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Symbolic spaces of difference: contesting the eruv in Barnet, London and Tenafly, New Jersey

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Abstract. In this paper I explore discourses and resistances mobilized around the construction of an Orthodox Jewish symbolic and material concrete space, the 'eruv', in two localities (one in the United Kingdom, one in the USA) where it has been at the center of heated debate and contestation. Conflicts around the reordering and redefining of this public space expose some of the limits of living with difference and normative versions of multiculturalism in the city. Through a detailed examination of two case studies in the United Kingdom and the United States I conclude that the multicultural city necessitates a recognition of symbolic as well as material spaces—and the interconnections between these—and that the notion of public space warrants interrogation as to how it is imagined, read, and experienced in multiple ways.

Introduction

In this paper I explore an Orthodox Jewish space known as an 'eruv'. This is a symbolic and material space which, though largely invisible except to those aware of its existence, has in two places in particular—Barnet in North London and Tenafly in the USA—given rise to fierce debate and contestation. These conflicts sharply expose some of the limits of living with difference and normative versions of multiculturalism in the city. Given the inherent innocuous characteristics of the eruv—there is no large visible built structure as in the case of the mosque (Naylor and Ryan, 2002)—it is all the more interesting why the reordering and redefining of these spaces have been so contested.

The eruv has been the object of academic and television documentary interest. Cooper (1998) has explored the relationship between community and space and how, for the opponents of eruvim (the plural of eruv in modern Hebrew) and of the Barnet eruv in particular, the eruv threatens the identity of Britain as Anglo-Christian, and of the British public as a national community based on national liberal values (pages 126 – 127), and the permissibility of different cultural practices as long as these are performed in private. In an earlier article (1996) she locates this opposition within a commitment of the eruv opponents to modernist discourse and beliefs, such as the notion of universal public citizenship and existing forms of belonging and the secular character of the public sphere. Vincent and Wharf (2002), similarly, have argued that the eruv disrupts dominant conceptions of the city built around secular rationality, while stressing that the eruv is centrally a question about the willingness of authorities and residents to sanction the city as a site of multiple readings. Valins (2000) has explored the case of the eruv as a window into the complex realities of the institutional sacred geographies of orthodoxy in the context of the (post)modern largely secular surrounding world.

Through a comparison of two cases I seek to extend and develop these arguments to make four points. The first is that different 'multiculturalisms' have failed to engage centrally with the symbolic, which, I argue, when deployed in a spatial context has powerful material effects. Hall (2000) usefully identifies six versions of multiculturalism:

conservative multiculturalism (assimilation of difference into the traditions and customs of the majority); liberal multiculturalism (tolerating only in private certain particularistic cultural practices); pluralist multiculturalism (according different group rights to different communities); commercial multiculturalism (recognizing cultural diversity in the marketplace); corporate multiculturalism (managing minority differences in the interests of the center); and critical multiculturalism (which foregrounds power, privilege, the hierarchy of oppressions, and resistance). Each of these neglect the symbolic sphere. The second point is that opposition to different forms of cultural practice are articulated through different legal or official discourses in different spatial, social, or political contexts: the two case studies illustrate the significance of constitutional law as the major arena for such arguments in the USA and of planning law as the crucial arena in Britain. My third point is that discourses of opposition which draw on legal or official arguments can often mask a more profound resistance from the dominant culture (in this instance, White Anglo-Saxon Protestant) to 'otherness' which is little more than thinly veiled racism (in this case, anti-Semitism). I suggest, furthermore, that a recognition and fear of how easily racist responses can be mobilized, and of how tenuous is the acceptance of minority cultural practices, underpins some of the opposition to the eruv expressed by Liberal and Reform Jewish people themselves. I conclude, following Vincent and Warf (2002), with the argument that the multiplicity of imaginings and meanings attached to different spaces necessitates a more nuanced way of thinking about public space and the city.

Research on the two sites was conducted through a number of different methods. In the British case I interviewed Jewish and non-Jewish residents in Barnet, opposition residents groups, four Rabbis from different synagogues, and local authority officials—including members of the planning department, the road authority, and the superintendent of Hampstead Heath. Reports from the London Borough of Barnet Town Planning and Research Committee and the Public Works Committee, local and national newspaper articles, a television documentary, and relevant websites were viewed, read, and analyzed. In the US case of Tenafly the research was based on the report of the proceedings of US Court of Appeals for the Third Circuit (number 01-3301, 19 September 2001), *Tenafly Residents Association Inc. v the Borough of Tenafly*, a report by the Becket Fund for Religious Liberty (2003) (http://www.becketfund.org/litigate/Tenafly.html, accessed April 2003), newspaper articles, and relevant websites.

First, what exactly is an eruv? For traditional Jews, Sabbath is the day which is set aside for rest and calm away from the fast pace of weekday life, which involves a cessation of labor of various kinds. Various restrictions are laid down in Jewish law that impose prohibitions on the Sabbath which include the carrying of objects from private domains to public domains and vice versa. These public domains include streets, thoroughfares, open areas, highways, and so on. Private domains are homes and flats in residential areas which are enclosed and surrounded by a wall and thus closed off from the public areas. In these private areas, carrying of objects on the Sabbath is permitted.

The purpose of the eruv—which in Hebrew means mixing or joining together—is to integrate a number of private and public properties into one larger private domain—or, to put this another way, to redefine the activities permitted in semipublic (or karmelite) space for the purposes of the Sabbath in order that activities normally allowed only in the private domain can be performed (Valins, 2000, page 579). This is a process of temporal spatial reordering. Once an eruv is constructed, individuals within the designated area are permitted to carry and move objects across what was hitherto a private–public boundary. This may include anything from the carrying of house

keys, handbags (as long as no money is contained), a walking stick, to the pushing of a stroller or wheelchair. The construction of an eruv is thus of particular relevance to women with small children and people who are frail or disabled—those effectively excluded by age, gender, or infirmity from public space on the Sabbath.

