'Given from one Shepherd.' ... [in order to be able] to hear the words of both those who declare prohibited and those who declare permitted."[105] ☙

[104] *Questions and Answers Regarding the Flatbush Eruv*, 11 (English section).
[105] *Ḥaggigah* 3b.