Q: A Solution for the Eruv Problem?

1. Introduction: The Eruv Today

It is well known that Eruv is one of the most contested issues of Jewish Orthodoxy. Many cities, suburbs, and neighborhoods, experience religious battles around the Eruv. In some places the opponents of the Eruv cut the Eruv strings minute before Shabbat, in others educators teach their students to look away when they see a person carrying an object within the Eruv, because one is not allowed to look at the face of a wicked person.

Still in other places rabbis use the Eruv as a controlling tool, and when they withhold it from people they think they can guarantee that people will not play ball or go to the beach on Shabbat. I have heard from reliable sources that the reason R Moshe Feinstein objected to have an Eruv is that he wanted to prevent people from going to work on Shabbat. Imagine that, those people were willing to work on Shabbat but they would not carry without an Eruv.

I have also heard of a rabbi who once a year puts the Eruv down so “people will not forget what it means to not have an Eruv.”

The Eruv dissects cities and neighborhoods into areas of “us” and “them”, into the “carrying” and the “non-carrying” people.

On the other hand, many observant people who live in places without an eruv and feel imprisoned and frustrated, and some of them carry on Shabbat without an eruv because they feel that the Eruv is a fictitious loophole. They cannot accept that some strings and telephone poles can turn an area from public to private space.

Rabbi David Chelouche writes to R Saul J. Kassin regarding the necessity of constructing an Eruv in Brooklyn:

In our flawed generation, if we do not rely on the lenient opinions and we do not construct the Eruv, the majority of observant Jews will …carry in the public space because they do not consider it a prohibition.
Modern author Michael Chabon brilliantly describes this feeling of the public in his “The Yiddish Policemen’s Union” (p. 156):

“It's a typical Jewish ritual dodge; it has something to do with pretending that telephone poles are door posts and that the wires are lintels. You can tie off an area using poles and strings and then pretend on the Sabbath that this circle you've drawn is your house. That way you can get around the Sabbath ban on carrying in public places, and walk to Shul with a couple of Alka-Seltzers in your pocket, and it isn't a sine. Given enough string and enough poles and with a creative use of existing walls, fences, cliffs, and rivers you can circle around pretty much any place and call it an eruv. But somebody has to lay down those lines through the territory… and protect them from weather, vandalism, bears, and the telephone company.”

Many rabbis and community leaders like to believe that today we have no Eruv-related problems. They claim that if the community wants an Eruv we can build it, regardless of the price tag, and that if it is impossible, observant Jews should seek other places to move into. The reality, however, is different; and problems with the Eruv abound even in places which usually maintain an Eruv.

2. Common problems related to Eruv

1. Exorbitant price of initial construction and the burden of constant maintenance.
2. Eruv is usually maintained, especially outside Israel, by private citizens and as a result is more common in affluent areas. This limits the choices of young couples when considering where to live, since they must have an Eruv to be able to go out with their children but cannot afford a house within the Eruv boundaries.
3. Sometimes the Eruv is down before Shabbat and then the whole community is paralyzed, while in other cases, following a snowstorm or other harsh weather conditions, rabbis recommend considering the Eruv compromised. Those who need to be outside cannot take a cane or even gloves, according to some, and salting or shoveling one’s sidewalk becomes impossible, causing hazardous conditions for pedestrians.
4. For parents with young children who live where there is no Eruv, or where the Eruv has been compromised by the weather, any visit to friends and family, or even a walk to the
synagogue or the playground, has the potential of becoming a nightmare and a traumatic experience.

5. There were cases of travelers who were delayed and got stranded in the airport shortly before Shabbat. I have heard of cases where people decided to spend the whole Shabbat in the airport feeling like prisoners and frustrated by being away from their families.

6. There is a problem for people who are vacationing in remote places where there is no Eruv. Here again they become prisoners of Shabbat, unable to leave the hotel or resort and feeling frustrated with their Shabbat observance.

3. Two main approaches to Eruv

In light of all of the above, let us briefly examine the history of the Eruv and try to provide a solution for these exceptional cases.

The dispute regarding Eruv is on the definition of the term public domain. Some say streets and marketplaces which are 16 feet wide are considered public domain, while others argue that a second condition must be met, namely daily traffic of 600,000 people.

Those two opinions are mentioned in the Shulhan Arukh, the first one anonymously and the second one under the rubric “some say”.

Rabbi David Chelouche, in his discussion of the Eruv in Brooklyn, writes that usually when Rabbi Karo mentions in the Shulhan Arukh two opinions in that manner, he rules like the anonymous one. However, this rule does not apply to our case since all Sephardic rabbis are of one opinion and all Ashkenazi Rabbis are of another opinion, so both opinions coexist. In other words, both opinions have equal Halakhic weight and they are both valid.

4. Factors which support a lenient approach

R Karo himself writes in his Beit Yosef that today no place is defined as public domain, and indeed, throughout history there was a tendency to not consider any domain as public domain.