The practice of demarcating an eruv has been used by Orthodox Jews for 2000 years and is based on principles derived from the Torah, developed in the Talmud, and codified in Jewish Law. According to Talmudic law there is a very precise definition of an eruv. For an area to be reconstituted as a private domain it must cover a minimum of twelve square feet and be demarcated from its surroundings by a wall or boundary of some sort or by virtue of its topography. Already existing boundaries such as fences, rivers, or railways or even rows of houses can serve as the basis for the eruv, but where the boundary is not continuous—broken, for instance, by a highway—a boundary line must be constructed in order to maintain the enclosed space. The concept here is that, where a door separates two rooms in a house, the remaining structure on either side is still a wall, even if there are many openings. The eruv in the modern city is thus the limit case where the notional wall contains many openings with very little solid wall remaining. To construct the enclosure, there are clear vertical and horizontal elements which make up its parameters. To make acceptable the door–lintel combination, an eruv can use existing poles in the street—such as telephone, electric, cable poles—or new poles can be constructed, and these are joined either by existing wires (usually the lowest in place) or by a new wire—in the case of the Barnet eruv—nylon fishing line, or plastic cable. For the pseudo-door to be acceptable the lintel (wire) must rest above the door posts, which can be made by attaching a thin vertical rod to the existing pole. In Hebrew these are '*lechi*'. In the construction of eruvim in the United Kingdom and the USA it is these almost invisible objects which have become the site of contestation even though their visibility or intrusion on the street landscape is minimal.

There are eruvim in many urban areas across the globe including Canada (the eruv in Toronto has existed there for over sixty years), Australia (in Sydney, where the boundary is created from cliff faces, a golf course, and fences along the Bondi beach, and in Melbourne), Belgium (Antwerp), France (Strasbourg), Italy (Venice), South Africa (Johannesburg), and many in the USA. The Barnet proposal represented the largest of its kind in the United Kingdom. They vary in size from a small front yard of a single household to a large building such as a hospital (allowing Orthodox Jewish medical staff to work on the Sabbath), to ones that match the boundaries of whole cities as is often the case in Israel. Even the White House is included in the boundaries of the Washington eruv (Vincent and Warf, 2002, pages 35–36). Usually eruvim are distinct spatial entities, although where they overlap, because of the lack of recognition of each others' eruv by different communities, colored ribbons are attached to the wires to avoid confusion for the members of synagogue communities. Ironically, though they themselves draw on an ancient concept, some eruvim are highly modern in their use of the Internet for keeping their members informed of the state of their local eruv through websites. Typically, eruvs are patrolled the day before the Sabbath to ensure that the enclosure is intact and wires are not broken, as they cease to function once a gap has emerged—often indicated on websites by a kind of traffic-light system of green and red lights. This eruv boundary is unlike other boundaries in that when it ruptures nowhere inside is safe or unaffected.

For an eruv to become operational, in the first instance a civil figure with jurisdiction over the prescribed area has to give permission for the eruv (for which a nominal fee is paid). At one level this requirement necessarily constitutes the group that is requesting the eruv as dependent and powerless in relation to a state, or other, official. For example, one Orthodox woman described how an Oxford quad was defined as an eruv for one

evening for the purposes of a party on the Sabbath, for which permission was requested from the college rector. In the USA they are generally established by means of a ceremonial proclamation that the area is 'rented'. This is issued by municipal authorities. This has been the practice in such cities as Washington DC (including in its boundaries the US Supreme Court), Baltimore, Cincinnati, Charleston, and Jacksonville (http://www.becketfund.org/index.php/case/36.html).

According to two rabbis interviewed in Barnet many eruvim have been established with minimal local objection, often barely entering the consciousness of many local residents. However, in various instances the construction of an eruv has been hotly contested, sometimes over many years. Tenafly and Barnet are two such cases where opposition was intense but was articulated through different arenas of the state.

Constitution matters: the case of the Tenafly eruv

The Bill of Rights of the US Constitution disallows the state from interfering with the free practice of religion. It was on these grounds, therefore, that the eruv case in Tenafly was fought.[1] The controversy began with a meeting between eruv supporters and Mayor Ann Moscovitz in June 1999, where the mayor raised no concerns about any possible violations to local ordinances, but reported she had no authority to permit the eruv and suggested a formal proposal be made to the Tenafly Borough Council. At a July council work session she spoke in favor of the eruv, but met with vehement opposition from some residents who declared that Orthodox Jews would take over the community. One council member voiced his serious concern that "Ultra Orthodox Jews might stone cars that drive down the streets on the Sabbath".

An ordinance of the borough [Ordinance 691, Article VIII (7) (1954)]—which encompasses 4.4 square miles, with a population of 13 806—states "No person shall place any sign or advertisement, or other matter upon any pole, tree, curbstone, sidewalk, or elsewhere, in any public street or public place, excepting such as may be authorised by this or any other ordinance of the Borough." Nevertheless, borough officials had often made exceptions: house number signs were visible on utility poles, local churches were tacitly allowed to post directional signs, the local Chamber of Commerce was allowed to affix holiday displays during the Christmas season, and personal private postings such as lost-dog signs were left unchallenged. Even more politically imbued fixtures such as some orange ribbons in support of a local school's demise because of school regionalization were ignored by the borough during the protracted controversy. However, without any reference made to the ordinance, the council informally took no further action.

One month later the Tenafly Eruv Association (TEA) approached a Bergen County executive to issue the required ceremonial proclamation, which he subsequently performed in December of that year. Armed with the proclamation the TEA approached Bell Atlantic (renamed later as Verizon) for permission to hang the lechis on the company's poles. No wire was needed as the cable already in place provided the necessary perimeter. Permission was granted and with help from Cablevision trucks and crews, the eruv was completed in September 2000. Hearing of the action, the borough administrator wrote to Cablevision demanding it be taken down. The action was quickly contested by the TEA who persuaded the borough for thirty days grace, during which time a formal request was made. By the beginning of November no borough official had mentioned the relevance of Ordinance 691 to the dispute.

[1] See the proceedings of the US Court of Appeals for the Third Circuit (number 01-3301, 19 September 2001) *Tenafly Eruv Association Inc. v the Borough of Tenafly*, and the report by the Becket Fund for Religious Liberty (http://www.becketfund.org/index.php/case/36.html, accessed April 2003).

Hearings were held on 28 November and at a December meeting, when Ordinance 691 was brought to members' attention for the first time, the council voted 5 – 0 to deny the application and to order Cablevision to take off the lechis as soon as possible. The TEA responded by suing in the district court alleging violations of the First (the Free Speech Clause) and Fourteenth (the Free Exercise Clause) Amendments and the Fair Housing Act (FHA) and seeking an injunction barring the borough from interfering with the eruv. Though recognizing that the act of affixing lechis constituted 'symbolic speech' the court concluded that the borough's application of the ordinance did not discriminate against the plaintiffs' religious viewpoint. It similarly rejected the claim that the borough had violated the Free Exercise Clause and disagreed that the objective effect of the decision was to discriminate against religiously motivated activity, as the lechis had been ordered to come down pursuant to Ordinance 691 which was a "pre-existing, neutral law of general applicability".

