

## A Lechi on Every Utility Pole? - A Report from the Field Part One

### Introduction - The Dispute

It is undoubtedly the most important issue a community must grapple with in constructing its Eruv. Rav Yosef Gavriel Bechoffer and Rav Moshe Heinemann advise many communities on Eruv construction and require a Lechi to be installed on every pole on which a utility wire does not run above the pole. On the other hand, both Rav Hershel Schachter (as heard by myself and Rav Michael Taubes) and Rav Mordechai Willig (personal communication) do not believe that Halacha makes this demand.

This dispute has enormous practical ramifications. Communities that abide by the stricter opinion need to install hundreds of additional Lechis compared to those communities who do not adopt this practice. At an average cost of seventy five dollars per each Lechi installed by a professional, in an Eruv of an average size it can add up to fifty thousand dollars in installation costs (not to mention much greater long term maintenance costs in terms of inspection and repairs).

This issue has not been resolved with some communities adopting a lenient practice and others following the stricter approach. In general, communities with a sizable Chareidi presence will follow the stricter approach and communities whose rabbis affiliate with Yeshiva University adopt the approach of Rav Schachter and Rav Willig, the two leading Halachic lights of the Modern Orthodox community.

### Background Information - Tzurat HaPetach

I will share perspectives of both opinions with our readers, based on my nearly thirty years of experience in advising dozens of communities how to construct, expand and maintain their Eruvin. We shall focus on the construction of Tzurat HaPetach (symbolic doorframes) which most often constitutes the bulk of a community Eruv.

The Gemara (Eruvin 11b) states that a tzurat hapetach consists of two vertical poles (colloquially known as Lechis) with a horizontal pole directly on top of them (kaneh mikan vekaneh mikan vekaneh al gabeihen). The rationale behind this type of mechitza (Halachic wall) as explained by Rav Hershel Schachter (Journal of Halacha and Contemporary Society volume 5 page nine), is as follows:

Since a house is most certainly a Reshut hayachid (private domain), even with its door(s) wide open, and even when it has several such doors, why shouldn't an enclosure surrounded totally by doorways (even when the doors are missing and only the doorframes remain) be considered a Reshut hayachid as well? All that is needed for such

a doorframe mechitza is "a pole on one side, a pole on the other side, and a pole running across the two from above. Strictly speaking, there is no limit to the number of such tzurot hapetach which may be employed.

The horizontal wire must run above the Lechis. If it runs to the side (tzurat hapetach min hatzad) it is invalid due to its failure to resemble an actual doorframe. Sometimes there will be a series of utility poles over which a wire runs above each and every one of these poles. Such poles are ideal and all agree a separate Lechi need not be attached to the pole. Most often, though, a wire does run above a series of poles. In such a situation a Lechi needs to be installed beneath one of the wires that runs along the side of the utility pole.

#### A Lechi on Every Utility Pole?

Rav Bechoffer (The Contemporary Eruv, third edition pages 132-133) frames the issue as follows:

“There are rabbis involved in the construction and maintenance of metropolitan Eruvin that are not meticulous in ensuring that every pole in a series have a Lechi attached to it, so long as the first and last pole in that series have been rectified with Lechayayim<sup>1</sup>. Their rationale is that the longer Tzuras HaPesach between the first and last pole is sufficient<sup>2</sup>.

Rav Bechoffer first criticism of this approach is

“Its running afoul of the gezeiras haro'im (literally, the decree of the onlookers). This principle stated by the Magen Avraham (362:20) mandates the maintenance not only of the actual validity of an eruv, but also of the appearance of that validity. Accordingly, the Magen Avraham mandates the removal<sup>3</sup> of invalid lechayayim from the eruv, lest onlookers get a mistaken impression [that a tzurat hapetach min hatzad is acceptable).

Rav Bechoffer does not support any major recent Halachic authorities to support his application of the Magen Avraham to the contemporary utility pole. It should be noted, though, that two major twentieth century Halachic authorities disagree with Rav Bechoffer. Rav Moshe Feinstein (as cited by Rav Moshe Heinemann and others) did not make such a requirement. Rav Moshe's ruling was applied in practice by Rav Shimon Eider in the 1970's early 1980's for the Eruvin he built following Rav Moshe Feinstein's specifications. Rav Moshe

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<sup>1</sup> Plural for Lechi.

