The Movement of the Chanukah Menorah Indoors: An Historical and Halachic Analysis

By: MOSHE WALTER

The precision and alacrity exhibited by 21st-century Jews in adhering to the detail and minutiae of *halachah* is a reason to rejoice. Many areas of *halachah* and *mitzvah* observance which, historically, could feasibly be fulfilled only according to the baseline position or minority opinion are today fulfilled *l'mehadrin*, in optimal fashion.

Jewish communities classically owned one or two sets of the four species for Sukkot*, battim* (leather casings) for *tefillin* were not manufactured to the same degree of excellence as are those of today, and the *kashrut* of a contemporary *mikvah* is far superior to *mikvaot* of yesteryear. The opportunity that now exists to perform *mitzvot* to perfection often replaces halachic principles such as *b'dieved, she'at hadechak, ikar hadin*, and *she'at hasakanah* with halachic terminology such as *machmir tavo alav berachah, l'chatchilah* and *mehadrin*.

Furthermore, the freedom to practice religion in America has allowed Jews the ability to perform a variety of public *mitzvot* that generations of Jews were unable to fulfill due to the threat of danger. An example of a *mitzvah* that is an expression of the above two points is the lighting of the Chanukah menorah.

Placement of the menorah in contemporary times requires analysis due to the above reasons as well as to the dramatic difference between modern residential structures and the living quarters of Talmudic times. As a result of this change, there is minimal source material in the *Gemara*

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and *Rishonim* available from which to glean contemporary halachic decisions. This challenge has contributed to numerous variations as to where to place the menorah in our modern-day living quarters.[1]

This paper intends to analyze all pertinent Talmudic sources, the writings of the *Rishonim, Acharonim* and contemporary halachic literature that address where the menorah was lit during those time periods. We will also address what caused the change to its original location, and where the menorah should be placed today.

The Talmud teaches:

> The requirement is to place the Chanukah menorah by the doorway of one's house from the outside. If one lives on an upper floor, he should place it in a window that is adjacent to the public domain. In time of danger, he should place the menorah on his table and that is sufficient. [2]

While the Talmud and halachic authorities do permit the menorah to be lit indoors, that was only during times of *sakanah*, danger, but if it is not dangerous, the menorah is to be lit outside at the entrance of the doorway into the home. Today we are blessed to be living *b'sheat shalom*, peaceful times, in an era when malls, stores, Rockefeller Center and the White House showcase a menorah and even a lighting ceremony. Because lighting the menorah outdoors in America is no longer fraught with danger, it is no surprise that over the last decade an increase in *menorot* being lit outside the entrance to one's home has risen, as the excitement of many to fulfill this *mitzvah* to precision has become contagious. Although there would seem to be a strong case to be made based upon the above-quoted *Gemara*, a closer look at the sources seems to indicate the contrary. What, then, are the reasons that this *mitzvah* should be any different than other *mitzvot* that are currently being performed with greater precision than in days gone by?

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1 *Sefer Halichot Shlomo,* chapter 14, footnote 11 reports that as a result of the lack of primary source material available from which to glean answers to contemporary questions, Rav Shlomo Zalman Auerbach would spend a considerable amount of time in the weeks leading up to Chanukah reviewing the laws regarding proper placement of the menorah.

2 *Masechet Shabbat* 21b. See later portion of this article regarding the type of danger which still requires one to light the menorah.

Rabbinic Decree

This question, although contemporary in nature, has troubled halachic authorities for over 800 years. The earliest halachic authorities to raise the question were the *Ohr Zarua* and *Baal HaIttur*.[3] Commenting on the Talmudic ruling that "The requirement is to place the Chanukah menorah by the doorway of one's house from the outside, and in time of danger, he should place the menorah on his table and that is sufficient," the *Ohr Zarua* asks: "Today, when there is no danger, I don't know why we do not light the menorah outdoors?"

