

a street entrance. It is not necessarily level with the street. Placing the *nairos* indoors would be satisfactory, but is there an advantage to placing them in a window, rather than by a doorway with a *mezuza*? If there is a porch, with a *mezuza*, this could help. [Porch *mezuzos* depend on the porch size. There is often a question on which side of the doorway to affix the *mezuza*, beyond the scope of this discussion.]

There seems to be a grudging consensus to favor placing them in a window if there are neighboring apartments at that level. Hopefully, people will look out of their windows and across to the *Chanukah* lights, despite privacy issues. Our question regards apartments below street level. If they are on a mountainside, with other apartments alongside or across a ravine, one could rely on the same idea. However, if they are accessed by steps right next to the door, and their windows are in a hollowed-out bay below street level, this seems to be out of sight. This is not dealt with directly by the poskim.

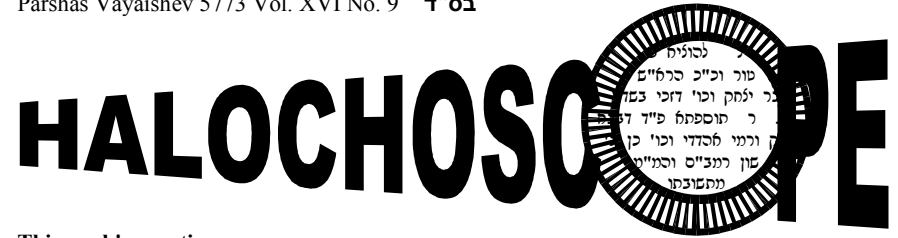
In a minority view, anything below three *tefachim* from the ground would not work. It is considered out of sight. Some poskim maintain that it is *bizuy mitzvah*. According to this view, it only applies when the *nairos* are on the ground. In our case, they will be above the floor of the apartment, but below ground level. Interestingly, some sources ponder the issue, but with a twist. The issue is whether the limit of 20 *amos* applies below eye level as well as above it. One source for the debate is the Talmud's juxtaposition of the 20 *amos* rule with an explanation of the pit in which Yosef was thrown by his brothers. They could not see the snakes in it. The implication is that it was deeper than 20 *amos*. Logically, a lamp would shine well from an enclosed pit. However, one would need to look down into it to see the lamp, rather than the faint glow coming up to the surface. [See *Ner ish Uvaio* 5:4, notes, letter 2. Chovas Hadar *Chanukah* 1:4-5, notes. Nitei Gavriel 15: esp. 13 16:12. Moadim Uzmanim II:143. Mekadesh Yisroel 55 59. Zichron Ner Shaul R. SY Elyashiv p. 519.]

In conclusion, if the *nairos* cannot be seen easily by passersby, especially if they are below street level, there is no advantage to placing them in the window. It is perfectly acceptable to place them on a table. There is a small advantage to safely placing them in a doorway, even though it is not the main entrance to the apartment.

**On the Parsha ...** ... the sun and the moon and eleven stars were bowing down to me ... Shall we come .. to bow down to you to the ground? [37:9] Usually, the stars cannot be seen when the sun is shining. The moon is sometimes visible. There are some stars that can be seen by daylight, but most are only seen after dark. In fact, this is the test to determine whether it is considered *halachic* night. Perhaps this is why the brothers paid no attention to Yosef's second dream until their father seemed to interpret it. [see *Netziv*, *R Hirsch*] However, the question remains. How can stars be seen with the sun? Perhaps Yaakov hinted in his interpretation, by mentioning bowing to the ground, that the dream was that the sun, moon and stars would lose their strength when they would come down to ground level. A lamp is usually kindled high up to give more light. Close to the ground, it does not outshine other lamps. The reason *ner Chanukah* is lowered it to show that it is not there for its light.

