

HALOCHOSCOPE

A graphic of a telescope with Hebrew text inside the lens. The text inside the lens reads: "לבוש יאמר וכו' הרמב"ם", "בר יצחק וכו' דזכי בשד", "ר תוספתא פ"ד ד", "ק ורמי אהדדי וכו' כן", "שון רמב"ם והמ"מ", "מתשכח".

This week's question:

A *shul* has an old memorial plaque board in the main sanctuary which is nearly full. They would like to move the older names to the women's section. Those who observe *yahrzeit* for these older names have passed on themselves. This will make space for more newer names of those who have surviving members who observe their *yahrzeits*. Is there any issue with moving these older names out of the main sanctuary?

The issues:

A) The memorial board in *shul*

B) *Kedushas bais haknessess*, the sanctity of a *shul*

C) *Netitzas bais haknessess*, demolishing parts of a *shul*; *chazakah*, rights to a place

A) Memorial plaques and boards in *shul*

The common practice of a memorial board with the names of the deceased and the dates of their passing is an old *minhag*. However, it is difficult to find *halachic* references to it in ancient sources. It could be a combination of a number of separate ideas. The poskim cite Talmudic and Midrashic sources for publicizing the names of donors to *tzedakah*. Thus, a donor may ask that his name be inscribed in some form on an item or a section of a *shul* building. Some question whether this can be applied to the names of the deceased, when it is their relatives who donated the money for it. The names of the living relatives should be the ones publicized. This would not be an issue, if the deceased left a will asking that money should be donated from his estate and that his name be inscribed.

There is an ancient custom to write the names of the deceased of a community on a scroll or in a book, called *sefer zikaron*. These names are read in *shul* on *Shabbos* before the *yahrzeit*. It could be that the idea of engraving them either grew out of this custom, or that they both originated from the same source.

Modern boards are made up of bronze plaques with the names and dates embossed on them. They also have an electric bulb that is turned on when the *neshama* is mentioned, usually at the *yahrzeit* or on *Yomtov* at *yizkor*. In earlier times, an actual lamp was kindled for the *neshamos*. In some communities, the lamp is only kindled at home, where the survivors live. In other communities, it is kindled at *shul*. The concept of a *ner neshama* is based on a *passuk*: *Ner Elokim nishmas adam*, a human soul is the lamp of Hashem. The Talmud discusses lamps kindled on *Yom Kippur* in *shul*, for other purposes. The poskim link this to the *minhag* to kindle a *ner neshama* in *shul* on *Yom Kippur*. They refer to lamps for both the living and the deceased. Over the course of time the practice arose in some places to place the names of the deceased near the lamps kindled for them. There also seems to have been a *minhag* for a donor to have the names of his departed relatives linked to a perpetual flame – a *ner tamid*, in *shul*. With the advent of

electricity the various *minhagim* combined into the modern day memorial board.

A more plausible explanation for the entire concept is mentioned by some poskim. The Navi says that those who have no children might worry about their names not being perpetuated. Hashem promises those who observe His covenant that He will “give them in His house and on His walls, *yad vashem*”, a place and a name. The true meaning of this is a place of spiritual honor and renown, since the people concerned will have passed on. However, it has come to represent the concept of designating a place of honor for a deceased good Jew by affixing a plaque with his or her name in a *shul*. [See Halocho-scope IX:26-27, references. Baba Basra 133b, Poskim. Rema YD 249:13, commentaries. Tzedakah Umishpat 11:19-20, notes. Chemdas Tzvi II:21.]