While the *Ohr Zarua* leaves the question unresolved, which in and of itself requires understanding, the *Baal HaIttur* seems to suggest a cryptic answer to the question. The *Ittur* writes: "Once the custom was instituted, based on danger, it was established. One who can place the menorah outside, should place it outside, and if not [outside, then] in [the entrance to] his doorway."[4] Rabbi Meir Yonah ben Shmuel, in his commentary on the *Ittur*, *Petach HaDevir*, suggests that the *Ittur* means that even if there is no longer any threat or danger, once the original danger relocated the placement of the menorah, the menorah should continue to be lit inside. The *Petach HaDevir* concludes that this understanding could resolve the *Ohr Zarua*'s question as well.[5]

According to this explanation it would seem that we have an open-and-shut case. The reason we light the menorah indoors, although we do

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3 *Ohr Zarua Hilchot Chanukah*, *siman* 323. The author, Rabbi Yitzchak ben Moshe of Vienna, lived approximately between 1180 and 1250, and is best known for his work *Ohr Zarua*. The Ohr Zarua was one of the Ashkenazic pillars of halachah of the 13th century and beyond. His work has been heavily used and quoted by major halachic authorities including the *Beit Yosef* and *Shulchan Aruch*.

4 *Sefer HaIttur, Aseret HaDibrot*, in the beginning of his *Hilchot Chanukah*. The author, Rabbi Yitzchak ben Abba Marri of France, lived approximately between 1122 and 1193 and is best known for his *Sefer HaIttur* and its companion work, the *Aseret HaDibrot*. This work is heavily used and quoted by major halachic authorities including the *Beit Yosef* and *Shulchan Aruch*. *Shibolei HaLeket*, *siman* 185, cites this position of the *Ittur*.

5 *Petach HaDevir,* ibid., #4. However, this answer is difficult to understand because the *Gemara* indicates that only at a "time of danger" should one light inside, but once the danger passes, seemingly, one should return the menorah to its original location. See *Sefer Mikraei Kodesh* of Rav Tzvi Pesach Frank, *Chanukah — Makom Hadlakah, siman* 16, footnote 1 and Responsa *Dvar Yehoshua*, volume 1, *siman* 40 of Rav Yehoshua Ehrenberg who prove that we do find other halachic precedents to resume a particular custom that was widely abolished as a result of danger even once the danger passes.

not find ourselves in a dangerous predicament, is predicated on the original danger that existed. However, halachic authorities after the *Ittur*—most notably the *Tur, Beit Yosef* and *Shulchan Aruch*—all codify the aforementioned *Gemara* which states unequivocally that only during a time of danger may one light the menorah indoors.[6] Seemingly the *Ittur*'s explanation was not taken into account by the codifiers of Jewish law which would support the practice of lighting the menorah outdoors as stated in *Shulchan Aruch*.

Scoffers

Although the *Gemara* does not seem to support lighting the menorah indoors during peaceful times, there is a parallel text in *Megillat Taanit* which may shed light on why one should light the menorah indoors even when there is no concern of danger.[7] Rabbi Meir ben Eliezer Horowitz, the *Av Beit Din* of Dzhikov, in his Responsa *Imrei Noam*, notes an additional statement in *Megillat Taanit* that does not appear in *Masechet Shabbat*.[8] Prior to the statement about lighting the menorah indoors during a time of danger, *Megillat Taanit* states: "If one is afraid of the scoffers, place the menorah on the door to one's home on the inside." Rav Horowitz suggests that although his community was not fraught with danger, there were certainly suspected scoffers. These scoffers would explain the custom of lighting the menorah indoors.

There are, however, two potential problems with this suggestion. One, in contemporary times in America, not only do we not find ourselves in a situation of danger, but there are minimal-to-no scoffers. The menorah has become a standard fixture during the early part of the winter across the country. Two, the *Gemara* and halachic authorities do not cite the *Megillat Taanit*'s reason to light indoors. Furthermore, *Megillat Taanit* is full of numerous statements of a halachic nature that the *Shulchan Aruch* and halachic commentaries never codified, the cited one being but one example.

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6 *Tur, Beit Yosef* and *Shulchan Aruch Orach Chaim, siman* 671, *se'if* 5.

7 *Megillat Taanit*, *Kislev,* chapter 9. See *Masechet Shabbat* 13b regarding the authorship of *Megillat Taanit* which seems to pre-date *Tana'itic* literature. See *Rashi,* ibid., *d"h* "*Megillat Taanit,*" who explains that the *Megillah* lists 35 special days on the Jewish calendar, including the days on which it is prohibited to fast, and days on which mourning is prohibited.

