

BRIEFING NOTE

Basic Sources For The Eruv In Jewish Law

A Sources Of Jewish Law

Orthodox Jews acknowledge as binding the following sources of Jewish law:-

- 1 **The Written Torah**
as incorporated in the Pentateuch and in the other books of the Old Testament.
- 2 **The Oral Torah**
being traditions communicated to Moses at the same time as the written Torah and handed down orally over the generations. These traditions together with later rabbinical enactments were committed to writing in the Mishna (first and second century CE) and in the Talmud (third and fifth century CE).
- 3 **The Codes**
These are medieval works incorporating in the form of a legal code the rules laid down in the Talmud. The two most widely accepted codes are the Mishneh Torah of Maimonides and the Shulchan Aruch of Joseph Caro and Moses Isserlis.
- 4 **Responsa**
This is in effect case law arising from questions posed by Rabbis and their communities to the leading rabbinical authorities of the day.

B The Sabbath

The Old Testament commandment restricting work on the Sabbath is clearly stated in the fourth of the Ten Commandments:

On the seventh day it shall be a sabbath to the Lord your God, you shall do no work (Exodus 20.10)

C The Laws Of The Sabbath

In addition to various positive precepts the Mishneh sets out 39 categories of work forbidden on the Sabbath. Among them is *"the carrying of any item in a public domain or from a private to a public domain"*. The biblical sources of this prohibition are found in Exodus 16.26 (the instruction to the Children of Israel not to collect the manna and carry it home on the Sabbath) and Numbers 15.32 describing the Sabbath breaker's collecting sticks and carrying them on the Sabbath.

D Detailed Laws Of Carrying And The Source Of The Eruv

While there is no mention of the Eruv in the Bible, the Talmud (Tractate Eruvin 21b, citing Proverbs 23.15) cites an oral tradition tracing back the enactment of the Eruv to King Solomon. The Mishneh and the Talmud define at great length what constitutes carrying and how the public and private domain is defined. The Eruv converts a public domain into a private domain and to create the Eruv there must be boundaries of a specified type. Rivers, buildings, fences and poles with wires such as envisaged for the Barnet Eruv are all effective for this purpose. There is no other valid way of creating an Eruv which the Talmud does not regard as a device for circumventing the law but as an ideal situation for which a blessing is recited. The rules are repeated in more codified form in the Mishneh Torah and in the Shulchan Aruch.

E Application

These rules have been applied for considerably more than 2000 years and in recent times under the supervision of distinguished rabbis eruvs were constructed in the well-known centres of Jewish life in Europe and elsewhere including Warsaw, Odessa, Konigsberg, Frankfurt, Pressburg, Amsterdam, and Vilna. A famous Rabbi of the late 18th and early 19th century, Rabbi Moses Sofer, the Rabbi of Pressburg (Bratislava) wrote extensively on the Eruv in his Responsum relating to Chapter 99 of the volume in the Shulchan Aruch entitled Orach Chaim. He rules, based on the Talmud, that "it is incumbent on every rabbi in every town to make the utmost effort to construct an eruv". The above rules have been set out and explained in the 20th century in many booklets published by rabbis responsible for the erection of Eruvs, particularly in the United States. Examples dealing with the Riverdale (New York) and Boston Eruvs are attached.

Reactions to the Eruv

The unique characteristic of Hassidic Jews and some of the ultra-orthodox communities is their commitment to a particularly strict lifestyle and the avoidance of integration within the secular society around them. Hence they retain a dress code that has no religious significance other than the very fact that it is different and thereby serves as a constant and obvious reminder of the separate lifestyle they have chosen. They will generally not have a TV at home, they do not send their children to University and in many other ways they maintain a cultural and physical barrier against the secular world.