Nevertheless, the court determined that the council members' improper subjective motivations necessitated strict scrutiny, as they had been influenced by the 'constitutionally impermissible' fear that the eruv would facilitate the formation of an insular Orthodox Jewish 'community within a community'. The court also did not support the plaintiffs' claim (under the FHA) that they were subject to a discriminatory housing practice, as though the lack of an eruv made living in the borough less desirable it did not result in the unavailability of housing. Injunctive relief was thus not deemed appropriate. The decision was immediately appealed to the US Court of Appeals for the Third Circuit, which heard oral arguments on 21 March 2002. In the meantime the Becket Fund filed an amicus curiae brief with the Court of Appeals asking for the decision to be reconsidered and for an injunction against the removal of the lechis pending the appeal. Three months later a second amicus brief was filed explaining why the borough's action constituted "viewpoint discrimination unsupported by a compelling government interest" (http://www.becketfund.org/litigate/Tenafly.html).

Under the Free Speech Clause constitutional protection is afforded not only to speaking and writing but also to nonverbal acts of communication including expressive conduct or symbolic speech. Thus the affixing of lechis could be protected under this clause only if it could be shown to constitute expressive conduct. The court of appeals relied on two precedents in the case—the *Church of the Lukumi Babalu v City of Hialeah* (1993, 508 US at 537) and the *Fraternal Order of Police v City of Newark* (1999, 170 F.3d at 364 – 66). Striking in the report is how the context gives meaning to the symbol, for example: the burning of the US flag against the policies of the Reagan administration at a 1984 Republican Party Convention was deemed expressive because of its overtly political, intentional, and apparent nature, as was the attachment of a peace symbol to the US flag as a protest against the invasion of Cambodia and the killings of student demonstrators at Kent State only days before the protester's arrest. Whereas in the eruv case the court concluded that the TEA had not met the burden of showing that affixing lechis to poles was "sufficiently imbued with elements of communication" to be deemed expressive conduct. Rather, they deemed the eruv served purely functional, noncommunicative purposes indistinguishable for free speech purposes from that of a fence surrounding a yard or a wall surrounding a building because no inherent message—ideological or otherwise—could be discerned from the lechis themselves: they simply delineated an area where certain activities are permitted. The Free Speech Claim thus failed.

The Free Exercise Clause which binds the borough to the Fourteenth Amendment that "Congress ... shall make no law ... prohibiting the free exercise [of religion]" was likewise scrutinized. Under this clause, if the law is generally applicable and burdens religious conduct incidentally, then no protection is offered. If the law is not neutral, or is not

generally applicable, restriction of religious conduct violates the Free Exercise Clause. The clause's mandate of neutrality towards religion also prohibits government from "deciding that secular motivations are more important than religious motivations". In one case (*Lukumi* 1993, 508 US at 537), the Supreme Court thus invalidated an ordinance against the unnecessary killing of animals which was used by local and state officials to ban animal sacrifices during Santeria religious sacrifices, while at the same time exempting secular activities such as hunting or slaughtering animals for food. The no-beard policy of a city police department was also cited as coming under the Court's scrutiny (*Fraternal Order of Police* 1999, 170 F.3d at 364–66) when it was found that medical exemptions were allowed, whereas exemptions to two Sunni Muslim officers whose faith required them to grow beards were denied. In the eruv case the borough asserted that strict scrutiny by the Court should not apply on a number of legal grounds, which included the argument that the plaintiffs had not shown that the removal of the eruv would substantially burden their religious practice. A Free Exercise Claim was thus not valid as the eruv was an 'optional' practice. The Court, however, did not deem it necessary to consider whether the borough's characterization of the eruv was accurate. Rather they needed to consider whether the borough's invocation of Ordinance 691—with its objective of avoiding visual clutter and maintaining control over municipal property—against the lechis was persuasive.

The following strict scrutiny analysis of the Court highlighted the permission given by the borough to private citizens to affix all sorts of materials to utility poles, from house numbers to lost-animal notices. Though the borough rested its case on the more permanent nature of the lechis, the Court argued that this was precisely the sort of reasoning that *Lukumi* and *Fraternal Order of Police* forbade. The Court concluded that the plaintiffs were not likely to prevail on their Fair Housing Act claim and did not present a viable Free Speech Claim, but were reasonably likely to show that the borough had violated the Free Exercise Clause by applying the ordinance selectively against conduct motivated by Orthodox Jewish beliefs. On 24 October the Third Circuit issued a decision finding that the district court should have preliminarily enjoined the borough from removing the lechis pending a trial. It reversed the district court judge's denial of injunctive relief and ordered him to issue a preliminary injunction barring the borough from removing the lechis. As a TEA spokesperson, Chaim Brook, put it: "I'm hoping that they'll conclude that there's really no reason to fight this further. ... It's a waste of time, money and energy for all of us" (Brauner, 2002).

This necessarily detailed account reveals the centrality of constitutional law to the eruv proponents' and opposers' cases, which contrasts very starkly with the British case, where the key arenas of permission or resistance are those of planning and local government. It also highlights the importance of affect or, more particularly, how fears of anti-Semitism underpinned the responses of some of the Jewish people involved. This is revealed further in an article in the *New York Times* (Purdy, 2001) which describes the mayor's (Ann Moscovitz) own arrival to the suburb thirty-nine years earlier. She was welcomed, but only up to a point. She remembered the real-estate agents directing her away from various parts of the affluent Bergen County town: "Well Mrs. Moscovitz", with an emphasis on 'Moscovitz', "we can show you houses but no one will sell them to you, so let's not waste your time." She moved to an area where they accepted her, raised her three children as Reform Jews in a growing Jewish community, and got involved in civic affairs. Five years ago she was elected mayor. Now she is accused of doing to Orthodox Jews what was once done to her—welcoming them, but only to a point (Purdy, 2001).

