

HALOCHOSCOPE

This week's question:

May a *yasom*, orphan under *bar-mitzvah*, kindle *Nairos Chanukah* in *shul*?

The issues:

A) *Ner Chanukah shel bais haknesses*, in *shul*

B) *Katan*, minor discharging the *tzibbur*, congregation

A) *Chanukah lights in shul* [partially adapted from *Halochoscope* XV:9]

This practice is not mentioned by the Talmud, nor is it recorded by the early poskim in their *halachic* codes. It is mentioned by other poskim, mainly to discuss various details. In discussing the *brocha*, some use terminology that implies that the *brocha* was instituted by *Chaza'l*, a reference to the Talmudic era. Clearly, they are of the opinion that this *minhag* dates back to those times. At least one *posek* states clearly that the *minhag* was instituted by the *Rishonim*, the generation of the earliest codifiers. This arises in the context of the reason for the *minhag* and its *brochos*. It appears in the context of a discussion about the *brochos* of *kiddush* in *shul* on *Shabbos* evening. That institution was made in Talmudic times, to satisfy the obligation of those who would not have it recited at home. That was seen as a precedent for *nairos Chanukah* in *shul*.

The earliest mention of any such *minhag* is in a responsum attributed to *Rav Hai Gaon* in reference to a *minhag* in which eight or sixteen lights were kindled every night. They were rearranged according to the particular night. The earliest mention of a *minhag* like the common prevailing one is found in the *Sefer Hatur*, authored by *Rav Yitzchok ben Aba Mari* of Provence, a senior contemporary of *Rambam*. He mentions that there are two customs regarding the placement of the *shul nairos*. One custom is to place it at the entrance, and the other custom is to place it at the center of the *shul*.

A second early source asserts that there is no obligation to kindle *nairos* in *shul*. The Talmud says that the menorah is placed on the left side of the doorway, so that the *mezuzah* is on one's right and the menorah on the left. A *shul* is exempt from *mezuzah*, unless it contains a lodging area. The *minhag* was never instituted as part of the *mitzvah*. Rather, it is a *minhag* as a nice way to add to the *pirsumei nisa*, publicizing the miracle. The miracle took place in the *Bais Hamikdash*, and *shuls* represent a *mikdash me'at*, minor temple. Everyone gathers in *shul*, so there is a great opportunity for *pirsumei nisa*.

Later sources break this down into two distinct reasons: *zecher lemikdash*, a way of remembering the *Bais Hamikdash*, and *pirsumei nisa*. A twist on the *pirsumei nisa* idea is: the original obligation is to kindle the lights at the entrance from the street to the house or courtyard. This was the true manner of publicizing the miracle. Nowadays, due to possible incitement of anti-Jewish feelings, we kindle the *nairos* inside the home. To fulfill the public aspect of the *mitzvah*, the *minhag* was instituted to kindle in *shul*.

Some say that the *shul* kindling also helps to discharge the obligation of those who would not kindle at home, due to unfamiliarity with the *mitzvah*, or to laziness. In reality, this does not work for them. This is a '*mitzvah* of the home', similar to *mezuzah*, though not exactly the same. Therefore, one hearing the *brochos* and seeing the *nairos*, and even actually leading the congregation as the kindler, does not fulfill his obligation. In fact, the Talmud discusses *kiddush* in this vein. Some say that one fulfills his obligation with *kiddush* in *shul*. We follow the view that it must be recited where one eats. The original *minhag* to recite it in *shul* was to discharge the obligation of those eating there, and the *minhag* remained. It is possible that the same happened to *ner Chanukah* in *shul*.

A number of poskim suggest that the *nairos chanukah* in *shul* were initially instituted for a real need: just as guests without a home would lodge in *shul* for *Shabbos*, they would lodge there for *Chanukah*. Just as *kiddush* was instituted for them, *ner Chanukah* was also instituted. The poskim debate whether the location of the *nairos* in *shul* fits with this view. In addition, the Talmud would have discussed this, just as it discusses *kiddush*. There are various reconciliations. In any event, according to this view, the original *minhag* was a real fulfillment of the *mitzvah*. Nowadays, it is kept up for the other reasons, or to maintain the old *minhagim*.