This could maybe be explained by the fact that already in the Talmud, R Shimon ben lakish says that in order for a place to be considered public domain it has to be completely flat with no inclination whatsoever, and that there will be no public domain until the end of days.
R Yehudah HaLevi writes that taking out from the private domain into the public domain and vice versa is a rabbinical decree, a fence, and not a biblical prohibition.\(^5\)

The Tosafot on Shabbat say that taking something out into the public domain is a lesser prohibition, and one could therefore rely on the lenient opinions.

In addition, Rabbi David Chelouche writes, and so rules R Ovadia Yosef, that the passage of 600,000 people in a major thoroughfare is not enough to make the place a public domain unless those 600,000 people are pedestrians.

R Moshe Feinstein adds another leniency, which is the requirement that the Thoroughfare must be straight, with no curves or turns from one end to another, in order to be considered public domain.

As a result of all these lenient opinions, the custom of all communities around the world is to rely on the Eruv, even though it is not an actual wall and gates around a city but rather a string or wire.

**5. The Solution of Rabbi Yosef Messas**

It is in this context that we can rely of a groundbreaking ruling by R Yossef Messas, who is known for his tireless efforts to maintain traditional values and observance of Mitzvoth without causing strife and heartache to the religious populace. Rabbi Messas wrote the ruling in the 1950s in his hometown of Meknes, because of his great concern that people cannot observe Shabbat properly. Part of the manuscript of the ruling, which is 21 pages long, has been published by Prof. Moshe Bar-Asher.\(^6\) The manuscript is a letter R Messas wrote to R Raphael Baruch Toledano who disagreed with him.

R Messas writes that most authorities agree that today no domain could be defined as public domain. He goes on to say that the symbolic Eruv, made of strings and poles, only applies to the middle ground between the public domain in the private domain, called Carmelit. His conclusion is that if we have no public domain, there is no need for the Halakhic entity called Carmelit, or middle ground, and therefore there is no need for Eruv at all.
Rabbi Toledano apparently questioned R Messas’s ruling that one can carry without an Eruv and R Messas answered that it is not an absolute ruling but rather an attempt to help the people, who already have the custom of carrying on Shabbat, or those who are in dire circumstances.

He writes to R Toledano:

“…please join me, you as well as others who care about the well-being of the Jews, and then we will be able to issue an absolute and final ruling for all [relinquishing the need for Eruv], but first let me tell you what are the problems which my congregants face…”

R Messas lists, in twenty one entries, all the different occasions where people carry without an Eruv. Now, other rabbis might have said that the solution is to build an Eruv, but R Messas in his wisdom and understanding of human nature and the trends of the observant community knew better than that. He understood that the behavior of people on Shabbat is only one facet of their approach to religion as they were redefining what they can and cannot do. R Messas knew that if he insisted on not letting people carry without an Eruv he will lose them. His prediction eventually is coming true today as many young people who grew up in observant households leave the path of Torah and Mitzvoth, because it does not resonate with their modern life and understanding. Like R Yisrael Moshe Hazzan in 1850’s Italy, R Messas wanted to find a remedy which will help rather than subdue the people.

He concludes his response to R Toledano with these powerful words:

“What are we going to say of the people? That they are all sinners? God Forbid! If we say so, R Shimon ben Lakish will make us bite the dust.”

He refers to the story of R Shimon ben Lakish who forced his colleague R Avho to eat sand after the latter criticized the behavior of the people of Caesarea.

R Messas might also have alluded to the fact that it was R Shimon ben Lakish who said that there is no public domain in the world.

**Conclusion:**

This issue is very sensitive and even R Messas did not provide an all-encompassing resolution. However, his arguments and Halakhic stature are solid and one can rely on his ruling, and carry
without an Eruv, where the need arises, for example: in a place with no Eruv; after harsh weather damaged the existing Eruv; being stranded in an airport or seaport, etc.

It is our hope and prayer that people will be able to convince the rabbis that the Eruv situation is far from being ideal and that they should heed the call of rabbi Messas and join him, thus making his ruling into the majority opinion.