According to Purdy's analysis, despite new celebrations of diversity in the once homogenized suburbs, some celebrations do not sit well. Orthodox Jews stick out with their separate

religious schools, their Sabbath walks to the synagogue and their distance from regular Saturday shopping or sports, and "their air of separateness—some say superiority—[which] often draws the loudest complaints from other Jews." From this journalist's point of view, the debate around the eruv was Seinfeldian, ostensibly being about nothing, simply black-cable casing on telephone poles which blended easily with the usual black cables. But he also admitted that below the surface there was the question of "how much any one piece of a diverse town's mosaic should alter the big picture", and more specifically what he described as the family feud between Orthodox and non-Orthodox Jews.

The article quotes various different responses. One from a Holocaust survivor mirrors similar responses in the London eruv: "They are building their own ghetto." And Rabbi Mordechai Shain was reputed to have said that the Orthodox irked some of the other Jews because "when you see people doing it the right way, you feel a little guilty" (Purdy, 2001). As in Barnet, fears were expressed that hoards of Orthodox Jews would move into the area if the eruv went ahead. The mayor's concern was thus expressed: "an influx of Orthodox Jews would jeopardise the acceptance and progress the Jewish population in the borough had achieved." From her point of view, constructing the eruv without permission had caused the problem: "they have gotten to know us, the old timers in town, and accept us. Now Jews came in and violated the law, did something sneaky, and its bad for all Jews." (One wonders if the posting of lost-animal signs evokes a similar discourse of sneakiness.) While the leader of the eruv association, Chaim Brook—who had chosen to move to the borough because he could easily socialize there—described how since the eruv feud he had felt people were staring at him in the supermarket when wearing his skullcap. As I discuss more fully in relation to the Barnet case, what is revealed here is the tenuous sense of acceptance in the locality that some Jewish people felt, which the eruv was seen to threaten yet further.

Planning and local government: English sites of conservatism and the Barnet eruv

The boundary of the Barnet eruv stretches eleven miles around several wealthy neighborhoods including parts of Hampstead Heath—a popular mainly middle-class recreation site—Golders Green, and Hampstead Garden Suburb (see figure 1, over). Most of the eruv is marked by existing boundaries, including two three-lane highways—the M1 and A1—railway lines, and rows of terrace houses. To complete the eruv the construction of eighty poles was required, from which strands of fishing line, 0.3 mm thick, could be strung to complete the enclosure mainly across road junctions, but also at other key points such as in Hampstead Health. The line was to be approximately 1000 yards in total and not distinguishable from other wires from street level. Given the presence of tens of thousands of telegraph poles, lampposts, and street signs, the eruv posts at the material visible level represented an insignificant addition to the street furniture.

The idea for the eruv was first mooted in 1987 when an Orthodox rabbi, Rabbi Kimche (interviewed for this research), with the following of his congregation, joined with the United Synagogue, which is the largest grouping of synagogues in Britain, to form the United Synagogue Eruv Committee. As with eruvim around the world the eruv was seen by its proponents as a harmless vehicle which, by reclassifying a semipublic domain as private for the purposes of the Sabbath, enabled Orthodox Jews excluded by gender, disability, or frailty, to participate more fully in the community on what is seen as a day of rest and simplicity. As an Orthodox woman whom I interviewed put it:

> "Obviously it doesn't matter to anyone else, but for us it is a space where we can go about our business ... where we can live as a village ... popping in and out of each others' doors, take a baby to a friend with a baby for the kids to play together or eat in each others' houses which we do a lot ... and if you are disabled you can't go out on the Sabbath to celebrate a birthday with friends or go to the synagogue."

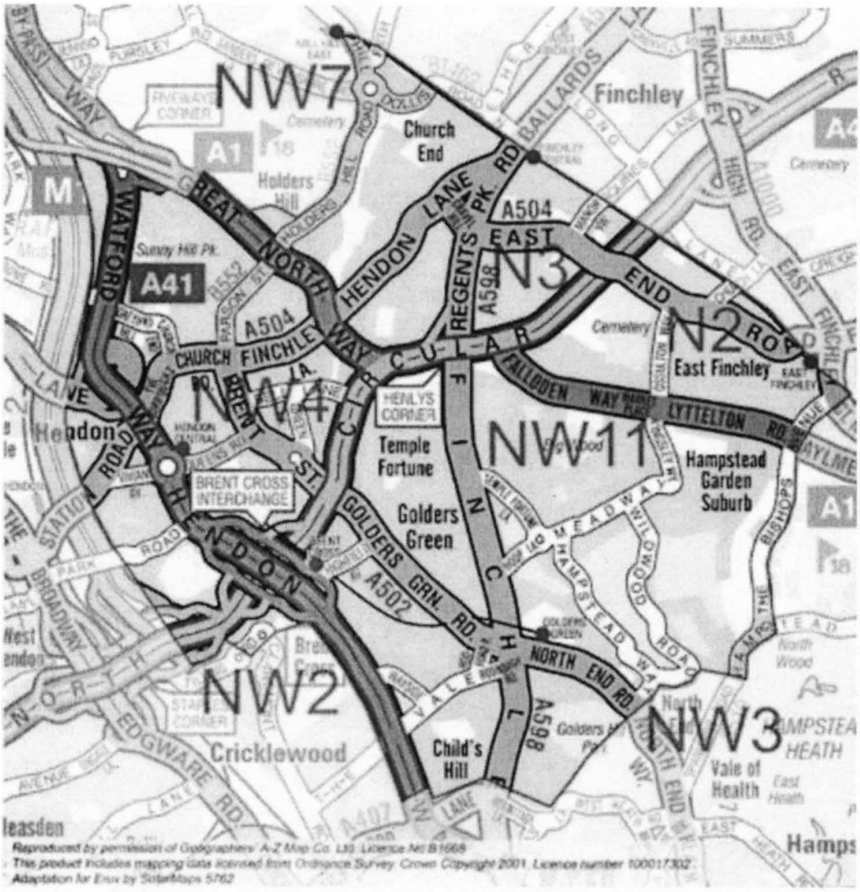

Figure 1. The eruv boundary in Barnet.