8 Responsa *Imrei Noam*, volume 2, *siman* 29. Rav Horowitz lived approximately between 1800 and 1877. See Responsa *Minchat Yitzchak*, volume 6, *siman* 66, who cites the *Imrei Noam* and brings support to his assertion.

Weather Conditions

Many halachic authorities dating back to the *Rishonim* have suggested that the difficult winter weather played a role in the menorah's being moved indoors. The *Ritva* (Rabbeinu Yom Tov ben Avraham Alashbili), commenting on the *Gemara's* statement "In the time of danger he should place it [the menorah] on his table and that is sufficient," writes that "my master, my teacher, would say that when the wind makes it impossible to light outdoors, light indoors."[9] The *Ritva* broadened the *Gemara's* instruction to light indoors due to danger to include difficult winds, rain and snow which prohibit one from lighting the menorah outdoors. Rav Yechiel Michel Epstein, the well-known early 20th-century halachic authority, takes a similar approach. He writes that although there is no physical danger, the weather is enough of a deterrent to prevent one from lighting outdoors.[10]

The weather-factor approach raises two questions. One, if the weather does indeed deter one from lighting outdoors, how could the *Gemara* suggest doing so as the ideal way of lighting? Two, what was done during Talmudic times and during the generations when there was no danger? Rav Yaakov Emden, in his Responsa *She'eilat Yaavetz,* addresses these questions.[11] He suggests that during the generations when the menorah was lit outdoors, a glass enclosed case was made to house the menorah. This contraption was made in order to fulfill the requirement to light outdoors while keeping in line with the *halachah* that the lights of the menorah have to be seen. Rav Emden responds to one who questioned the propriety of using such a case and writes that one could, and should, fashion such an enclosure in order to light outdoors. Rav Emden concludes that because of the expense of building the glass enclosure, and because of the fact that he never saw earlier rabbinic figures light outdoors in such a fashion, it is unnecessary to go to such lengths unless it is easy to do so.[12] Although the *She'eilat Yaavetz* does suggest that one can light

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9 *Ritva, Masechet Shabbat* 21b. The Ritva lived approximately between 1250 and 1330.

10 *Aruch HaShulchan, Orach Chaim, siman* 671, #24

11 Responsa *She'eilat Yaavetz, siman* 149. See *Sefer Shaarei Teshuvah Orach Chaim, siman* 673, #8, with explanation of Responsa *Minchat Yitzchak,* volume 6, #66.

12 See *Mikraei Kodesh,* ibid., *siman* 17, Responsa *Salmat Chaim, siman* 383 and *Sefer Mo'adim U'Zemanim*, volume 2, *siman* 146 who cite that Rav Yehoshua Leib Diskin, *zt"l*, the Rav of Yerushalayim, opposed the use of a glass case because *hadlakah osah mitzvah*, the lighting of the menorah is the essential *mitzvah*, and if it was not for the fact that the case is immediately closed the candles would not

outside if the appropriate fixture is established, the *Aruch HaShulchan* states unequivocally that one should not create such a structure in order to light outdoors.[13]

Eternal Danger

The *Rishonim* explain that the danger that the *Gemara* was referring to was certainly not life threatening, as one is not commanded to perform a positive *mitzvah* if there is risk to one's life.[14] The *Ritva* explains that even "fear of pain or hatred like in France" is enough to bring the menorah indoors.[15] The *Rivash* writes that "since the hand of the nations is upon us, and we are unable to fulfill the *mitzvah* properly," the menorah is lit indoors.[16] These early sources clearly indicate that lower-level danger or possible danger is sufficient reason to not light outside one's home.

Based on the *Rishonim*'s definition of *sakanah*, this author would suggest another reason why the menorah should not be lit outside one's home, even today, in America. Over the centuries the Jew, Jewish home and Jewish community have continually been threatened physically and spiritually. At times it was more dangerous and at times it was less dangerous; at times there was a greater sense of acceptance and serenity and at times less. Rabbinic authorities understood that even during quiet and peaceful times things could change. As such, to constantly change the menorah's positioning based upon the Jews' relative safety in a particular year or decade has no precedent in any area of *halachah*.

This understanding may better explain the position of the *Ittur* referred to earlier. The *Ittur* writes that once there was a situation of danger, that becomes the status quo assumed for determining halachic practice. Therefore, no longer can the menorah be lit outside even if the danger

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remain lit, thereby one does not properly fulfill the *mitzvah* of *hadlakat neirot*. These sources try to defend the practice.

