

Eruv Through the Storm

On Friday, Shushan Purim 5778, calls were pouring in. The calls were coming from Rebbeim from communities throughout the Northeastern United States when a fierce nor'easter hit their respective communities with winds that exceeded forty miles an hour. The burning question on everyone's mind was whether we must announce that the Eruv is down.

Obviously, the issue in Halachic parlance is whether to view the storm as a Rei'uta to the Chezkat Kashrut of a community Eruv. The answer, as Rav Mordechai Willig noted in a personal conversation, depends on the community. Some community Eruvin rely on dozens of wires strung from pole to pole, while other communities' Eruvin rely almost exclusively on utility wires. The latter group is far less vulnerable than the former.

Let us review what I instructed the various communities:

Sharon, MA

This Eruv relies, in part, on utility wires, but also consists of many Tzurot HaPetach constructed through heavily wooded areas. Rav Cheses of the Young Israel of Sharon informed me that Rav Moshe Heinemann ruled that if the winds exceed forty miles per hour, the Chezkat Kashrut of the Eruv is disturbed. While this is not necessarily true for every community Eruv, it is a reasonable standard regarding the Sharon Eruv. Not only might the wind knock down an Eruv wire, it is also not unlikely that a tree branch would fall on one of the Eruv lines and render it invalid. Therefore, I advised Rav Cheses to declare the Eruv down for that Shabbat. I would advise the same for an Eruv whose many wires run along an oceanfront making the Eruv especially susceptible to breakage in severe weather. I also would advise a community that has wires running through wooded areas to consider finding an alternative less vulnerable route.

Southern Washington, D.C.

The Eruv in southern Washington, D.C. utilizes utility wires to create most of its Eruv and has less than a dozen of its own wires spread throughout the city. The wires are located in non-wooded areas where falling branches are not a risk. The Eruv wires have historically withstood even the fiercest of winds, making us confident that the Eruv would remain intact through the Shabbat despite the nor'easter. Thus, I felt that there was not a compelling reason for Rav Hyim Shafner to declare this Eruv inoperable for the Shabbat. I advised Rav Zev Goldberg to adopt the same approach in Fort Lee, New Jersey for similar reasons. This community has

only three essential Eruv wires which the community installed. These wires had a history of not breaking during a storm and could be relied upon to weather a severe storm.

I would like to share one note about a fishing line strung from light post to light post. One summer while walking through the Cambridge, MA Eruv we watched in horror as a very large dump truck had its crane up heading towards an Eruv line. The crane ran forcefully into the line and we expected the worst. However, to our surprise the wire bounced back into a straight trajectory after being stretched quite far. I was surprised to learn the extent of the resilience of a fishing line stretched from light pole to light pole.

Teaneck, NJ

I conferred with Rav Michael Taubes who offered the following wise approach. He felt that if the utility wires remain up and the power remains on, then we may assume the Eruv remains intact. Since the Teaneck Eruv consists almost entirely of utility wires and virtually every wire we install has some Halachic backup (Rav Willig is particularly enthusiastic about creating backups for the various components of the Eruv he administers in Riverdale.) We decided that we need not declare the Eruv down unless there was a power outage or trees were down.

Stamford, CT

This Eruv also consists predominantly of utility wires. However, there was a power outage in Stamford leading me to suspect that the Eruv might not remain intact. Rav Willig, though, cautions that Mei'ikar Hadin one need not assume that the utility wires are down just because one power line is down. He reasons that one may follow the Rov and since the majority of wires remain intact one may assume that the utility wires upon which the Eruv relies upon are not broken. I suggested to Rav Daniel Cohen that in such a situation one could write to the community that it is preferable not to rely on the Eruv but those who wish to, may rely on the Eruv despite the storm.

Allentown, PA

Rav David Willensky told me that an alert congregant noticed that a large tree branch had fallen on a utility wire that constitutes a component of the community Eruv. The police had closed the street off to traffic as the branch perched precariously on the wire. In my judgment this represented a significant Rei'uta to the Eruv and felt it best to announce that the Eruv is down.

Rav Shlomo Kluger – Shabbat Keivan Shehutrah Hutrah

What if one were confident that the Eruv remained intact at the

beginning of Shabbat but feared that the intensifying storm broke the Eruv in the midst of Shabbat? Could one rely in such a case on the ruling of Rav Shlomo Kluger (Teshuvot HaElef Lecha Shlomo numbers 153, 162 and 172) that if the Eruv was up at the beginning of Shabbat, one may rely on the Eruv even if it came down during Shabbat, due to the principle of Shabbat Keivan Shehutrah Hutrah (Eruvin 70b)?