A planning application for the eruv was lodged with Barnet Council in August 1992, asking for permission for the poles and wire. The claim was that over 10 000 people in the borough would benefit. Over the following six months nearly 1000 letters and several petitions were received by the council, either supporting or objecting to the eruv. The first application and a marginally modified second application were rejected on the grounds that the poles and wire were visually obtrusive and constituted unnecessary street furniture which was detrimental to the character and appearance of the street (contrary to various policies outlined in the Unitary Development Plan). The committee was also advised that the council, as highway authority, could not grant consent under Section 178 of the Highways Act 1980, as the proposal to use street-lighting columns to support the wire was contrary to the operational practice of the highway authority. After further vociferous correspondence, including the Royal Society for the Protection of Birds' objection to the supposed impact on bird life of the wire, an appeal—with further modifications to the application to meet with the objections—was lodged at a public inquiry on 30 November 1993. A report from the Controller of Development Services to the Town Planning and Research Committee on 27 October (item number 4) laid out various conditions were approval to be granted: that the development be commenced within five years, that the posts be treated with antivandalism paint above two meters (to safeguard the security of adjacent properties), and that no trees are affected (London Borough of Barnet, 1993).

A letter was submitted by the applicants in support of the application, stressing the importance of the eruv to a substantial religious minority and the minimal impact of the proposal on the locality. The public consultation unleashed strong opposition as well as continuing support. One of the most vociferous groups in opposition was the Hampstead Garden Suburb Conservation Area Advisory Committee. The Hampstead Garden Suburb was built in the early 20th century according to the principles of Dame Henrietta Barnett, a cosmetics heiress turned social worker, and Raymond Unwin, an architect-planner and social reformer. It is seen as a unique site and many local residents express strong commitment to its original ethos. To quote its website (http://www.hgs.org.uk/history/index.html) it was "socially, politically and spiritually a new kind of creation: a joint co-operative endeavour by a group of like-minded citizens." The original architectural style and its conservation are integral to the project, as are the local societies such as the drama society whose summer performance during the conflict one year was (a rather apposite) Thomas Becket.

Of five petitions, three were in opposition to the construction of the eruv. Although there were objections from non-Jewish residents also, much of the opposition came from Jewish residents and from some rabbis as in Tenafly. The petition from forty-two residents of the suburb focused on the "unacceptable visual blight" and on the view that the proposal "would cause serious disturbance to social harmony in the area. Deep offence and hostility would ensue if religious hardware of this kind were erected on public roads and open spaces" (London Borough of Barnet, 1993, page 5). In the forty-nine letters received (including one joint letter from eleven residents), there was strong nostalgia for the past, with the early principles of the suburb and Dame Henrietta Barnett's original vision cited. Much of the conflict was ostensibly argued around the visual questions and conservation, as the area is strictly controlled by planning legislation which requires that even new door frames or window frames are constructed in the original style and changes to paint colours are also restricted. Notwithstanding this, one of the key opponents to the eruv, Lord McGregor, had enlarged the windows of his own house, a fact rather humorously pointed out and challenged by the Chair of the Eruv Association, Edward Black, in a television documentary on the eruv.

Of the 806 letters of representation, 188 letters, including one with twenty signatories and a second with eighteen, objected to the application. The letters in support are not of interest to our argument here, ranging, as they did, from comments that there would be no discernible impact on the community to the assertion that there were many other eruvim in major cities in the world which appeared to create no detrimental effects. There were many reasons for objection, ranging from a stress on the supposed visual intrusion to more emotive and affect-laden comments. These included the view that the delineation of a territorial boundary led to a provocative and overpowering situation for residents; that a ghetto would be created; that it represented an invasion of space for non-Orthodox Jews and Gentiles alike; that it would attract vandalism and unnecessary racial hatred; that it was reminiscent of Nazi Germany; that it would cause anti-Semitism; that it meant the withdrawal of the freedom of movement on public land; that it would attract interracial and interreligious problems (particularly a split within the Jewish community); that the permanent installation of private religious symbols on public highways was a historical anathema; and that it was a violation of the principle of democratic government. Thus, for example, we find the occupants of Wildwood Road (London Borough of Barnet, 1993, page 46) felt that the poles were amongst other things "a hazard to the wheel chaired and poorly sighted, were pandering to the needs of a minority group for 1 day in each week, were an eyesore, would attract graffiti and vandalism." There were also the more property-related (capital-value fears) concerns:

that the eruv had the potential to change the demographics of the area, which reflects the notion that once houses were advertised as being located within the eruv more Orthodox Jews would be attracted into the area. Yet behind this lay the idea of an invasion, which for Rabbi Kimche was appalling: "I didn't know there was a quota on Jews, imagine saying that about Blacks—it's offensive."

Some of the joint letters of thirty-four local residents of 11 November 1992 and 4 February 1993 raised further legal and other issues. For example, there were no strict planning guidelines given the unprecedented nature of the eruv, and no relevant guidance other than the statute and decided cases—which themselves drew on earlier cases which had a bearing on the eruv proposal. Some extracts from this letter raised interesting issues (London Borough of Barnet, 1993, page 104). Here a case is cited which decided that private interests were a material consideration (*Stringer v Min of Housing* 1970 1 WLR1281): "We considered the private interests of individuals who have to face the permanent prospect of having (within one foot of the front boundary wall of their house) a pole supported by wires/cables, in aid not of a public service (light/telephone etc), but rather in aid of a sectional interest with which they may not identify." And later: "The purpose of the eruv is to convert the entire area within the boundary into one, notional jointly owned domain." This quotation is from the proposal. If this conversion were notional only, there would be no difficulty. Unfortunately for freeholders and road users in Barnet the conversion although primarily symbolic is effected by real posts and wires upon this most public of amenities, the highway. In this case, you are driven to ask whether visual religious symbols, having a particular meaning for some people, are appropriate to the public highway, which historically contains only installations of a strictly functional nature, designed and located to provide a public service. This symbol means different things to different people: such is the nature of this kind of symbol. To A the eruv symbolizes the 'Sabbath limits'. It symbolizes, to B, 'a desecration of the Sabbath' (a group of Orthodox rabbis have so proclaimed); to C, 'a communal dividing line'; to D, 'the walls and gates of the ghetto'; to E, 'nonfunctional street clutter'; to F, 'a focus for anti-Semitism'; and so on. In the letter of 4 February from another such group we find a similar set of arguments (London Borough of Barnet, 1993, page 114): "objects of this kind, having such multivalent significance to the public are not appropriate to the public highway."