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**This week's question:**

**Where should the *Chanukah* lights be placed in an apartment below street level? This could be a basement apartment with or without its own entrance and steps outside. It could be an apartment on a steep hillside, with a full level below the street. The lights could be placed at a window, at or below street level. They could be placed at a doorway. They could also be placed inside on a table. Which is preferable?**

**The issues:**

- A) *Ner Chanukah, pirsumei nisa*, publicizing the miracle; height of sight
- B) Placing the lights – doorway or window – or on the table?
- C) Below street level

**A) *Ner Chanukah, pirsumei nisa***

The institution of the Rabbinical *mitzvah* of *ner Chanukah* was to commemorate the miraculous events that led to the victory of the Chashmonaim over the Syrian-Greeks and the subsequent supernatural miracle of the oil. Part of the intent is *pirsumei nisa*. The Talmud discusses the optimum timing for the *mitzvah*. This is based on *pirsumei nisa*. A lamp does little during daytime. The optimum time is as it gets dark, when passersby will see it. To show that the lamp is specifically for the sake of the *mitzvah*, one may not benefit from its light. In fact, this aspect is debated by the Talmud, and we follow this view. In addition, one may not perform menial activities in its presence, to avoid *bizuy mitzvah*, disgracing the *mitzvah* item. Another way we show that the lamp is purely for the *mitzvah* is a detail in its kindling method. One must kindle it on location, where it will be left on show. One may not kindle it elsewhere and bring it to its location. One reason for this is that an onlooker might think that it is an ordinary lamp, used for its light.

Since a purpose of the lamp is *pirsumei nisa*, it must be able to grab the attention of those who can see it. In Talmudic times, this applied to passersby outside the home, as well as those gathered at home. To attract attention outside, the lamp needed to be placed at the optimum height. The Talmud describes the maximum, and the optimum. The maximum height is twenty *amos*, cubits. Assuming that an *amah* is between 19 and 24 inches, this means that the lamp may not be placed more than 40 feet in the air, and should really be no higher than 32 feet. The Talmud compares this rule to that of *sechach*, that may not be 20 *amos* above the *sukah* floor, and to another similar rule. This leads to some discussion about the reason for the rule. When this rule is discussed with regard to *sechach*, there are a number of different possible reasons. We will assume that the main reason applicable here is that 20 *amos* in the air is the limit of peripheral vision. There is a view that indoors one may place the *nairos* above 20 *amos*. This is based on the opinion that *sechach* may be higher than 20 *amos* as long as the walls of the *sukah* reach it. The eye

will be drawn upwards, so that one will see it at a higher point.

The Talmud also implies that the optimum height is within ten *tefachim* of the ground. A *tefach*, hand-breadth, is one sixth of an *amah*. There is some speculation on the reason for this. In context, the Talmud is justifying the placement of a 'hazard' at this level, outdoors. Normally, one would be held liable for this, since he should have placed his lamp higher than the reach of passing loaded animals. On *Chanukah*, he is not required to place it higher, since the optimum height is within ten *tefachim*. Some say that in order to demonstrate that the lamp is not intended for its light, it is placed where people do not normally place a lamp, which is below ten *tefachim*. Some actually compare it to *sukah* which has a minimum of ten *tefachim*. [Though this raises its own questions. *Sukah* is not kosher below ten *tefachim*!] Some suggest that more than this height is not considered part of the public domain. To properly publicize the miracle, the lamp should be within what is legally public domain. Others maintain that this height is simply in the normal range of eyesight, since people usually look somewhat downwards as they walk.

Some poskim mention what appears to be a minimum height as well, though this is not mentioned by the Talmud. It should be no lower than three *tefachin* off the ground. However, the sources for this minimum are unclear. In some versions there seems to be a requirement of a minimum height, while in others it seems to have been viewed as a praiseworthy practice. Furthermore, there is no obvious reason for this concept. Some suggest that it is as though the lamp is placed directly on the ground. It will not be obvious that it was placed there by the homeowner, and there will be no *pirsumei nisa*. Some suggest that it will appear as though it was left there without any specific intent, rather than for a *mitzvah*. Some suggest that it will not attract attention because people do not look that low close to the ground. Some say that it is not a respectful location. People might even tread on it. [See Shabbos 21b-22b, Poskim. Tur Sh Ar OC 671:(5) 6, commentaries, Nasan Piryu 6:1-2. Mekadesh Yisroel [Chanukah] 54 55.]