<sup>2</sup> This approach argues that “Dal Meihacha” (see Sukkah 2a), that we may ignore the middle poles as Halachically insignificant.

<sup>3</sup> Of course, Rav Bechoffer does not require the removal of the utility poles, but requires a Lechi be installed beneath the wire that runs along the side to eliminate concern for a mistaken impression.

is quoted as saying that there is no limit as to the distance between the first and last Lechis on the series of wires, as long as the wire is relatively straight.

In Israel, the great Rav Zvi Pesach Frank (Teshuvot Har Zvi Orach Chaim 2:18:12), in a brief responsum addressed to rabbis and inspectors of communal Eruvin, clearly does not subscribe to Rav Bechoffer's application of the Magen Avraham. The words of Rav Zvi Pesach are instructive:

Question: The iron (i.e. utility) [horizontal] wire of the Eruv runs along a very large area and along its path, the wire meanders and rests on the sides of the poles. However, this happens only on the middle poles. May we rely on the fact that the wires rests on top of first and last poles in the series?

Response: The Eruv is valid. See the Rambam (Hilchot Shabbat 17:14) who writes 'A tzurat hapetach that is one hundred amot<sup>4</sup> wide is permitted'. It is self-evident that the Rambam does not impose a specific maximum of one hundred amot. Rather a tzurat hapetach even wider than one hundred amot is acceptable<sup>5</sup>. Accordingly, there is no disqualification in the eruv due to the middle poles since we view them as if they do not exist. Thus the Tzurat HaPetach created by the lechis at the beginning and end of the long stretch of poles is valid and the middle poles do not invalidate the eruv.

Note that Rav Zvi Pesach, similar to Rav Moshe, does not advise constructing a Lechi on the middle poles to satisfy the opinion of the Magen Avraham. The question is why these two great authorities did not advise satisfying the Magen Avraham, when it is codified by both the Mishnah Berurah (362:65) and Aruch HaShulchan<sup>6</sup> (O.C. 362:31). One may suggest that Rav Moshe and Rav Zvi Pesach believe that the Magen Avraham speaks of a situation where the poles were installed for the purpose of creating a Tzurat Hapetach. In such a situation, the existence of a pole on which the wire rests on its side and remains uncorrected by a Lechi, misleads the observer. However, in the contemporary urban and suburban Eruvin which rely upon modifying preexisting utility poles to create a suitable Eruv, the observer is hardly misled. He realizes that the wire runs on its side not due to Halachic design but owing to the utility companies design. Thus, eruv composed of utility wires need only be valid but need not appear valid<sup>7</sup>.

## Conclusion

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<sup>4</sup> An Amah is explained as ranging from 18 to 24 inches.

<sup>5</sup> The Shulchan Aruch (O.C. 362:11) in describing a tzurat hapetach does not mention a maximum distance between Lechis, which seems to support Rav Frank's approach.

<sup>6</sup> The Aruch HaShulchan explicitly states that the eruv is not disqualified if the Gezeirat Haro'im is not addressed.

<sup>7</sup> The fact that the Magen Avraham advises removing the pole, indicates he addresses a situation where Halachic authorities created and control the pole.

Next week we shall conclude with a discussion of a second concern raised by Rav Bechoffer, considerations regarding how this issue plays out in practice in community Eruvin and Rav Hershel Schachter's compromise approach to this issue.

## A Lechi on Every Utility Pole? - A Report from the Field Part Two

Last week we presented the opinion of Rav Yosef Gavriel Bechoffer who insists that a Lechi be affixed to each and every utility used to create a community Eruv. We noted however, that both Rav Moshe Feinstein and Rav Zvi Pesach both disagree with Rav Bechoffer and require a Lechi on the first and last of a series of utility poles that run in a straight line. We continue our presentation with a discussion of Rav Bechoffer's second reason for his stringent ruling.

### Rav Bechoffer's Second Reason

Rav Bechoffer takes his issue a step further arguing that failure to install a Lechi at each pole will likely result in the invalidation of the Eruv. Rav Bechoffer believes that the horizontal eruv wire must run in a perfectly straight trajectory in order to be valid. He argues that installing a Lechi on each pole is the only manner in which to achieve this goal.