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1 See letter in the following footnote
2 רבי דוד חיים שלוש, הרב הראשי לנתניה, מכתב אל הרב שאול יעקב קצין, הרב הראשי לק"ק שערי ציון בברוקלין: נקודת המחלוקת בשם רשות הרבים, הרחובות ושווקים ההלכה בענין הערוב היא בדעות ראשונים בהגדרת המונח: "רו"ר"ה. השו"ע כותב בסימן שמ"ה: איזהו הרוחבים ט"ז אמה ואינם מקורים ואין להם חומה, ואפי' יש להם חומה אם הם מפולשים משער לשער ואינן דלתותיו נעולות בלילה הוי רשות אשונה היא דעת הרנל וסינון. ויש אומרים שכל onChanged ששים רבוא עוברים בו בכל יום וואני רשות הרחבים.-existent. ויבאו"ר"ה ונתן עצמאית, עד הערובprise החשים והרשב"ה, והר"ן כדלהלן:
3 בפגרא עירובין (ו.): כיצד מערבין דרך רשות הרבים? כתבה רש"י: רשות הרבים - מmeaning רחב שש עשרה אמה, ועיר שמצויין בה ששים ריבוא דגלי מדבר. ושם (ט.); עיר של יחיד ונעשית של רבים, ואין בה חומה, או( היה רשות הרבים שלה מכוון משער לשער שיהא מפולש, דומה לכתבו תוספות: פירש בקונטריס שלא נכנסין בו תמיד ששים רבוא ולא חשיב רשות הרבים דלא דמי לדגילי מדבר... והדין עמו... אחרת... כל כל שני דעות נוגדות全く בנושא הלכתי חשוב זה. כל חכמי ספרד בדעה אחת וכל רבני אשכנז הראשונים בדעה כפי מה שקבל מרבותיו ואין אומרים בזה הלך אחר הרוב...
4 לפי זה הכלל שכתבו הוא האזרחים של כל מקום מוקמר בהirsch ולך, דעתו דהלכה כסתם, בהלכה זו לא שייך כלל זה, כי שתי הדעות יונקות משני גאונים...
5波兰יתו של הרב שלוש, הרב הראשי לנתניה: "לפי זה הכלל שכתבו הוא האזרחים של כל מקום מוקמר בהirsch ולחוכו של כל מקום מוקמר בהirsch ולך, דעתו דהלכה כסתם, בהלכה זו לא שייך כלל זה, כי שתי הדעות יונקות משני גאונים..."
התורה, ואתה בן גלגל בפיסך זהון, ויאמר אני בודק אתך בודק אתך, כי שאול חשב הלשוןך חכם, ויהיה יルド חלב לסדניא, ולדחף עליה. 

והיה את אתה בן בחרון, יחדך ושית ערך, כי שאול חשב הלשוןך חכם, ויהיה יルド חלב לסדניא, ולדחף עליה.  

בellan שלח הנבון. הגרים חכמה והדעתים וחוזות חכם וחוזות חכם, ו hf האה הוא עשות העירו, amendments

בר ירשא משות, החג שמי והצורהyon תבנית, לעם מ-3:15, ובמיוחד 3-15, בתוך התחדשות ומסורת, יצירה, הנהגה.

אורפלי ואפרים חזנים, PROCESSES תרבות ביהדות צפון אפריקה, בהוצאת מוסד ביאליק ואונ' בר אילן, עורכים משה

7 רבי ישראל משה חזן, קונטרס קדושת יום טוב, עמ' כו:א - כז:ב: אבל אני אמרתי ואומר ואדבר כנגד מלכים ולא אבוש, שאם היינו מועילים

שבכל חליפת בחיבור הנחמד הזה ויאסף לכל המחנות... ואני אקדיש עצמי וארכוב אני

ות הגליל... והוא הרב נר"ז זלגו עיניו דמעות וכה השיב אלי: מר יתעסק בחיבור הנחמד הזה ויאסף לכל המחנות...ואני אקדיש עצמי וארכוב אני

יתענו. חכמה שובית עם מלאכת רוחות ענפיםafi יוצאים חולים וחולים вне לשל שעריאלמאשהיבוב-funded מסחרי אל חים ואימץ יודה

לפשיט יודיע בל מלאכת חכמה לעדה די ותפחתו... אכלה בורח לעפ פרגמה... 

כר על השלים: הקיבץ אתן בקוקץ את ולי לאחדות ביד הקורא... האנידד לשידי ואחר כך חזר אביי ונהוגים ימים אירואנה הדיאר

והוא שדר ב'ול, הלונן מתוך עין השם עלי: מני תפשתי בחלפים הנהרו מהו וישארו על המיתון...ואני א기도י עמי אתוכו

ואפגה להבוך נהבוכ בבל ירי ישראלי מהקומות למק כיבא על המיתון, נשון פלט ישב skulle בין המיתון ואותה...

בקרובות תפשים לפי ליו לعجب הרפים למלאכת לשלכמל על הביבוניה, אלא הולו חשקו שברעם חשקו, על המיתון...

וכל ידיהם בכל מלאכת חכמה...ופรวดו

אלא[ הכにする יושך המובחרת שמחה נברא דרכון ועשוי בشهادא... ש asnודאל הדיטו און שנעה.]לכון

אפניי איילון הפרות חבר בتكوונון נלישתא יום אחד בלמוד

ילקוט שמעוני, פרש תקון, רמיה תשנ"ז: רבי אבהו ורבי שמעון בן לנד, ויהי על כן דקripsi. אמר ליה רבי אביי: בק"ש

הוראות היזגית - רבי אבהו ורבי שמעון בן לנד, ויהי על כן דקripsi. אמר רבי אביי: בק"ש ויהי על כן דקorsi. אמר

ידי יין שם יועלו, זהה החברה, itself מפי של רב אבהו. שאיל רבי אבהו: מודי אתא נה IID וה השתים בשרון.

אתי רצונו בק"ש אמור לון ה VGA על כלאה