They truly do not want to integrate into what they perceive as an increasingly godless society with its concomitant problems of violence, drugs, breakdown of family, sexual promiscuity, abuse etc. They find it difficult to enjoy the spirit of the sabbath with the unavoidable intrusions of the mundane society around them. Their approach is therefore to seek ways of strengthening the barriers within which they can secure a haven for their chosen lifestyle and the Eruv runs philosophically contrary to that need. Some Ultra-orthodox Rabbis seek to justify this abstention on technical grounds while others are proud of and articulate their philosophical stand.

Ironically, it is this section of the community which can be accused of being against integration and they are proud of it.

The mainstream and majority orthodox population, comprising the United Synagogue and a number of independent communities, generally seeks to adopt an outward looking stance to the society in which they live. There is the constant positive challenge of combining traditional orthodox practice with a productive participation in the building of society as a whole. Hence typically the United Synagogue Jew will pursue secular studies and a career in any of the professions or trades and will participate and contribute to cultural, political, scientific and academic life. The Jewish code, not just of the Sabbath but also dietary and other laws is, at the same time, respected and maintained. By keeping up the traditional practices of prayer and study, the Orthodox Jew retains his value system and priorities whilst being integrated in the day-to-day life of society around him. The young women, and indeed all sections of the orthodox society, feel confident enough of their own stance to seek and welcome the expansion of freedom that the Eruv offers.

The Reform community, on the other hand, has adopted the view that the traditional code can be liberalised, whilst still retaining the spirit and intent. Hence the Reform community does not require an Eruv. The Spiritual leaders of the movement, however, recognise and respect the traditional code and those who still adhere to it, including the Eruv, and therefore have no philosophical objection to it.

There are a few Jews, and indeed people from other religions, for whom integration goes beyond a personal choice. The pursuit of integration becomes a religion in itself and bears the fanatical hallmark of intolerance. They cannot tolerate the free practice of religion by others - particularly by those who represent and remind them of their own origins.

The Eruv Philosophical framework

The Sabbath is based on the Divinely established pattern of working, creating, for six days and resting on the seventh. In human terms it translates as being productive and creative during the working week and taking time out, for one day, to acknowledge the limitations of our own powers, to reflect and to catch up with family and the inner self.

Modern psychology is only now recognising and legitimising this need. The cost of ignoring it in career orientated people is 'burn-out', increasing divorce rates and delinquency arising from parents not being available and therefore involved in their children's upbringing.

Most people find that if they want to retain a special time for themselves or their families, they need to set time aside in quite a disciplined fashion, otherwise there is always another call or priority that arises.

Of course, this need exists on different levels. We naturally take a break from any concentrated activity in order to refresh our concentration and energy. Academia recognised and institutionalised the 'sabbatical' long ago and it is now more common in the commercial world as well.

The Jewish Sabbath offers a framework for precisely that reason. That's why there is a well defined code that mandates a retreat from mundane activities of work and commerce. We're all human and without a fixed code we find excuses not to bother - just consider the structure and success of organisations like Weight-Watchers! Each part of the Sabbath code taken in isolation may appear arbitrary but the total package provides a welcome respite and time for recharging mentally, physically and spiritually. It also establishes an opportunity and framework for family and social contact.

Of the 39 categories of prohibited practices under the code, 38 relate to specific weekday activities and include well known rules such as not turning on lights, cooking etc. Carrying or pushing something is seen as symbolic of trade - think of it as the essence of transport and distribution. Of course carrying in the home is not commercial in any way and is therefore permitted. In order not to lose sight of this distinction and to make everyday life and particularly the sabbath as pleasant as possible for all sections of the community, an Eruv is defined to mark the extent of the area within which we can freely carry. Any construction is only undertaken where natural boundaries do not exist or are breached.

It is therefore a fundamental misunderstanding of the concept to interpret the Eruv in terms of territorial claims, divisiveness etc. It is not a claim on anybody's territory and it neither takes away anybody's existing rights nor grants new ones. It is purely a marker for those who require it and perhaps an eccentric irrelevancy for those who don't!