[To reconcile most, if not all, of the views: the true reason for the *minhag* is *pirsumei nisa*. It is an extension of the original *mitzvah*, which is why the original *brocha* may be recited. In order to connect an institution with a Scriptural model, known as *k'ain deoraisa*, the connection to the *Bais Hamikdash* is invoked. This also governs the upcoming discussion. Since there is a partial fulfillment of *pirsumei nisa*, those who will not kindle at home for whatever the reason, still gain something from the *nairos* in *shul*. This is not the fulfillment of the *mitzvah*, but something like a consolation prize.]

The poskim debate the placing of the lights. We mentioned a very early source that cites two *minhagim*: the entrance to the *shul* or the center of the *shul*. These focus on the *pirsumei nisa* aspect of the *mitzvah*. The prevailing *minhagim* focus on the *zecher lemikdash* aspects of the *mitzvah*. In the *Bais Hamikdash*, the menorah was placed on the southern side of the temple. There is a debate on which direction the *nairos* went. In one view they went North to South, or right to left for the person walking in through the entrance. The other view maintains that they went parallel to the southern wall. Both of these views are practiced with regard to the *minhag* to kindle *ner Chanukah* in *shul*. Some place the menorah in a window on the southern wall of the *shul*. Others object to this, based on the way the *nairos* are kindled. The first *ner* is kindled on the right side of the menorah. On subsequent nights, one kindles the newest light first, moving along the menorah from left to right. This is based on another *zecher lemikdash*, that one always turns toward the right. In *shul*, one should kindle the light closest to the *aron hakodesh* on the first night. In western countries, this is on the eastern wall. In order to 'turn right' one must be facing north when kindling. This means that the menorah could not be placed in a window, which would be kindled facing south. *Shuls* should follow whichever *minhag* they start, as all have advantages and drawbacks.

There is an old controversy about *brochos* on a *minhag*. The Talmud says that we do not recite a *brocha* on the *hoshanah*, because it is not a *mitzvah*, but a *minhag* of the

Prophets. Many poskim maintain that this applies to other *minhagim* as well. However, in this case, virtually all poskim approve of the *minhag*. Various reconciliations are made, most notably, that *pirsumei nisa* is different. Detractors of the entire *minhag* base themselves on the unnecessary *brocha*. If there are no lodgers in a *shul*, there should be no kindling, and certainly no *brocha*. As mentioned, this view is not followed.

Other reasons suggested for this *minhag* include: another way to beautify the *mitzvah*; *ner tzibbur*, a separate communal part of the *mitzvah* of *ner Chanukah*; to teach the uninitiated the *brochos* and show them the number of *nairos*, so they know how to perform the *mitzvah* when they go home. In summary, the poskim conclude that the main reason for the *minhag* is *pirsumei nisa*. Nonetheless, the minority view that it is to discharge the obligation of the guests lodging in *shul* is taken into account. This has bearing on the discussion in the next section. [See *Shabbos* 21b-23b (Ritva, Meiri) Yuma 11a Sukah 44b Menachos 98b, Poskim. Teshuvos Hagaonim Hachadashos 177(91). Itur, Aseres Hadibros, Chanukah. Manhig, Chanukah. Hagahas Semak 280. Maharam Mirotenburg ShuT I:136. Terumas Hadeshen 104. Shibolei Leket (Tanya), Kolbo (Chanukah 185 & Pesach 3). Rivash 111. Abudraham Chanukah. Tur Sh Ar OC 422:2 487:4 671:7 Levush, commentaries. Chacham Tzvi 88. Maharam Shik YD 374. Chasan Sofer II:p. 173b. Hisorerus Teshuva III:457:2 460. Sdei Chemed IX, Asifas Dinim, Chanukah 24. Minchas Elozor II:68.]

B) Katan lehozte tzibbur

Two activities are performed by the one kindling the *nairos* in *shul*: he performs the act of kindling on behalf of the congregation; and he recites the *brochos*. The *brochos* resemble the *brochos* that are recited before the congregation fulfills *shofar* or *megillah*, or even *krias hatorah* and *haftarah*. When an individual has an obligation to recite something, he may discharge it by listening to another individual saying it. The reciter must have in mind to discharge the obligation of the listener, and the listener must intend to fulfill his obligation by hearing the words of the reciter. This is called *shomeia keoneh*, the listener is like one who answers or says it themselves.