Having failed to gain planning permission the case was appealed at the Department of the Environment Court in 1994, which concluded on the basis of the evidence from them that there was no good reason to disqualify the eruv, with the result that Barnet was required to grant permission. From the court inspector's point of view: "however hard the objectors say they are not prejudiced they are wrong: they are prejudiced on moral, social or religious grounds" (quoted in Vincent and Warf, 2002, page 44). For the following eight years, all sorts of planning, legal, and other devices were deployed to delay the construction of the eruv, with continuing protests from the eruv objectors, and stalling by Barnet Council (*Ham and High* 26 June 1998, page 5; 2 October 1998, page 11; 23 October 1998, page 11; 25 June 1999, page 15; 13 August 1999, page 9). Even the Superintendent of Hampstead Heath warned that the poles and wires at Wildwood Road would seriously damage nearby trees on the heath (Gilbraith, 1998, page 5). In my interview with him he described the conflict as the single most divisive issue he had encountered. Rabbi Kimche described one problem with the siting of the poles in terms of the need to apply to five different authorities for permission, "the water board would request it be moved two feet one way and the cable TV company two feet the other way". The color of the poles became similarly contentious. The United Synagogue Eruv Committee proposed sage green only to find that the council's public works committee had decided that the color should go out to consultation, using this to delay the scheme further.

Permission to construct the eruv was finally granted in the summer of 2002. Writing as the plans were finalized, Morris quotes one of the members of the eruv boundary opponents (2002): "We feel that our human rights will be affected. It's a monstrous thing, an affront to civil rights." Part of the problem appeared to be that people felt they had no choice about their own property being used to mark the line. A letter sent to the Chairman of the United Synagogue Eruv Committee on 25 October from a number of signatories at a house in the area reiterates the concerns motivating the objectors:

> "We strongly object to the poles being erected so close to our homes because they interfere with the enjoyment of our properties. We acknowledge that the poles have religious significance. However, it is the religious significance and the fact that the poles are so close to our homes that lie at the root of our objections. We will constantly be reminded of this religious significance every time we arrive at and leave our homes. We consider this to be an unfair and unreasonable imposition of a religious belief upon us. It also amounts to an unacceptable public pronouncement of religious belief of others upon our private and family lives... . This interference also amounts to disrespect for the privacy of our homes."

Also in the letter we find the claim that these residents have been told by estate agents that the eruv will make it harder to sell their homes with a consequent reduction in the value (in other claims it is said that house prices will rise as a result of Orthodox Jewish influx). From the Chairman of the United Synagogue Eruv Committee's perspective there is a tautology here: "to say they acknowledge (actually assert) the posts have religious significance is like saying the road to a synagogue has religious significance" (interview, 5 November 2002). But this is to overlook the power of the symbolic.

To establish some control over the discursive field, the eruv committee, through the Chief Rabbi's press office posted a list of supporters of the eruv who were available for interview. The list reveals the importance of the eruv for women. Jodi Benjamin (aged 33) is an expecting mother and head of an international new media company, who feels that being able to build relationships on the Sabbath is crucial to any family. Anushka Levey (aged 28) is described as a hardworking barrister and mother expecting her second child, who has felt isolated on the Sabbath since her daughter was born—imprisoned in her own home and unable to join her husband in religious and social activities as she once did. Millie is a disabled full-time mother who is wheelchair-bound and has been stuck in her house on the Sabbath for many years, even unable to attend her own son's bar mitzvah. Unable to attend the synagogue she feels outside of the community. These are three of the eight profiles named with similar stories of exclusion and imprisonment through caring for others or through disability restricting movement on the Sabbath.

Discourses of dissent

The history of these two cases has clearly established part of my first argument—that the symbolic has distinct spatially configured material effects, which are not incorporated into the dominant versions of multiculturalism in both the United Kingdom and the USA. We have also seen how the sites of opposition and resolution to the eruv differ very significantly between the two countries: in the USA constitutional law is deployed, in Britain planning and related arguments represent the key site. Naylor and Ryan (2002, page 55) found a similar politicization of planning in their study of the first mosque in London. Another difference between the two countries was the relationship between church and state. In both cases the legal concern was whether the religious character of the eruv had been recognized and treated as a consideration (positively or negatively).

But in Britain the religious character of the eruv was considered unimportant in the policy arena as only the physical structure was deemed to matter. Whereas in the USA the state must be neutral between religions, as the constitution is founded on the separation of the church and state, and a guarantee of religious freedom is enshrined in constitutional law. This is the mythos of the United States, which may explain, in part, the success of Orthodox Jews in establishing eruvim in many US cities. In the Tenafly case, as we saw, much of the argument rested on whether a refusal of the eruv constituted a breach of the Fourteenth Amendment—the Free Exercise Clause. Whereas, in contrast, in the United Kingdom the church and state are intertwined in the figure of the Queen as the Head of the Church of England—a thoroughly Christian institution where bishops are granted a seat in the House of Lords by right. In Britain, minority religious practices are seen as a private matter to be conducted in the private domain of the home. The problem this has produced for the Jew (and, of course, any non-Christian religious group) for Marx (2003, page 17) is irresolvable:

> "In demanding his emancipation from the Christian state he asks the Christian state to abandon its *religious* prejudice. But does the Jew, give up *his* religious prejudice? Has he then the right to insist that someone else should foreswear his religion? The Christian state, by its very nature, is incapable of emancipating the Jew. But ... the Jew, by his very nature, cannot be emancipated. As long as the state remains Christian, as long as the Jew remains a Jew, they are equally incapable, the one of conferring emancipation, the other of receiving it" (emphasis in original).

Watching the performance of Thomas Becket by the Hampstead Garden Suburb drama club highlights this all too clearly.

Reflecting on resistances to the eruv I want to concentrate more particularly on the Barnet eruv to consider the question of resistance to 'other' cultural practices. As discussed earlier, a large part of the Barnet eruv is located in the deeply English space of the garden suburb, imbued with English notions of architecture, landscaped gardens, county-village living, and community with all its connotations of homogeneity and conforming. What is clear is that the eruv threatened these ideas at their core. In a film made for Channel Four on the Hampstead Garden Suburb in the early 1990s, shots of the rehearsals for Thomas Beckett are cut with an interview with a very upper-class-sounding Lord MacGregor and his wife talking of these 'eruvites' almost as an alien species. While a woman interviewee stressed a notion of history and Englishness (not Britishness):

> "I'm not ashamed of being against it—it's a reasonable thing. I do research on the 16th century—such a business it was then with the Catholics and the Protestants. It's important to keep England stable—do you know what I mean? They are a minority race and they should be reasonable about it. All this business now about race—I'm sympathetic about it—but we are a small island and in order to keep it stable everyone should think about everyone else—otherwise there will be all sorts of rows and we won't be England any more. Even my neighbour who is Jewish felt the same.... We don't have those things in England, we should have freedom and not have to have something imposed on you. If they want that they can go to Israel if they feel that strongly. It is an imposition on my freedom."