13 *Aruch HaShulchan,* ibid. See *Sefer Nimukei Orach Chaim, siman* 671, #1 by Rav Chaim Elazar Shapiro, Munkatcher Rav (and author of Responsa *Minchat Elazar*), who is equally troubled by the contemporary practice of lighting the menorah indoors in light of the peaceful surroundings and questions the practice. The only plausible suggestion, he writes, is that the winter winds prohibit one from properly lighting outside. Even this suggestion, he writes, is questionable.

14 Rashi, *Masechet Shabbat* 21b, *d"h "Ha'sakanah*"; *Tosefot,* ibid., *d"h "U'beshe'at ha'sakanah*." See Bach to *Shulchan Aruch Orach Chaim, siman* 671, #8, who argues against Rashi.

15 Ritva, ibid., *d"h "U'Beshe'at ha'sakanah."*

16 Responsa *Rivash, siman* 111. The Rivash lived approximately between 1326 and 1408.

passes. The *Ittur* is expressing that even after the danger passes, the *halachah* deemed the situation to be eternally dangerous. Until we are privileged to the ultimate Redemption and eternal peace, the threat of danger is sufficient to create consistency in the placement of the menorah indoors.[17]

Rav Moshe Sternbuch suggests a similar proposal to explain our contemporary practice. He writes that although one community or country finds itself to be safe and secure and may light the menorah outside, other communities that are not as privileged may want to follow suit. As a result, communities that do not have the same physical safety level will begin to light outside, which could ultimately be dangerous.[18] Rav Sternbuch understands that until there is universal peace for Jews across the world, Jews living in an independently safe country may not light outside.

Accepted Custom in the Diaspora

Although the *Tur* and *Shulchan Aruch* cite the aforementioned *Gemara* that one should light the menorah outside one's front door,[19] it is clear that the accepted *halachah* to light indoors predates the *Ohr Zarua*. The fact that the *Ohr Zarua*, one of the pillars of the Ashkenazic halachic tradition of the early 13th century, questions the practice, indicates that this was a longstanding practice predating him that he did not want to change.[20] Furthermore, the fact that he did not suggest an answer to the question, or issue a *psak* to light outside because times were calm, clearly indicates that he did not want to challenge the practice, but rather accepted the practice to light indoors. Not only did the Ohr Zarua light indoors, but such was the practice of the Rivash, Ritva, and other *Rishonim* as we have seen thus far.

A closer analysis of the custom of a group of *Rishonim* indicates a middle position. These *Rishonim* indicate that they did light indoors; however, the menorah was situated inside, next to the door with the door open for passersby to see.[21] The *Tur* also cites the practice of these *Rishonim* and

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17 See *Chayei Adam, siman* 154, #12 and *Kitzur Shulchan Aruch, siman* 139, #7, who both posit unequivocally that because we live amongst non-Jews, the menorah should be lit indoors.

18 Responsa *Teshuvot V'Hanhagot,* volume 2, *siman* 140

19 *Tur* and *Shulchan Aruch*, *Orach Chaim*, *siman* 671, #5

20 See Responsa *Dvar Yehoshua,* volume 1, *siman* 40, #4 which proves that as early as the period of the *Geonim*, the custom was to light the menorah indoors.

21 See, for example, *Kol Bo, siman* 44, *Sefer HaAgur—Hilchot Chanukah*, *siman alef*-34; *Orchot Chaim, Hilchot Chanukah, siman* 3; *Rabbeinu Yerucham, Toldot Adam v'Chavah, netiv* 9, volume 1, 61b. Seemingly these *Rishonim* did not light outside for one of

mentions two halachic ramifications that emerge as a result.[22] However, some generations later this practice came to an end as the Rema writes that the custom ultimately developed to completely light the menorah indoors.[23] Although the *Shulchan Aruch* rules that the menorah should be lit outdoors, the prevalent custom in contemporary America should follow the ruling and codification of the *Rema* who described that the *menorah* has moved inward. The basis for the Rema's ruling may be based on one of the reasons mentioned above.[24]

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the above suggested reasons and lighting inside next to an open door was not dangerous.

