

# HALOCHOSCOPE

An old decorative *Aron Hakodesh* has fallen into disuse. Rather than keeping it in storage indefinitely, the owners have decided to bury it. Someone wishes to salvage parts of it for use in a lesser capacity of sanctity. If the *Aron Hakodesh* is constructed with two layers, may he use the outside layer as a bookshelf for regular *Sefarim*?

The issues:

(A) The *Aron Hakodesh*

(B) *Tashmishei Kedusha*, the sanctity of holy items

(C) *Maalin Bakodesh Velo Moridin*, restrictions against decreasing sanctity

(A) The *Aron Hakodesh*

Building an *Aron Hakodesh* to house the *Sefer Torah* or *Sifrei Torah* is considered a Scriptural obligation by many Poskim. As we shall discuss, it is a detail of the laws of honoring and respecting the *Sefer Torah* itself. The main factor in the respect one must show a *Sefer Torah* is its content. The Talmud says that the *Sefer Torah* has within its words the words of the *Luchos Habris*, tablets of the covenant. Therefore, it must be treated with respect. Its content is also the Torah itself. The other factor is the sanctity with which a *Sefer Torah* is written and its materials manufactured.

The Mitzvah of *Umikdashi Tira'u*, you shall revere my sanctified place, applies not only to the *Bais Hamikdash*, but also to a *Shul* and to *Tashmishei Kedusha*, holy artifacts. The *Sefer Torah* is considered *Kedusha Atzma*, holiness itself. It is on the highest level of *Kedusha* that we have access to today.

Due to the reverence of *Mora Mikdash*, one may not sit on a level with a *Sefer Torah* or do anything overly mundane in its presence. One must treat it with extra care, designating a special place for it. Some commentaries derive this from the Passuk stating that the *Sefer Torah* written by Moshe was placed beside the *Aron Habris*, the ark in the *Bais Hamikdash*. This is to teach us that the *Sefer Torah* must be treated with comparable reverence, and that it must be designated a place of honor. The same Passuk states that the *Sefer Torah* will serve as a witness. Therefore, one must sit in its presence with profound awe.

There is a Scriptural Mitzvah, *Mipnei Saiva Takum*, to stand for approach-

ing Torah scholars, and remain standing until they pass by, or until they reach their seats. It is also part of the Mitzvah of respect for a Torah Scholar, which is, in turn, derived from the Mitzvah to revere Hashem. From this Mitzvah we learn that if one must stand for those who study its words, one must certainly stand for a Sefer Torah itself. From another Passuk we learn that one must walk to accompany a Sefer Torah, as it says "you shall follow behind Hashem your G-d."

In addition to the Mitzvos to revere it and not to show disrespect, there is a Mitzvah to beautify it. Thus, one must adorn it with beautiful covers and use the best materials to write it. Rambam uses the term *Ulehadro Yosair Midai*, to beautify it very much. The scribe must have a beautiful handwriting.

The Talmud describes the coverings of a Sefer Torah as a *Mitpachas* and a *Tik*. The *Mitpachas* is to wrap the Sefer Torah in after rolling it up. Today we usually use a "gartel" for this. The *Tik* is placed over the Sefer Torah afterwards. Sefardic communities often use a wooden case for the *Tik*. In Ashkenazi lands a cloth *Man-tel* is used. It should not be made of an inferior material. If it is made of two materials, i.e., an outside and a lining, the better material should show. (Some Poskim mention that in regard to *Mitpachas*, it is preferable to place the more beautiful material next to the parchment. Since this is not visible to the onlooker, rather show the extra honor to the Sefer Torah.)

The Aron Hakodesh is sometimes called the *Heichal* or the *Taivah*. Some maintain that if it is built into the wall of the Shul it is called a *Heichal*. Many translate *Taivah* to mean a chest. It is used to describe both the Aron Hakodesh where the Sefer Torah is kept, and the table from where it is read. The Aron Hakodesh has a high level of Kedusha in its own right. This Kedusha comes from its being a *Tashmish*, server, of the Kedusha of the Sefer Torah.

One must accord special respect to the Aron Hakodesh as well. The Talmud strongly condemns those who refer to it as the "arna," the Aramaic for the Aron. Using the word like this implies that it is an ordinary cabinet. Though it is referred to by the Talmud as the Aron, this is in the context of discussing the Aron Hakodesh, and is not considered irreverent. [See Eruvin 91a Megilla 26b (Tosefta 3:14) 32a Kidushin 23a Avos 4:6 Sofrim 3:11-13, Poskim. Rambam, Tefila 11:2, Sefer Torah 10:2-11 (Kiryas Sefer). Tur Shulchan Aruch Orach Chaim 147:1 154:3-6 Yoreh Deah 282, commentaries.]