#### **B) Doorway or window?**

The Talmud says that it is a *mitzvah* to place the *ner Chanukah* just outside the doorway to one's house. The poskim debate the meaning of this. In Talmudic times, most people lived in houses enclosed in a common courtyard. Some houses opened directly onto a street. The simple meaning of the doorway would, therefore, refer to the doorway into the courtyard. However, the Talmud also seems to discuss placing a lamp by the entrance-way to the courtyard. [The case is a courtyard with more than one homeowner or with two entrances, on two sides.] This leads some to explain the earlier ruling to refer to placing the *ner* at the doorway of a house that opens into the public domain. If the house is in a courtyard, one should place his *ner* outside the courtyard entrance.

The Talmud continues: if one lives in an upstairs apartment, he should place his *ner* in a window that is close to the public domain. In Talmudic times, two-story houses often had separate entrances. If an upstairs apartment had its own entrance to the courtyard, and certainly if there was a courtyard entrance common to both upstairs and downstairs apartments, why couldn't the upstairs neighbor kindle at the courtyard entrance? The gist of the answer is that the upper apartment entrance does not face the street. In addition, if both upper and lower householder's lamps are seen together, it is hard to recognize their

special status. It could also refer to an upper apartment with access through the lower apartment. The presumption is that where feasible, the dweller of the upper apartment would kindle at street level. The presumption is also that the upper apartment window is less than 20 *amos* up. The Talmud does not indicate whether the *ner* should be placed outside the window or inside, but at least one commentator says it should be inside.

The Talmud goes on to say that in times of danger, one should place it on his table, indoors, and this is sufficient. There is still *pirsumei nisa* for those inside the house. During the Talmudic period, certain religions forbade lamps on religious holidays. It could be dangerous to kindle a lamp at the door or the window. In later times it became standard practice to kindle indoors on the table, based on similar considerations. The poskim debate whether this practice was formally adopted or whether it was always done due to specific considerations. If it was formally adopted, changing it when the danger is over could be difficult. If it was never formalized, but was practiced out of fear, with the blessing of the poskim, one may certainly change the practice in modern times. Thus, some people kindle out of doors nowadays, in areas where there is no danger.

Assuming that one is kindling indoors, there is a second consideration. While this passage of Talmud mentions the table, another passage could apply here. The Talmud says that when kindling at the doorway, it should be within a *tefach*, and on the left side of the entrance. This way, when entering, one is flanked by the *mezuzah* on the right and the *ner Chanukah* on the left. [There is actually a debate. We follow this view.] If it is important to be flanked by these two specific *mitzvos*, one could do the same when kindling indoors. We may assume that when the Talmud mentions the table, it refers to a one room apartment. If we have indoor rooms with *mezuzos*, we should be able to satisfy the concept of being flanked by two *mitzvos*. Furthermore, assuming that we kindle indoors due to some newly formalized practice, should we not also try to satisfy *pirsumei nisa* by placing it in a window, just like an upstairs apartment!

There is some debate on what qualifies as a courtyard in modern times. Those who wish to kindle at the entrance to the courtyard, as opposed to the house, need to define it. Those who wish to kindle at the entrance to the house, in the courtyard, need to know whether it must be an open area, or even a stairwell between apartments. Thus, there are varying practices nowadays. Some kindle right outside their homes. Some kindle indoors next to a door with a *mezuza*. Some kindle indoors on the table. Some kindle at the window. [See Refs to section A OC 671:5 7, commentaries. Mikraie Kodesh 16-17. Igros Moshe OCIV:125. Ner Ish Uvaise 5:1-2, notes, first letter.]

#### **C) Below street level**

Recently, it is common to live in apartments that are more than 20 *amos* from the ground. This raises the question: where is the preferred place to place the *nairos*? The apartments are accessed by a stairwell, which is sometimes indoors, or in warmer climates is outdoors. They often have porches. If the *nairos* are put in a window, they cannot be seen easily by passersby on the street. [Those who permit placing it 20 *amos* up if there is a continuous wall leading to it would have no issue here. However, the consensus does not seem to follow this view.] Placing it in their own hallway, stairwell or lobby raises issues of its own. The hallway might not count as a courtyard. It might not count as