B) Kedushas bais haknessess

A community is obliged to build a *shul*, compelling each other to participate. Some consider it a Scriptural or Rabbinical obligation, based on the *mitzvah* to build the *mishkan* and *bais hamikdash*. Others maintain that it is one of the many communal obligations. When built, the *shul* is a 'small *mikdash*'. Two levels of sanctity can be attached to items used for holy purposes. Items used for a *mitzvah*, *tashmishei mitzvah*, have no intrinsic holiness. Their association with the *mitzvah* means that they are considered holy and are treated specially while they are in use for performance of the *mitzvah*. After the *mitzvah* is done the *kedusha* no longer applies. They are still treated respectfully and disposed of in a respectable manner. Some items are invested with intrinsic *kedusha*, *kedusha atzma*. These retain their holiness, regardless of when they are used. They may be used for nothing but their intended use. The sanctity never leaves them. They are not discarded but buried near the head of the grave of a Torah scholar. A sub-level of this type is items that serve this level, known as *tashmishei kedusha*. Items serving them less directly are classed as *tashmish detashmish kedusha*. The sub-levels have less *kedusha*. The hierarchy affects the permissibility of changing their use.

A *shul's* stones and bricks are *tashmishei kedusha*. The ground and its space have some *kedusha*. This restricts behavior in the *shul*. It applies after the *shul* is removed, based on a verse in the Torah. However, the poskim debate its type. Some maintain that it is on the level of *tashmishei mitzvah*, with the additional provision that after the *shul* is destroyed, the *kedusha* is retained. Some consider it a form of *tashmishei kedusha*. Some consider it a Rabbinically ordained *kedusha*, while others consider it Scriptural. Some consider the sanctity Rabbinical, but disrespect is Scripturally forbidden. It is possible to stipulate a provision at the time the building is built or dedicated, that when it is demolished or ruined the *kedusha* shall be removed. When and where this provision can be applied is discussed by the poskim. Many maintain that anywhere outside *Eretz Yisroel*, a *shul* building has an automatic in-built provision.

The *ezras nashim*, women's section in a *shul*, is modeled on the *Bais Hamikdash*, the temple. There, the women did not enter the *azara* where the *kohanim* performed the service. Non-*kohanim* males could enter the first few feet of the *azara* on certain occasions. The *ezras nashim* was the section right before one entered the *azara*. It had a slightly lower level of sanctity. The actual segregation of men and women during the services is also modeled on the *bais hamikdash*. Scripture refers to segregating men from women.

When Avraham entertained his 'guests' the women segregated themselves. There was even a separate announcement of giving the Torah for women, because special language was used to address women. During construction of the Tabernacle, men and women worked separately. Later Scriptures refer to separate dancing etc.

At a formal gathering, especially a religious or ritual occasion, segregation is *halachically* required. These include a eulogy and the ceremonial dancing on *Sukos*, when multitude attended. Two attempts were made to accommodate both groups within the existing structure of the *bais hamikdash*. Both failed to prevent levity and flirtation, especially inappropriate in this holy place. Eventually, a new structure was erected annually, either a raised platform or a balcony, raising the women above the men. Everyone could now watch, but the two could not converse. Since changes to the structure are only permitted by prophetic mandate, segregation must be Scripturally mandated. Some maintain the purpose was to prevent communication, others say it prevented the men from looking at the women, and a minority say it prevented *yichud*, seclusion together.

The basic reason for this is the Scriptural *mitzvah* to hold the *bais hamikdash* in awe, that also applies to a *bais hakneses*. Though there is debate whether *davening* with a *minyan* or in a *shul* is a Scriptural *mitzvah*, the awe for sanctity of a *shul* is Scriptural. Accordingly, *shuls* have a barrier to separate men and women. This is often on another floor, with a railing, or a raised platform, in the same general airspace as the men's section. This is practically a part of the men's section, with the same sanctity. If it is a separate room, the sanctity is slightly lower. Nowadays, it is common for the women's section to be in the same room as the men, with a barrier high enough to prevent lightheaded communication, or according to the stringent view, to prevent gazing. [See Sukah 51b-52a (Yerushalmi), Kidushin 51a, Midos 2:5, Poskim. Sh. Ar. OC339:3 529:4.]

Maalin bakodesh velo moridin, once an item has *kedusha*, it may not be lowered, only raised to another level of *kedusha*. The poskim debate whether keeping it on the same level is permitted. Thus, if an item is no longer useful for its *kedusha* use, it may not be disposed of or used for a more mundane use. Thus, the poskim debate whether it is permissible to add to the women's section from the men's section, if there are more women and less men. [See Megila 25b-28b, Poskim. Tur Sh. Ar. OC 150 151 153:6 7 154, commentaries. Tzedaka Umishpat 12:21 13:4-5, notes.]