### (B) *Tashmishei Kedusha*

There are two levels of sanctity attached to items used for Mitzvos, with their

sub-levels. Items used for a Mitzvah are called *Tashmishei Mitzvah*. They have no intrinsic *Kedusha*, but the association with the Mitzvah means that they are considered holy and treated specially while they are being used for the performance of the Mitzvah. After the Mitzvah has been done their *Kedusha* no longer applies. They must still be treated respectfully, and should be disposed of in a respectful way.

Some items have intrinsic *Kedusha*, known as *Kedusha Atzma*. These retain their holiness regardless of when they are used. They may not be used for any other uses but their intended use. This *Kedusha* never leaves them, and they may not be discarded, but are buried near a *Talmid Chochom*'s grave. A sub-level of this *Kedusha* is the items that serve these items, known as *Tashmishei Kedusha*. Items serving the *Kedusha* less directly would be classed as *Tashmish Detashmish Kedusha*. The sub-levels have less *Kedusha*. Their order of hierarchy affects the permissibility of changing their use. The Sefer Torah is *Kedusha Atzma*: its wrappings are *Tashmishei Kedusha*. The Aron Hakodesh is at least a *Tashmish Detashmish*. This *Kedusha* and its special treatment is Scriptural law.

The Aron Hakodesh may not be used for any other mundane use. One may not turn his back to it. However, we know that when a Rav addresses the congregation, when the *Kohanim* bless them, and, according to the Talmud, the elders of the congregation sitting on the eastern wall, all face the congregation. This means that their backs face the Aron Hakodesh. The Poskim explain that these instances are permissible due to *Kavod Hatzibur*, respect for the congregation. In addition, the main objection to turning one's back on the Aron Hakodesh is the presence of the *Sifrei Torah* inside. Since the Aron Hakodesh is a separate and, apparently closed area, it is considered a separate entity.

The Talmud discusses the *Prisa*, a cloth that is used with the Aron Hakodesh. There are two views on what the Talmud means in this passage. One view is that it is a cloth lining the Aron Hakodesh. The other view is that it refers to the cloth curtain hanging around, or in front of, the Aron Hakodesh. The difference between these is whether we would consider it on a higher level of *Kedusha* than the Aron Hakodesh itself, due to its proximity to the Sefer Torah. Thus, though the Talmud ascribes high *Kedusha* to the *Prisa*, our Paroches is considered by many Poskim to have no more than the level of *Tashmish Mitzvah*. This gives rise to the possibility in our case that the inner lining of the Aron Hakodesh has the sanctity of *Tashmish* or *Tashmish Detashmish* but not the outer layer.

The Poskim debate whether the Aron Hakodesh is meant to be a secure place for *Sifrei Torah* or an honorable place. The difference is whether one may remove or destroy a *Heichal* hollowed out of a wall. If it only attains *Kedusha* when made

to honor the Sefer Torah, when it is made for security it has no Kedusha. Thus, by placing the Sefer Torah into the hollow one does not accord special Kedusha to it. The other view would consider it holy either way. Building a wood Aron into a wall is considered honoring it in addition to securing it, and is holy as well. In our case, since the outer layer was definitely made to honor the Sefer Torah, it should have the status of the Aron Hakodesh. In fact, some Poskim maintain that the carvings on the outside of the Aron Hakodesh are included in its Kedusha. [See Megila 26b-27a, Poskim. Tur Sh. Ar. O.C. 154: 3, Rema, commentaries. Tzedaka Umishpat 15: note 42.]

### **(C) Maalin Bakodesh Velo Moridin**

Assuming that we consider the entire Aron Hakodesh a Tashmish Kedusha, it must be treated accordingly. Things that have Kedusha may not be disposed of, but they may be used for a similar or better use. Wood from an *Amud* for the Chazan may be used for a *Shulchan* to read the Sefer Torah from. The principle behind this is that the Kedusha may be raised, but not lowered. There is some debate about keeping the Kedusha at the same level.

Assuming its Kedusha is that of Tashmish Detashmish, the Poskim debate its treatment after its use. Some say that one may dispose of it or use it for any other purpose. Others say that while it may be used occasionally for mundane use, it may not be designated for another use. However, through sale (see further) this is permitted. This would anyhow be required if the future use is by a private individual. A third view permits use for a lower level of Kedusha. [See Megila 25b-27b, Poskim. Tur Sh. Ar O.C. 153-154. Tzedaka Umishpat 16, note 39.]

In our case, continuous use for lower level Sefarim might be permissible, rather than no use at all, or burial. However, this is all based on the presumption that the outer layer can be considered a lower level of Kedusha than the inner layer. Then we would need to consider it Tashmish Detashmish as well. By all appearances the entire Aron Hakodesh was built to honor the Sifrei Torah. There is a remote possibility that its exterior was made to decorate the Shul, which would indeed lower its level of Kedusha. However, since it is no longer at its original location, it has become a dedicated Aron Hakodesh.

Accordingly, the proper thing to do with the Aron Hakodesh, if it will no longer be used, is to have it buried in its entirety