Whose freedom and whose England, we may ask?

A paragraph in the *Town Planning and Research Committee Report* (London Borough of Barnet, 1993, page 114) resisting the proposed boundary crossing a main highway revealed a similar defense of English cultural practices:

> "It seems unfortunate, that the committed local interests involved were not informed at an early stage that, the law of the highway embodies fundamental English ideas about the liberty of the subject. It speaks of 'the rights of the public'

> 'all Her Majesty's subjects' 'the public generally' 'every member of the public' and specifically that 'there can be no dedication of the highway to a limited section of the Public'. The Rabbinnic legal concepts of the Eruv are out of keeping with the laws of England, which in the case of the basic law affecting the public highway, derive from time immemorial. As a matter of law, those members of the public, who have sensed that their legal and democratic rights are threatened by the pursuit of this scheme are right."

Such claims did not emerge in the Tenafly debate. The multicultural settlement in the United States, though not uncomplex or untroubled, seems nevertheless to involve a more heterogeneous notion of what it means to be a US citizen. Rabbi Kimche would agree (interview, November 1999): "America is a multi-ethnic society, England isn't—English established with a capital E—is Christian—and the Queen is head of the church—it is seen as corrupted by other religions."

Much of the discourse of opposition was also framed in terms of enlightenment notions of rationality and modern Western understandings of reason, progress, and order. These notions coded here in planning law, resting as it does on a utilitarian premise of satisfying the needs of the greatest number of people, come into conflict with an entirely different system of thought. The eruv is a spatial concept which draws on a premodern system of rationality derived from a different legal framework which drew its precepts from an ancient religious text. This clash between the symbolic city and the modernist rational city established within a legal and technical framework draws on cultural practices which cannot easily be recast in other ways. An Orthodox Jewish woman whom I interviewed put it this way: "our legal system can't function if their legal system doesn't sanction it—they can't understand that—either it's separate or it isn't ... it's a cultural thing not a physical thing." As a result, many of its opponents saw the eruv as an irrational, even crazy, idea which needed to be resisted on this basis.

The eruv was seen to be threatening in another way: it challenged and disrupted conventional notions of the public–private boundary underpinning modern liberal thought. For the public realm to be the space of the universal disembodied citizen difference must remain privatized. Feminists for a long time have emphasized the gendered as well as symbolic nature of this divide (Pateman, 1988) which has consigned women to an undervalued private sphere and precluded their full participation in the public realm of work, citizenship, and politics. They have also drawn attention to the fluid nature of this boundary, where home and work, production and reproduction, are mutually interdependent and constitutive. Nevertheless, the idea that difference is allowable in private rather than in public, that difference is a private matter for expression outside of the public gaze, remains thoroughly embedded in notions of the social in Western thought. Cooper (1998, page 127) defines this as a cultural contract—an Anglican settlement—where minority practices are acceptable if performed privately, and where public space should reflect its values which derive from its history and Anglo-Christian heritage. The eruv by redefining the public (or more precisely semi-public) as private for the purposes of the Sabbath thus raises a major problem as it exposes difference to the public gaze, it allows for the public expression of minority beliefs and cultural practices, even though symbolically, to those involved, this public space in a temporal and spatial sense is now private. Cooper (1996, page 537) points out an interesting contradiction here. Although the eruv allows Jews more freedom to be in public on the Sabbath, "at the same time, an eruv normalises orthodox Judaism by enabling observant Jews to come out as 'ordinary citizens'. Yet, the essential otherness of the orthodox Jew remains. The eruv's danger is it allows such 'otherness' to find public expression."

Given, then, the resistance from the dominant majority to cultural practices seen as other or even alien, I was interested to explore the question of why in both cases there was also vociferous opposition from Jewish people living in these communities. This came from two quarters—other Orthodox Jews and more acculturated or secular Jews. Objections from the former group were easier to grasp. Here Orthodox Jews saw the initiative to create the eruv as contravening Talmudic law and the sanctity of the Sabbath by allowing people to move more easily and a greater mixing of the sexes, thus encouraging infractions of the law (Valins, 2000, page 583). As Valins points out there is a destablization here of temporal divisions between (sacred) Sabbath and (profane) weekdays through the spatial boundaries of the eruv (page 583). As far as nonreligious Jewish, or Liberal Jewish, hostility is concerned, this seemed to derive from a different source: discomfort at being publicly exposed as Jewish and, as a result, having a precarious sense of acculturation threatened. Here I want to suggest that the success of multiculturalism in the United Kingdom in particular, but also in the more White Anglo-Saxon Protestant parts of the USA, resides in the adoption by minority groups of Anglo-Christian norms and cultural practices. This, it could be argued, is a central tenet for the White majority to subscribe to multiculturalism. As Hage (1998, page 53), writing in the context of Australia, suggests "a national subject born to the dominant culture, who has accumulated the national capital in the form of the dominant linguistic, physical and cultural dispositions" will aspire to the fantasy of an imagined space—the 'White Nation'—in which he or she can legitimately control and spatially manage others. For minorities, acculturation can often be a precarious state of affairs, dependent, in part, on conforming to normative ideas of acceptable behavior.

Writing in the German context, Robertson (1999, page 286) suggests that

> "acculturation without integration made it often difficult for Jews to avoid feeling uneasy in the company of non-Jews. Sooner or later one would be reminded that one was a Jew and that, in many peoples' eyes this was incompatible with being a German. And the individual's experiences were overshadowed by the assumptions of the 'emancipation contract', whereby Jews were accepted into German society on condition that they behaved themselves properly—that is, they did not behave in an obviously 'Jewish way'. Some conspicuous reactions took two linked forms. One could maintain the assimilationist stance and try to become more German than the Germans; or one could internalise anti-Semitic hostility."