Perhaps we can rely on Rav Shlomo Kluger as a component of a Sfeik Sfeika. Safeik the Eruv is intact, and Safeik that Rav Shlomo Kluger is correct in applying the principle of Shabbat Keivan Shehutrah Hutrah to Tzurot HaPetach. The problem is that the Ba'alei Tosafot (Eruvin 15a s.v. Lo Savar and 17a Ireiv) rule that Shabbat Keivan Shehutrah Hutrah applies only to the Eruv Chatzeirot, but not to Tzurot HaPetach and Mechitzot.

The story is told of Rav Aharon Lichtenstein visiting his Talmidim during their time of active military service and being informed that Rav Yehuda Amital told the Talmidim they may rely on Rav Shlomo Kluger's ruling. Rav Lichtenstein is said to have reacted in shock in light of the aforementioned Tosafot. When he next saw Rav Amital he inquired as to the basis of his ruling. Rav Amital replied that in Europe the Minhag was to rely on this leniency of Rav Shlomo Kluger¹.

While I have very deep respect and love for Rav Amital, I find this position untenable. It is clear from the Rambam (Hilchot Eruvin 3:25) that he agrees with Tosafot. Moreover, the Gemara (Eruvin 17a) explicitly states that the Mechitzot must remain intact in order to apply the principle of Shabbat Keivan Shehutrah Hutrah.

The sole apparent basis for Rav Shlomo Kluger's approach is a Teshuvah of the Mahari Weil (Dinim VeHalachot number 12) who limits the requirement that the Mechitzah remain intact when the Mechitzah excludes a Reshut HaRabim from the enclosed area. However, if only a Karmelit is excluded then one may apply the rule of Shabbat Keivan Shehutrah Hutrah even if the Mechitzot do not remain intact.

The problem is that the Shulchan Aruch (Orach Chaim 374:2) explicitly states that the Mechitzot must remain intact even if only a Karmelit is excluded. None of the major commentaries to the Shulchan Aruch dissent. Thus, it seems that one may not rely upon Rav Kluger's leniency since it runs counter to a ruling of the Shulchan Aruch and all its commentaries. Even Rav Kluger himself expresses uncertainty about his ruling and uses his approach in two of his Teshuvot only as a prong of a

¹ Rav Yoel Amital, son of Rav Yehuda Amital, confirmed that this is his father zt"l's ruling (personal conversation at Yeshivat Shaalvim January 2019).

Sfeik Sfeika. Indeed, Rav Hershel Schachter told me that one may not rely on this leniency of Rav Shlomo Kluger even in case of great need. Rav Schachter believes that it cannot even be relied upon as a Snif L'Hakeil.

Mitaseik

A famous dispute rages between Rabi Akiva Eiger (Teshuvot number 9) and Rav Chaim Soloveitchik (cited by Rav Yosef Dov Soloveitchik Shiurim L'Zecher Abba Mori Z'L I:30-31) as to whether a Mitaseik is simply excused from a Korban or does not constitute as a Maaseh Aveirah at all. Perhaps one may create a Sfeik Sfeika to refrain from instructing the community to avoid carrying if one has considerable fear that the Eruv has come down in a severe storm – Safeik if the Eruv is down, and even if it is down, since the people do not know it is down they are Mitzaseik and Safeik that Rav Chaim is incorrect that Mitaseik does not constitute a Ma'aseh Aveirah.

This seems to be an untenable approach. In fact, Ashkenazic Jews recite every Friday evening the famous Halachah (Shabbat 12a) that one must search his pockets before walking outside on Shabbat if there is no Eruv. One may ask why it is necessary to inspect pockets. After all, if one is not aware of carrying he is a Mitaseik and not considered to have violated the Torah according to Rav Chaim. Apparently, we do not rely upon such an approach to skip taking precautions before Shabbat lest we violate Shabbat. We do inspect the Eruv each week and do not simply argue that even if the Eruv is down the people are merely Mitaseik.

Accordingly, it is clear that one must inform the community that the Eruv is down if one has well-founded concern that the Eruv will not remain intact through the duration of Shabbat.

Two Practical Points

We conclude with two practical recommendations. Rav Willig advises that whenever an Eruv wire needs to be installed, one should install an extra one or two wires as a backup. As Shlomo HaMelech teaches, Tovim HaShanayim Min HaEchad V'Chut HaMeshulash Lo Bimheirah Yenateik (Kohelet 4:9 and 12).

Our second piece of advice relates to another Pasuk in Kohelet (2:14) – HeChacham Einav B'Rosho . If one sees that there is a serious storm developing it is best to alert the community early on Friday that the Eruv might be called down for Shabbat. Our communities today are so accustomed to relying upon an Eruv that it becomes very challenging to function on Shabbat without one. Thus, everyone should be alerted early when there is concern that the Eruv will need to be declared down to give time for community members to adjust their plans to meet the challenge.