22 *Tur, siman* 761, #5 cites the *Gemara*'s rule that if one has two doors opening to the public thoroughfare there is a requirement to light two menorahs so that a passerby will not suspect the homeowner of not lighting a menorah. The *Tur* then quotes the *Baal HaTerumot* who writes that since the menorah is now lit indoors one must only light one menorah at the entrance because all know that the menorah is lit indoors. The *Tur*, however, concludes that because the custom is to light inside next to an open door, there is still a requirement to light at each entrance to obviate the possible suspicions of passersby that the homeowner did not light the menorah.
Tur, siman 762, cites the Talmudic ruling that the menorah should ideally be lit at the beginning of the evening when people are walking by. The *Tur* then cites *Tosefot* who rule that because the menorah is lit indoors there is no longer any need to light the menorah at the beginning of the evening because the lighting is done for the inhabitants of the home and not the passersby. The *Tur* concludes that because the custom is to light indoors next to an open door, one should still light at the beginning of the evening so that the passersby will see the lit candles.

23 *Darchei Moshe* on the *Tur* to *siman* 671, #9 and *siman* 672, #4. As a result, the *Darchei Moshe* argues against both of the rulings of the *Tur* in footnote 20. That is, he rules that one does not have to light a menorah at every doorway, and that one may light the menorah later on in the evening as well. Both of these rulings are codified in the *Rema* to *Shulchan Aruch, siman* 671, #8 and 672, #2.

24 *Chayei Adam, siman* 154 #12, and *Kitzur Shulchan Aruch, siman* 139, #7. See *Sefer Orchot Rabbeinu,* volume 3, page 12 who quotes the *Steipler Gaon*, Rav Yaakov Yisrael Kanievsky, who said that because the *Rema* writes "today we light indoors" one is permitted to light inside even if there is no longer any danger contemporarily. The *Rema* was talking about his generation, but once he codified the *halachah* it has everlasting halachic ramifications. The Steipler showed how this expresses itself in the *Rema*'s commentary to *Shulchan Aruch Orach Chaim, siman* 334, *se'if* 26, where he states that one is permitted to put out a fire on Shabbat because "Today as we live amongst non-Jews and it (fire) will be a case of life and death, so the *Rishonim* and *Acharonim, zt"l,* write that it is permitted." The Steipler adds that in Israel today, where we are not surrounded by non-Jews, one is still permitted to put out a fire based on the *Rema*'s lenient ruling.

Placement of the Menorah in a Private Home

Clearly, the accepted practice in the Diaspora to light the menorah indoors has extensive halachic basis. However, where exactly should the menorah be lit? The *Gemara* writes that "it is a *mitzvah* to place the menorah within a space of a *tefach* from the door, on the left side, in order that the menorah will be on the left and the mezuzah on the right."[25] The *Gemara's* conclusion to place the menorah on the left side of the door was referring to a time when the menorah was lit outside. Since the mezuzah is affixed to the right side post of the door outside of the home, the menorah was placed on the left in order that one be surrounded by these two *mitzvot*. However, the *Darchei Moshe* cites that the *Maharil* and *Terumat HaDeshen* ruled that even once the practice developed to light indoors, one should still light the menorah on the left side of the front doorway.[26]

It is difficult to determine if the understanding of the *Maharil* and *Terumat HaDeshen*'s articulation of the *Gemara*'s rule of "the menorah should be placed on the left side" was because they were lighting with the door open. If they were lighting with the door open, it would make perfect sense to light the menorah on the left side of the door. However, if they were lighting further indoors, it would seem that the Talmudic ruling to light on the left side of the door would be in question. Based on a comment of the *Mordechai* whose statement is the source of the decision of the *Terumat HaDeshen*, the question may be resolved. The *Mordechai* writes that because the practice is to light indoors, there are certain halachic rules relating to the menorah that are suspended.[27] However, only a few short sentences later, the *Mordechai* quotes the *Gemara*'s conclusion to light the menorah on the left side of the door outside the dwelling, without any addendum.[28] The *Mordechai* and *Terumat HaDeshen*, who cite the Mordechai, seemed to have lit indoors on the left side of the door, even with the door closed. The practice of the *Mordechai* and *Terumat HaDeshen* to light on the left side of the door inside the home has been adopted by some communities.[29]

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25 *Masechet Shabbat* 22a

26 *Darchei Moshe, Orach Chaim, siman* 671, #4

27 See fn. 20 regarding the two leniencies that were put into place once the menorah began being lit indoors. *Mordechai*, *Masechet Shabbat,* chapter 2, *siman* 266 takes the lenient position as well.