In attempting to explain this phenomenon Robertson draws on a paper by Kurt Lewin written in 1941 (Lewin, 1998, quoted in Robertson, 1999, pages 287–288), which suggested that some members of underprivileged groups who feel ashamed of their membership tend to feel anxious to join the larger community outside but are aware that such a move is constrained by the fact that the community identifies them with the underprivileged group. In Lewin's view, logically this could lead to aggression towards the wider community. However, such a move can be experienced as too dangerous as the majority is perceived as too desirable and too powerful to be attacked, with one result therefore being an identification with the aggressor—the majority excluding community.

This is not to say that there are not all sorts of rational and affective reasons for the resistance to the eruv expressed by non-Orthodox Jewish people in the areas claimed—public exposure may well, for instance, open up a space for anti-Semitism and aggression from racist or fascist elements. One of the objections that recurred frequently in the interviews and written reports in Tenafly and Barnet was the claim that the eruv, as a powerful symbolic space, produces an idea of segregation which has a strong historical resonance in the space of the ghetto. As one group in Barnet put it: "as Jewish refugees we arrived in England from Hitler's Europe. Every time we leave our house we will be reminded of the concentration camps and the division of areas for

Jews and non-Jews alike ... our sister survived Auschwitz and we are worried of her reaction when confronted with these posts and wires" (London Borough of Barnet, 1993, page 22). Evident here is the fact that the competing meanings of the eruv differ starkly and that these meanings have symbolic power. A space that for one person may simply represent a facilitative device which means nothing to outsiders, for others is associated with the idea of a concentration camp, which marks it as a horrific space. This is a complex arena as, once the space has such negative connotations for some people, it is not clear how, or if, these meanings can be shifted. Yet, in both Tenafly and Barnet, the evidence was that, for some of the opponents, the eruv threatened a sense of hard-won acceptance in a hostile country, which, if we recall the estate agent's comments to Mayor Moscovitch on her arrival to Tenafly some thirty years ago, is no surprise. Thus for Jewish people, consciously or unconsciously in this context, opposition to the eruv could be seen as a form of self-protection against the potential exclusion and racism from the dominant culture.

Concluding reflections

The eruv represents an unusual urban boundary in a number of ways. Though it resembles other boundaries in the city—postal areas, school catchments, and so on—in its virtual invisibility it is different. What brings the eruv into being is a series of rituals, a performativity where new identities, spaces, social practices, and notions of the private are constituted. It is not simply a question of the construction of an eruv, rather it is the routinized and repetitive recognition of the boundary by its users and the vigilant maintenance required to keep it intact that maintain it and keep it alive. It is this perhaps that makes the eruv such a potent space, and explains why those opponents whose houses formed part of the eruv boundary were so vociferous in their objection to it. Yet, from some of the rabbis' viewpoints, the symbolic power of the boundary for those in opposition was a surprise. As Rabbi Kimche put it:

> "if you ask people in Baltimore do you have an eruv ... they wouldn't know. People say you have no right to use my road as a boundary but if the GPO say your road is a boundary for the postcode ... they wouldn't care ... they say you're making this road a perimeter of Jewish people, but it isn't like that, we're putting together a very simple and innocent and almost invisible facility ... if it means something to us and not to you why should you care?" (interview, November 1999).

The Reform Jewish Rabbi Geoffrey Newman made a similar point: "it's only of interest to those who care—that's almost magical ... it has a great deal of meaning for those for whom it matters ... It's an inner meaning projected onto an outer reality ... I'm totally in favour of it ... it just doesn't have much meaning for me but I'll defend them to have the right to do it" (interview, September 1999). Such a defense presumes a voluntarism where symbols have significance only for those who choose to recognize them.

But my argument here is that the power of symbols in this conflict over space is precisely the point. The fact that legal or planning approval has to be granted for the eruv is, in some sense, to submit to it. Or, to put this another way, the very fact of protesting and opposing the eruv gives it legitimacy, meaning, and efficacy. For its opponents, the eruv 'stains' the wider space within which it operates (Cooper, 1996, page 534) while potentially having very real effects on local house prices (though how much this claim can be substantiated in the British context is open to question). Nevertheless, it was a concern which was consistently expressed in both cases. For example, in the *Town Planning and Research Committee Report* from Barnet we find: "there are also many immediately adjoining houses, one of which, is planned as being within the Eruv and one of which is without. The one within may attract a higher price, from some applicants, and this could even complicate banding for council tax" (London Borough of Barnet, 1993, page 104).

The eruv thus raises the questions of whether competing meanings of space can, or should, be resolved in the policy arena, and can policy initiatives confront the symbolic? In this instance, the eruv held both positive and negative connotations at the same time, and this was a central problem with the conflict. There is no easy answer here, but, if the symbolic power of space is to be taken seriously, particularly in the context of competing cross-cultural claims, policy responses will need to confront the rather thorny questions raised. One such issue is that minority groups requesting permission from the state—in whatever form this takes—are differently (and less powerfully) positioned from those imbued in the dominant culture, of which the state may be imagined to be an integral part. In the eruv case the opponents certainly articulated a more confident relation to the various arenas of the state with which they came into contact.

This recognition of the symbolic power of space has thus to be integrated also into the wider arguments around equality and difference. This does not mean acculturation to the dominant culture, leaving difference to be tolerated in the private sphere. It means difference, symbolic or otherwise, finding expression in both private and public spheres. This is the politics of recognition for which Young (1990) and Fraser and Honneth (1998) argue, where peoples' "heritage is encouraged, not contemptuously expected to wither away" (Modood, 2003). Such a challenge to earlier liberal formulations of equality in the public sphere, which were predicated on the privatization of difference, involves a widening of the national culture to include the symbolic worlds of minority cultures even if this is uncomfortable and destablizing to dominant norms. Dismissing the eruv as crazy or irrational in effect is to deny this minority group of residents in the city equal citizenship embedded in the recognition of difference. Instead, the multiplicity of meanings attached to different spaces necessitates a much more nuanced and innovative way of thinking about public space and the city.

Postscript

Five months after the Barnet eruv had been operating, a sixty-year-old man received a sixty-hour community punishment order for sabotaging the eruv wire with a metal instrument. He was quoted as saying: "I don't know what all the fuss is about. It's only a stupid cable. They shouldn't be in the f***ing country anyway" (*Ham and High* 3 October 2003, page 1). This struck me as a salutary reminder of how tenuous the multicultural settlement in cities can be.

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