Usually, when *shomeia keoneh* applies, the reciter fulfills his own obligation at the time. Here, since the *brochos* and the *nairos* are both considered obligations, *areivus* applies. *Areivus* connects all *benei chiyuv*, obligants, in 'one body'. Any Jew can perform a *mitzvah* act so that his fellow may be considered performing it. The performer need not be occupied in his own fulfillment. However, the person reciting must be a member of the class who is also obliged. While he might not be performing his own *mitzvah* at the time, he could be if he so wished. Therefore, his act is a valid *mitzvah* performance. Accordingly, one may recite *brochos* and kindle for others, even if he has already done so for himself or will be doing so later, at his own home. If the one reciting it has no general obligation, he may not act in the capacity of an *areiv*, responsible for others.

Children under bar- or bas- *mitzvah* are not obliged in *mitzvos* Scripturally. The Rabbis instituted *chinuch*, an obligation to train the child in performance of *mitzvos*, when he reaches the age that he can understand them and/or perform the acts. The poskim debate whether this obliges the children as well, or only the parents. This means that a child, who is not obliged Scripturally, could not discharge the obligation of an adult, who is

obliged Scripturally. A Rabbinically obliged person may discharge the obligation of another Rabbinically obliged person. The stringent view contends that even if it is the child's personal obligation, his is a doubly Rabbinical obligation. He probably said a verbal *kiddush* already. In addition, we have the view that it is not the child's obligation.

The Talmud says a child may be given an *aliya* on *Shabbos*. Most poskim maintain that he may not be counted towards the three basic *aliyos*, but may be counted towards the other four *aliyos*. This implies that they can indeed discharge some kind of obligation for the congregation. How is this? Furthermore, in Talmudic times, only the first and last *oleh* recited a *brocha*, right at the beginning and right at the end of the *parsha*. If a child had the last *aliya* and recited the second *brocha*, how could he discharge the obligation of the adults who had the earlier *aliyos*? In addition, the Talmud clearly allows a child to recite the *maftir aliya* and the *haftarah*. How can the child discharge the whole obligation of the congregation? The standard explanation for all of this is that the child is fulfilling a role of an extra. However, on some days, the *maftir* is a separate reading, connected to events of the day. On others, such as *Parshas Zachor*, it is a Scriptural requirement, unlike regular *krias hatorah*, which is Rabbinical. In practice, the poskim say that he may not read *Zachor*, although nowadays the *Baal Korai* usually reads it anyhow. As for the other special event *maftir*, most poskim allow a child to read them.

The simple case of a child serving as leader is *kaddish yasom*, recited after *aleinu*. This was instituted for orphans under *bar-mitzvah*, who may not lead the main service. One explanation is that the institutions where a child who is of *chinuch* age can discharge adults are all congregational, rather than individual obligations. Children are part of the congregation of Israel. Although they cannot be obliged in *mitzvos* before *bar-mitzvah*, they can be part of a congregational experience. Therefore, the child can discharge congregational obligations. Unlike *kaddish shalem*, which is part of *tefillah* of the *chazan*, *kaddish yasom* (also called *kaddish chaser*) can be recited by a child. Thus, the poskim debate whether a child can kindle *nairos bais haknesses*. If we follow the minority view that they discharge the individual obligations of those who do not have their own homes, some would say that the child cannot kindle them. His obligation is doubly Rabbinical, while the adults' is a single Rabbinical obligation. In one view, a child can discharge an adult's obligation of *ner Chanukah* (and even *megillah*). This is a lower level Rabbinical obligation than *megillah*, which is quasi-Prophetic. If the *minhag* does not discharge an individual obligation, but is a congregational institution, the child can kindle. Contemporary poskim debate this very question. The *shul* should make a decision in consultation with their *rav*. [See Rosh Hashanah 29a-b Psachim 101a Megillah 23a, Poskim. Tur Sh Ar OC 55 122 (Darkei Moshe 2, MB10) [Tur 123] 271:2 (BHL) 282:4 (Ar Hash) 671:7 (Dirshu 76) 675:3 689:2 YD 376:4 (Darkei Moshe 9), commentaries. Minchas Yitzchok VI:65. Divrei Yatziv I:286. Az Nidberu V:37. Nitei Gavriel Chanukah 40:14.]

In conclusion, the *shul rav* should determine whether a child may kindle.

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