28 *Mordechai, Masechet Shabbat,* ibid.

29 *Likutei Maharich* by Rav Yisrael Chaim Friedman of Hungary (late 19th century), *Seder Dinei U'Minhagei Chanukah*, page 110, writes that he saw *geonim* and *kedoshim* light the menorah on the left side of the door. Rabbi Meir ben Elazar Horowitz

The *Rema* writes: "However, today when all light [the *menorah*] indoors and there is no publicizing [the Chanukah miracle] for those in the public domain, there is no concern to light within a *tefach* space of the door. However, the custom is to light within a *tefach* of the door like in earlier days. One should not change [that custom] unless there are many inhabitants of the home when it is preferable for each menorah to be lit in a specified place and not to place them all together because when all candles are placed together there is no longer sufficient identification as to how many candles are being lit."[30]

Rav Yisrael Kaegen notes that the *Rema* originally remarks that there is no concern to light within a *tefach* of the door, and in the next sentence seems to contradict himself when he writes that the custom is to light within a *tefach* of the door. Rav Kaegan understands that the *Rema*'s latter statement is stressing the ideal practice if possible.[31] The *Rema,* as well, seems to posit like the *Rishonim* he cited in his *Darchei Moshe,* that even when the menorah is lit indoors, it is still preferable to light within a *tefach* of the left side of the door.

Many *Acharonim*, including the *Magen Avraham*, disagree with the position of the *Rema*. Their disagreement is based on the *Gemara*'s statement: "If one cannot light outside, one should light in the window." The *Magen Avraham* writes that if there is no danger, one should light the menorah in the window and not on the left side of the door.[32] The *Levushei Serad* explains that the basis for the position of the *Magen Avraham* is that the publicizing [of the miracle] by positioning the menorah in the window, trumps the *aggadic* reason to light the menorah on the left side of the door.[33]

Rav Moshe Feinstein, responding to one who questioned where the menorah should be lit, cites the *Magen Avraham* and *Levushei Serad* and rules in accordance with them. Rav Moshe concludes his Responsa with the following statement: "Since it is not possible for us to light outside, we should still perform as much glorification of the miracle as possible. It is my custom to light in a window that passersby can see into. This was the custom of my master, my father, the *Gaon*, *zt"l,* and many of the giants of the generation of the past from the time it became impossible to light outdoors. This is the appropriate rule, and this is also cited in the *Mishnah*

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of Dzhikov (19th century) in his Responsa *Imrei Noam*, volume 2, *siman* 29, supports this practice as well.

30 *Rema, Orach Chaim, siman* 671, #7

31 *Biur Halachah, siman* 671, *d"h "U'mikol makom*," and *Shaar HaTzion*, ibid., #63

32 *Magen Avraham, siman* 671, #8

33 *Levushei Serad* commenting on the *Magen Avraham,* ibid.

Berurah, #38, and this is how you should practice."[34] Rav Moshe leaves no questions; the window is where the menorah should be lit in contemporary times.

Placement of the Menorah in an Apartment

There are, however, two questions that Rav Moshe's position raises. One, what is one to do if he does not have a window? Two, what if one has a window, but the height would not permit a passerby to see it clearly? The *Gemara* cites a ruling from Rav Tanchum who states that "A Chanukah light that one placed above 20 *amot* [approximately 35–40 feet] from the ground is invalid."[35] Rashi explains that the reason for this ruling is because one does not naturally see above 20 *amot* and as a result it lacks the appropriate glorification of the *mitzvah* of being able to clearly see the lights.[36] This rule is codified by the *Tur* and *Shulchan Aruch*.[37]

The ramifications of this rule affect those dwelling in an apartment building above the second or third floor. Although Rav Moshe Feinstein cites the *Mishnah Berurah* who rules that it is better to light the menorah in the window than on the left side of the door, in the footnotes to the *Mishnah Berurah,* titled *Shaar HaTzion,* the author adds "that if one's window is higher than 20 *amot* and those passing through the public domain will not recognize the lights of the menorah, then it is better to place the menorah inside the doorway."[38] The ruling of the *Shaar HaTzion* would seem to follow the literal reading of the *Gemara* and *Shulchan Aruch* that prohibits lighting the menorah above 20 *amot* at all costs. As a result, a group of the classical halachic authorities rule that when one's window is above 20 *amot*, the menorah should be placed next to the door.[39] However, contemporary halachic authorities who address this question, including Rav

