



MISHNAS CHAYIM

משנת חיים

MISHNAH ON THE PARSHAH

Parschas Mikeitz 5771 פרשת מקץ תשע"א

TO PUBLICIZE OR NOT TO PUBLICIZE -- THAT IS THE QUESTION

THE SHINING MENORAH ON THE HILL

In the Gemara in Shabbos (22a), R' Kahana compares a menorah to a *sukkah*. Concerning the latter, the Mishnah states (*Sukkah 1:1*):

סָכָה שֶׁהִיא גְבוּהָהּ לְמַעְלָה מֵעֶשְׂרִים אַמָּה, פְּסוּלָהּ.

“A *Sukkah* whose *s'chach* (covering) rests at a height higher than twenty cubits (about 35 ft.) is disqualified.”

The Gemara in *Sukkah* (2a) supplies numerous reasons to account for this disqualification. Among them is the fact that an item at such a height is *לא שְׁלֵטָא בָּהּ עֵינָא* -- not readily visible to people. Someone sitting in such a structure will not be too cognizant that he's even in a *sukkah* because the *s'chach* (defining element of the *sukkah*) will not even catch his eye.

This idea, maintains R' Kahana, would carry over to a menorah as well. A recurring theme associated with the laws of Chanukah is the idea of *pirsumei nisa* -- publicizing the miracle. A major aim of the lights of the menorah is to advertise to the public the great miracle that occurred. As such, a most basic prerequisite is that the lights should be *seen*. As has been demonstrated by the Mishnah in *Sukkah*, in order to facilitate viewing, the item must not be placed above a certain height. And so, the Chanukah candles must also be placed below twenty cubits.

This might present a problem for those dwelling in an upper-story of an apartment building, where the menorah shining in the window stands above twenty cubits from the passersby below. As this forum is intended for raising awareness and study of the issues -- but not actual *p'sak halachah* -- we direct those affected by this issue to the proper *halachic* volumes and authorities.

The issue of interest here arises in the following scenario: Sometimes, dwellings are built on a mountainside, with the population distributed along the slope. One could easily have a situation where a particular apartment building will extend high, while the rest of the incline forms the backdrop of this building. This arrangement produces the following curious result: the windows of this building tower above ground-level, well above twenty cubits from the pedestrians there. On the other hand, though, the people who are meandering on the upper slope will be much closer to those windows. Relative to this latter group, a menorah in such windows will meet their field of vision, as they stand within the twenty-cubit zone.

The bottom line in this case is that the menorah is placed above twenty cubits but seems to avoid the *לא שְׁלֵטָא בָּהּ עֵינָא* issue, nonetheless. Would these conditions be sufficient?

THE “SPIRIT” OR THE “LETTER”

R' Dovid Soloveitchik (*Me'orei Hamo'adim*, vol. 1, p. 196) explains the heart of the matter. There is no question that *pirsumei nisa* forms the cornerstone of the particulars of the *halachos* of lighting. However,

In memory of my departed mother on her *yahrtzeit*
רות בת משה ע"ה
by Mr. Mark Scherer, Bellmore, NY

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זאב בן יעקב ע"ה a fellow Jew who passed away with
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our issue hinges on a matter of form -- what is the precise and practical nature of Chazal's menorah enactment?

In other words: if the *halachah* is dictated solely and finally by considerations of *pirsumei nisa*, then our dwellers on the hill might just be in luck. Technically speaking, the lights are above the twenty-cubit limit. But the concerns of *pirsumei nisa* seem to be satisfied by the people on the upper slope, whose eye-level is much more in line with the lights.

On the other hand, it could very well be that the final analysis does not rely on the dictates of publicity. They might have formed the basis of the enactment, but once the structure of the mitzvah is set, it takes on a sort of identity of its own. To accommodate *pirsumei nisa*, Chazal mandated certain specifications (such as the twenty-cubit zone). But practical application might hinge primarily on these parameters set by Chazal, *regardless of the reasons why they were originally formulated*. If that is the case, then the apartment dwellers of the mountainous region wouldn't be able to rely on their fellow citizens of the upper slope. When it comes to lighting the menorah, the sole consideration will be the math and the cold facts: is the menorah within 20 cubits of its associate ground-level or isn't it?

To shed some light on the issue, R' Dovid draws on another scenario. Suppose a man dwells alone on a desert island, where there is no "public" available to whom to publicize the miracle. If the final determining factor would be *pirsumei nisa*, then such a person would be exempt from lighting, as his mitzvah lacks the basic ingredient of this seasonal precept.

But that is not the case, as it is generally agreed that lighting the Chanukah candles is incumbent upon everyone, even those who live in solitude. As such, it is apparent that while *pirsumei nisa* was obviously taken into consideration when formulating the decree, it is not the chief determinant. Rather,

the parameters of the mitzvah were ensconced in permanent and universal form.

And so this arrangement gives rise to this curious result. The man on the island, when adhering to the particulars of the mitzvah (e.g. lighting within twenty cubits), will fulfill the mitzvah despite the fact that he is not publicizing the miracle. And the hill dwellers of our scenario, who lit above twenty cubits, do not fulfill the mitzvah despite the fact that they *do* satisfy the demands of *pirsumei nisa*.

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