

Mechitzah

Rabbi Yehuda Balsam

The signature of an orthodox shul is that it maintains separate seating between men and women. Indeed this issue has been the source of contention between many factions of Jews and has been held steadfast by the observant community. Even among the strictly orthodox, there are often issues concerning the type of separation that should exist, how high it should be, and where it should be located. What follows is an attempt to discover the source for the din of mechitzah and some parameters concerning its size and function.

Source

The Mishnah (succah 51a) describes the sights and sounds of the famous simchas beis hashoeivah that took place during the times of the beis hamikdash. It says that the night before the simcha they would make great repairs. The gemarah (51b) explains that these repairs entailed driving nails into the smooth walls of the ezras nashim and placing large planks of wood upon them to create a balcony so that the women could view the simchas beis hashoeivah above the men. The gemarah continues and explains that originally women were on the inside and men were on the outside and that caused problems of socializing and they switched it to men on the inside and women on the outside, but the problem persisted. Therefore this balcony was created and it ensured that there was no of kalus rosh in the beis hamikdash. This is the source in the Gemarah for having a mechitzah in our shuls. Our batei knesios are referred to by chazal as mikdash me'at. Their kedushah is a microcosm of that contained in the original beis hamikdash and the laws of their sanctity are derived from those of the beis hamikdash. The Tosefta (megilah 3:14) tells us that not only are they similar in holiness, their construction must take on an analogous form (see Shulchan Aruch O.C. 150). (For a lengthy discussion concerning the sources and details of these halachos, see Eretz Hatzvi siman 12.) Thus, there is a mitzvah to separate between the men and women who attend shul in order to prevent kalus rosh in our places of worship just as there was in the Beis Hamikdash.

Is it D'oraisah or D'rabanan?

According to Rav Moshe Feinstein (Igros Moshe O.C. 39), the chiyuv to set up a mechitzah is min hatorah. He writes that this would even be the case if the men and women all voluntarily agreed to sit separately. It would still be a biblical requirement to construct a partition between the men's and women's section. He bases his reasoning on the continuation of the aforementioned gemarah. The gemarah asks: how is it possible to add on any major construction to the beis hamikdash? Does it not say in Divrei Hayamim (1:28) that the dimensions of the beis hamikdash must be exactly in accordance with the commands that were given to Shlomo Hamelech by his father Dovid? These instructions were given by Hashem and told to Dovid by Gad Hachozeh

and Natan Hanavi. The Gemarah answers: they found another pasuk that justified their position. It says in Zechariah (12:12) that when Moshiach ben Yosef will be killed, the nation will come together to eulogize him, and the men will sit in one place and the women (their wives) will sit separately. The gemarah derives a kal vachomer from this pasuk: if in future times it will be necessary to have separate seating at a funeral, which is certainly not a place where one's yetzer harah takes over his actions, how much more so must there be an obligation to be separate during a time of joy. This is how the gemarah deals with the issur of adding new constructions to the beis hamikdash. Based on this explanation, Rav Moshe writes that it would be impossible to add on any new construction to the temple if it were not necessary on a d'oraisah level. The fact that the gemarah learns the din from a pasuk in navi is irrelevant to the Torah status of this particular law. The Nevi is not introducing a new law, rather it is describing the proper mode of action at a public gathering of this nature; one that is already obvious to anyone who understands the laws of the Torah. Therefore, the navi is teaching us that the concept of the mechitzah was actually part of the original plans for the beis hamikdash and was simply not understood until it was searched out during a necessary time. However, once this understanding was reached, it was then known that there was always a need for a mechitzah, even when there was no fear of kalus rosh. A similar interpretation to this gemarah is quoted in the name of Rav Yosef Shalom Elyashiv (He'aros L'meseches Sukkah 51b s.v. krah) and it seems that he would concur that this is indeed a Torah obligation. Rav Moshe brings two additional proofs to his cause. One is the Yerushalmi (5:2) that tells the same tale as our gemarah, but when explaining the heter to make the mechitzah it uses the phrase mimi lamdu (from where did they learn it), midvar torah (from the words of the Torah), thus indicating that the source is biblical in nature. (This proof can be disputed because the two major commentaries to the Yerushalmi, the Karban Ha'eidah and the P'nei Moshe both explain the gemarah as merely referring to the fact that it is learned from a pasuk in tanach, not that it is a Torah law.) His second ra'ayah is from a Tosfos (Zevachim 33a s.v. v'leavid) that plainly states that it would be forbidden to make any additions to the Beis Hamikdash if they were only for the sake of a din d'rabanan. Thus, it seems clear that this obligation is biblical in nature.

The Purpose

As noted, the main purpose stated in the Gemarah for having this partition is to prevent kalus rosh. In addition, the Rambam in his commentary to the mishnayot writes that it is to prevent the men from staring at the women. Thus it seems that the Rambam would require a mechitzah that makes it impossible to see the women who attend shul. However, Rav Moshe explains that this statement of the Rambam is not to be taken literally, for there is no source in the gemarah that indicates that the mechitzah is there to prevent anything by socializing. He explains that even if the Rambam in the Peirush Hamishnayos is to be taken at face value, the Rambam himself retracted this opinion in the Mishneh Torah, which is his final halachic stance on all matters. In two places (Hil. Sukkah 8:12, and Beis Haba'irah 5:9) he writes that the purpose of the mechitzah was to keep the men and women from mixing, and makes no mention of staring or any other issues. However, other poskim disagree with this point.