C) Netitzas bais haknesess

The Torah commands us to destroy the structures built to serve idols. It further commands us not to do this to Hashem, which means that one may not destroy or demolish any part of the *bais hamikdash*. By extension, this also applies to a *shul*. The poskim debate whether this extension is Scriptural or Rabbinical. There is also some debate on whether this applies to a mundane house that was remodeled to house a *shul*, or only to a purpose built *shul*. Even reducing the space inside a *shul* is a matter of debate. Even simply making a small hole in the wall is an issue. If the hole is filled immediately, the issue is permitting removal of the material from the hole. This stone or wood has the *kedusha* of a *shul*. In addition, the act of boring the hole is a minor demolishing. For example, on *Shabbos*, when demolishing is forbidden, even a minor hole may not be drilled.

The consensus is to permit demolishing in order to build, such demolishing a wall

that is crumbling in order to rebuild it. Another common application is to expand the *shul*, or to break open a window or door to improve the air quality or to permit easier access to the *shul*. Anything that is considered an improvement to the *shul* is permitted.

The poskim debate a case where a part of the wall is removed and not filled in, but the new space does indeed enhance the *shul*. The example is a niche that is carved out to house the *amud*, the lectern of the *shliach tzibur*. In one view, since it is not filled in, this is considered demolishing. In the other view, it is not *derech hashchasah*, done to destroy, but *derech tikun*, done to improve. What about filling the hole with a different purpose in mind? Making a hole to fill it with a window, that serves the same use as a wall, with the added usage of light and air, is permitted. Boring a hole to hang something in the *shul* is debated. If the item to be hung on the hook is a *shul* item, such as a *tefillah*, this would be considered an equal *kedusha*. Some point out that even a coat hook serves the people coming to pray, and as such it is for a *mitzvah*. A *mitzvah* use might also count as demolishing for an acceptable purpose. Memorial plaques are discussed by the poskim. One discussion centers on engraving the names in the actual *shul* walls. Apparently, hanging them is considered *mitzvah* or *shul* purpose. Alternatively, since the custom is so widespread, there is an implicit provision made when the *shul* is built to allow them to be hung in the sanctuary. Once they are hung in place, the issue is whether they attain some sanctity and may not be removed.

Do the plaques now have sanctity like the walls, forbidding their removal? Does their removal to the women's section lower their sanctity? Does it constitute an improvement in the *shul*? There is also an issue of *chazakah*, the rights of remaining in the spot that they occupy. The members of a community have rights to the *shul*. Usually, this applies to seats in a *shul*. Does it apply to a spot on the wall as well? In light of our discussion, it appears that their presence in the *shul* is indeed well-founded, but that it is also at the discretion of the trustees of the *shul*. The donors have the right to have the names on the walls, but there is an implied provision on how they are to be placed. The trustees must have some discretion on the placement. They may not destroy them or remove them totally. They may move them around. Based on the implied provision, they do not automatically attain the *kedusha* of the walls. [See Refs to earlier sections. Nedarim 48a, Poskim. Tur Sh Ar OC 153:15-22 YD 224 CM 162:7, commentaries. ShuT Rosh 5. Daas Sofer I:OC:22. Tzedakah Umishpat 12:1 13:1-4, notes.]

In conclusion, the plaques may be moved.

On the parsha *Yosef wept over the two temples in Biyamin's portion that would be destroyed, and Binyamin wept over the destruction of Shiloh in Yosef's portion ... [4:14 Rashi]* The temples belonged to the people as a whole. They did not belong to Binyamin or to Yosef. Why were the brothers crying over each others' losses, when it was not their personal loss? The merit of having a public holy place in one's portion is like having one's name attached to it.

Sponsored in honor of Aharon and Guila Pfeffer and their new baby girl, by an anonymous friend. Mazal tov. 

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