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34 Responsa *Iggerot Moshe, Orach Chaim,* volume 4, *siman* 125. One can see from Rav Moshe's words "since it is not possible for us to light outside" that he was also of the position to light indoors in America, although we can't assess his reason based upon the pithy statement.

35 *Masechet Shabbat* 22a.

36 *Rashi,* ibid., *d"h "Pesulah"*

37 *Tur* and *Shulchan Aruch Orach Chaim, siman* 671, #6

38 *Shaar HaTzion, siman* 671, #42

39 *Kitzur Shulchan Aruch, siman* 139, #8; *Chayei Adam, siman* 154, #16; Responsa *Sridei Eish,* volume 3, *siman* 61, #1, citing *Pri Chadash siman* 671, # 5 and *Machatzit HaShekel,* ibid.

Moshe Feinstein, are of the opinion that one should still light in the window.[40]

There are a few reasons as to why lighting indoors by a window has become the norm in many communities in America.

1. Although above 20 *amot* lacks complete publicizing of the miracle of the menorah, it is still possible to see the menorah at that height. As such, the minimal publicizing of the miracle still trumps placing the menorah on the left side of the door.[41]
2. Because today the main publicizing of the miracle of the *mitzvah* is for the inhabitants of the home, one can fulfill that requirement by lighting the menorah in the window.[42]
3. The reason why lighting the menorah above 20 *amot* is invalid is because one is not naturally able to see at that distance. Today, as buildings are well above what they were in Talmudic times, people are more accustomed to looking a higher distance upwards as a result of the taller buildings. As such, today it is easier to see a menorah at heights greater than 20 *amot* because of the taller buildings.[43]
4. If one's window in an apartment building above 20 *amot* is facing an opposite window in another building, then that is considered to be adequate opportunity to publicize the miracle.[44] If one does not have a window, the menorah should be lit on the left side of the door.[45]

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40 The *Rema*, *siman* 687, #1 does write that one should light inside where he eats. See Responsa *She'eilat Aharon* of Rav Aharon Felder, volume 1, *siman* 33 who writes that it is preferable to light the menorah in an eating area without a window and not in a window in a back room facing the public domain.

41 *Ritva, Masechet Shabbat* 21b, *Pri Megadim Orach Chaim siman* 671, #5 in *Mishbetzot Zahav*; Responsa *V'Dibarta Bam, siman* 179, citing Rav Dovid Feinstein explaining the ruling of his father, Rav Moshe, *zt"l,* to light in a window. Rav Moshe's strong position on this matter, as seen from his Responsa and reports from his students, left an indelible mark on many individuals' practice in America.

42 Response *V'Dibarta Bam,* ibid., citing Rav Dovid Feinstein; Responsa of Rav Shmuel Wosner cited in *Sefer Ner Ish U'Beito,* chapter 5, footnote 3.

43 Responsa *V'Dibarta Bam,* ibid., citing Rav Dovid Feinstein.

44 Responsa *V'Dibarta Bam,* ibid., citing Rav Dovid Feinstein; Responsa *Shevet HaLevi,* volume 4, *siman* 65; *Sefer Ner Ish U'Beito,* chapter 5, footnote 3, citing a Responsa of Rav Shmuel Wosner to the author; *Sefer Mo'adei Yeshurun, Laws of Chanukah,* section 2, *Halachah* 2A, and footnote 54 citing Rav Moshe Feinstein, *zt"l.*