As noted Rav Moshe and Rav Zvi Pesach (as is evident from his aforementioned teshuvah) do not subscribe to this view. In addition, as noted in my Gray Matter (1:189), Teshuvot Imrei Yosher (2:133) permits the horizontal wire to deviate up to three tepachim (nine to eleven inches). Some authorities support the view that the horizontal wire need not be perfectly straight from the fact that the Gemara (Eruvin 11a) describes an eruv made of grapevines, which are not completely straight. We noted in Gray Matter that Rav Yosef Dov Soloveitchik also did not require that the horizontal wire proceed in a perfectly straight trajectory<sup>8</sup>.

In the Teaneck Eruv, where Rav Schachter and Rav Willig's approach to this issue is followed, care is taken to insure that the wire is reasonably straight (less than approximately a five degree change of direction) especially whenever a Lechi is not attached to a pole.

### A Practical Advantage and a Practical Disadvantage to a Lechi on Every Pole

While Rav Bechoffer makes cogent arguments for the Lechi on each pole approach, those who disagree make a compelling case as well. Based on my nearly thirty years of experience with Eruv construction and maintenance, I have concluded that there are practical considerations arguing both for and against the strict approach. The practical advantage to having a Lechi on every pole is that each Lechi serves as a pointer so that the inspector easily recognizes to which wire the Lechi is connected. This helps the Eruv inspectors properly track the presence of the wire and makes it very apparent if the utility company moved the wire (which they sometimes do).

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<sup>8</sup> The fact that Rav Moshe and Rav Soloveitchik were raised in Europe and did not require a perfectly straight horizontal wire, suggests that Jews in Europe did not have a tradition to maintain perfectly straight wires.

The practical difficulty with implementing the Lechi on each pole approach is that it makes Eruv maintenance very challenging. A typical community eruv has a circumference of eight miles. Requiring a Lechi on each pole often results in having in the range of five hundred lechis to inspect on a weekly basis. Experience teaches that Lechis must be thoroughly inspected from top to bottom as they are prone to break<sup>9</sup>. It is very challenging for one team of inspectors<sup>10</sup> to thoroughly inspect five hundred lechis each week. An average size eruv with a lechi on each pole needs at least two teams of inspectors on a weekly basis to perform a thorough and proper inspection of the Eruv. This adds to the cost of eruv maintenance. The Gemara's teaching of Tafasta Merubah Lo Tefasta (Rosh Hashanah 4b), when you grab for too much one will not be successful. Rabi Yochanan ben Zakai teaches the value of Hatzalah Purta, avoiding overly ambitious goals, which oft times results in achieving nothing<sup>11</sup>.

Cost to the community is an issue as well. It is advisable (and some municipalities require) to hire a professional to install Lechis to a utility pole. Professionals charge in a range of fifty to seven five dollars per Lechi installed. Requiring the installation of a Lechi on each pole dramatically increases the construction and maintenance costs of an Eruv.

#### Rav Schachter's Compromise Approach

Rav Hershel Schachter adopts a compromise approach to this issue. He notes that the Gemara<sup>12</sup> (Eruvin 11b) requires that the Tzurat Hapetach must be sufficiently sturdy to support at least nominal door, namely a door made of straw. Rav Schachter<sup>13</sup> understands this Gemara to mean that the two Lechis of a Tzurat Hapetach must together be able to support at

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<sup>9</sup> This problem, though, is significantly reduced when using one inch conduit as the material to create the Lechi. Many Eruvin have now moved to using this better quality material instead of the black tubing that has been commonly used for Lechis.

<sup>10</sup> It is proper for one person to drive the car and another to inspect the Eruv. One who both drives and inspects the Eruv does neither task properly. A proper Eruv inspection includes a full visual inspection of each Lechi to make sure it remains intact.