45 Responsa *V'Dibarta Bam, siman* 179

Accepted Custom and Placement of the Menorah in Israel

At first blush the question as to the placement of the menorah indoors or outdoors in Israel should be no different than the parallel in the Diaspora. The decision of generations of halachic authorities mentioned earlier, to place the menorah indoors in the Diaspora, should be analyzed to understand the placement of the menorah in Israel. As there is no direct danger for one to light a menorah outdoors in Israel, there are no scoffers mocking the menorah, and the weather conditions are not a deterrent to lighting outdoors, it would seem appropriate to light the menorah outdoors in Israel. Similarly, the fact that a menorah is lit outdoors in Israel is understood as a unique situation, and would not lead one to consider lighting outside of Israel in a dangerous community. All these factors have led halachic authorities in Jerusalem and Israel to rule that the menorah should be lit on the left side of the door outside, if that is where the greatest glorification of the *mitzvah* exists. The main reason for the decision of many Israeli *poskim* to rule this way is due to the lack of danger that exists when lighting outdoors.[46]

However, not every situation presented allows for lighting outdoors. Apartment living is very common in Israel and, as a result, a recurring question that has been debated is where exactly should the menorah be placed outdoors. The basis of this question relates to the contemporary status of a *chatzer*, courtyard, onto which most Israeli apartment buildings open. The *Tur* and *Shulchan Aruch* posit like *Tosefot* who rules that in a situation when a home opens into a *chatzer*, the menorah should be placed at the entrance to the *chatzer*.[47] Halachic authorities have debated if the contemporary *chatzer* has the same halachic status as the Talmudic

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46 Responsa *Kovetz Teshuvot,* siman 67, of Rav Yosef Shalom Elyashiv to Rav Yehoshua Ehrenberg. Rav Elyashiv is responding to Rav Ehrenberg's Responsa *Dvar Shmuel,* volume 1, *siman* 40, who questions the accepted custom in Jerusalem to light outdoors. Rav Ehrenberg's decision is based upon the eternal danger factor: just as the *Ohr Zarua* did not reconsider lighting outdoors due to the relative safety he saw, one must wonder why Israel should be any different. Rav Elyashiv goes to great length to explain that because of the lack of current danger, Rav Ehrenberg should reconsider his position. Other halachic authorities who ruled to light outside in Israel include Responsa *Sridei Aish,* volume 3, siman 61, #1; *Sefer Hilchot Chag B'Chag Chanukah,* chapter 5, footnote 12, citing Rav Yehoshua Leib Diskin, Rav Yosef Chaim Sonnenfeld, Rav Yitzchak Zev HaLevi Soloveitchik and the Chazon Ish. This is also the position of Rav Ovadiah Yosef in a Responsa printed in *Yalkut Yosef, Mo'adim,* pp. 131–132, footnote 3.

47 *Tur* and *Shulchan Aruch, siman* 671, #5 based upon *Tosefot Masechet Shabbat* 21b, *d"h "Mitzvah*." See *Biur HaGra,* ibid.

chatzer.[48] The opinion that posits that a contemporary courtyard does not have the status of a *chatzer* would instruct that a menorah should be lit, instead, in a window. Some halachic authorities only follow that position if a window is under 20 *amot,* while others posit that way even if a window is above 20 *amot*.[49]

The Jews of America and Israel have been blessed to live with relative safety and the ability to perform *mitzvot* in a more ideal way. This, in addition to the architectural differences from earlier times, has all had an impact on the placement of the Chanukah menorah in contemporary times.

[48] Contemporary halachic works cite this as a debate between the Chazon Ish, who ruled that a contemporary courtyard is not a halachic *chatzer* and the Brisker Rav, who ruled that a contemporary courtyard is a halachic *chatzer*. See *Sefer Mo'adim U'Zemanim,* volume 6, *siman* 87; Responsa *Az Nidberu,* volume 5, *siman* 39; *Sefer Hilchot Chag B'Chag,* chapter 5, *Halachah* 7; and *Sefer Ner Chanukah,* chapter 4, *se'if* 2.

[49] This is similar to the question that was dealt with earlier whether the menorah should be lit in a window (above 20 or a window under 20 *amot)* or on the left side of the door inside in the Diaspora. See *Hilchot Chag B'Chag Chanukah,* ibid.; *Sefer Mikraei Kodesh, Hilchot Chanukah,* chapter 3, *halachah* 2; and footnote 2, Responsa of Rav Rafael Reichman, printed in *Kuntras Petach HaBayit* and *Leket Michtevei Torah,* page 38. *Sefer Chovat HaDar,* chapter 1, *Halachah* 4; *Mo'adim U'Zemanim,* volume 2, *siman* 143; and *Sefer Halichot Shlomo,* chapter 14, #4–5.