<sup>11</sup> Reb Elya Lichter, the great Sofer who served as the Gittin Sofer for both Rav Moshe Feinstein and Rav Eliyahu Henkin, told me that Rav Moshe would counsel Get administrators to aim to create a Get that is Kasher B'dieved, essentially kosher, for when seeks to make a Lechatchilah (ideal) Get, he very much risks making an invalid Get. I have seen this happen with communities who installed a Lechi on each pole, seeking to make a "Lechatchilah Eruv" and would up with a disqualified Eruv since there were too many Lechis for the inspectors to maintain. An additional consideration is that an Eruv with a Lechi on each pole requires multiple Eruv inspectors to conduct a proper weekly inspection of the Eruv. Many communities find it difficult to find even one competent and diligent Eruv inspector.

<sup>12</sup> This Gemara is codified in the Shulchan Aruch Orach Chaim 362:11.

<sup>13</sup> Rav Moshe and Rav Zvi Pesach, who place no maximum on the distance between Lechis, would explain the Gemara as teaching that each individual Lechi must be sufficiently sturdy to support a minimal door. This teaches that the Lechi must be made of a substantial material, unlike the horizontal wire which may be made of a most flimsy material (as stated in the Shulchan Aruch O.C. 362:11).

least a door of marginal weight. Rav Schachter estimates the maximum distance two Lechis could support a minimal door to be approximately one and a half blocks<sup>14</sup>.

One may support this approach from Rashi to Eruvin 11a (s.v. Umatach Zemorah) who explains that in creating tzurat hapetach we are trying to emulate a real door frame (mei'ein tzurat hapetach; which fits with the explanation of Tzurot HaPetach we cited earlier from Rav Schachter). One could argue that in a situation where Lechis are positioned very far away from each other, that what has been created hardly resembles an actual doorframe.

The Teaneck Eruv follows Rav Schachter's approach to this issue and does not tolerate a distance of more than approximately .075 of a mile between Lechis. On a practical level this keeps the Eruv at a reasonable amount of Lechis instead of having a Lechi on every single pole. On the other hand, the relatively frequent Lechis help inspectors bear in mind which wire is being used and will still notice if a wire utilized to create the eruv is missing.

### Conclusion

Although Rav Bechoffer presents a good case for installing a lechi on each pole, an equally compelling argument can be made for those who disagree. Each community must decide what is appropriate based on which approach the local Rav find most persuasive. An assessment also must be kept as to whether adopting the strict approach enhances or detracts from the Halachic integrity and quality of the eruv<sup>15</sup>.

### Postscript

Dr. Bert Miller<sup>16</sup> ("Eruv Manual", Eruv Story Number 30) reports the view of Rav Moshe Heinemann<sup>17</sup> regarding this matter as follows: "The practice of attaching a Lechi on each pole that runs in a straight line was a stringency (Chumra)". Rav Heinemann believes that the essential Halacha follows Rav Moshe Feinstein who believes that a series of utility poles that

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<sup>14</sup> Rav Schachter told me this refers to a block such as from 185<sup>th</sup> street to 186<sup>th</sup> street in Manhattan (which is 285 feet or approximately) making the block and a half to be approximately .075 of a mile. In practical terms this usually means that one may skip a maximum of three poles on which no Lechi is placed. Rav Schachter told me that in case of great need one could tolerate a distance of up to two blocks (.1 of a mile or, in most cases, skipping a maximum four utility poles).

<sup>15</sup> Smaller communities might also have to maintain a more minimal footprint as the local utility may be unwelcoming to installing a Lechi on a very large number of poles.

<sup>16</sup> Dr. Miller has worked very closely with Rav Heinemann for the last thirty years to create and maintain the Baltimore Eruv.

<sup>17</sup> Many Eruvin in North America, especially those in Chareidi communities, are created and maintained under the supervision of Rav Heinemann.

run in a straight line<sup>18</sup> need only a Lechi at the beginning and end of the series. Dr. Miller reports that Rav Heinemann was willing to rely on Rav Moshe when building an enclosure to box out a Karpeif<sup>19</sup> from an Eruv.

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<sup>18</sup> I have heard from Talmidim of Rav Moshe that Rav Moshe did not require the Eruv line to run in a perfectly straight line. Rav Moshe ruled the line could veer up to three Tepachim (10. Inches according to Rav Moshe's standards) and remain acceptable.

<sup>19</sup> The topic of Karpeif and boxing out a Karpeif from an Eruv is explained in Gray Matter 1:192-194.