

Insights Into Halacha: A Bachur's Perennial Predicament

Rabbi Yehuda Spitz

One fascinating issue that affects many thousands annually is the quite contemporary question: Where is the proper place for a Yeshiva Bochur to light his Menorah? Since the phenomenon of having a yeshiva where students not only eat but also dorm is relatively recent, there is not much early Rabbinic or halachic literature on this exact topic. Bochorim are not really guests, and might be getting their spending money from their parents - who are usually paying their tuition; yet, many do not live at home. So, they do not seem to fit into any clear-cut category. What is a striving student to do?

A 'Fiery' Debate

Contemporary authorities use precedents as clues to ascertain the proper solution for the Bochur Dilemma. One relevant debate is that of where a guest who generally eats at another's house but "comes home to roost" is supposed to light his Chanukah candles. The Shulchan Aruch (Orach Chaim 677, 2), quoting the Tur and Rosh (See Gemara Shabbos 23a, passage about Rav Sheishes), states that a guest (Achsanoi) is required to light his own Menorah, or at least contribute to the host's Chanukah candle expenses. However, if this guest, even a son who's hanging out at his parents' place, has his own apartment (that opens to a public thoroughfare) where he sleeps, then he must light his Menorah there.

The reason is because of Chashad, suspicion. Since passersby know that our Achsanoi has his own pad, and will notice whether or not there was a lit Menorah there, they will suspect that he did not light a Menorah at all, not realizing that he eats his meals out and possibly would have kindled where he ate. Accordingly, it would seem that the place where one sleeps is considered his key "dwelling place".

However, the Rema (ad loc.),[1] citing the Rashba (Shu"t HaRashba vol. 1, 542),[2] asserts that one should light his Menorah in the place where he eats. He explains that "nowadays" since we light indoors,[3] the 'Pursumei Nissa' engendered by kindling the Chanukah lights, is no longer actually meant for random passersby, but rather for the people living in the house. If so, there is no reason to be worried about Chashad, as his family and friends would know that he eats in one place and sleeps in another. Therefore, he rules that such an Achsanoi would light his Menorah where he eats, and not where he sleeps.

Many great authorities, including the Bach, Magen Avraham, Taz, Pri Chadash, Pri Megadim, Chayei Adam, Aruch Hashulchan, and Mishna Berura,[4] all agree with the Rema, that a guest who eats in one place yet sleeps in another, should light his Menorah where he eats. The Taz adds proof to this from the halachos of Eruvei Chatzeiros, where we find that the main dwelling place of one who sleeps in one location but eats in another, is considered where he eats. [See Gemara Eruvin (72b - 74b) and Shulchan Aruch and main commentaries (Orach Chaim 370, 5).]

Accordingly, it would seem that a Yeshiva Bochur might fit into this category, as he (hopefully) eats in a different location than where he sleeps. So where should he light? The Yeshiva's dining room or in his dira / dorm room?

Dira Daze

Several authorities, including the Chazon Ish, Rav Aharon Kotler, the Steipler Gaon, Rav Yaakov Kamenetsky,[5] mvr Rav Yaakov Blau,[6] and Rav Asher Weiss,[7] maintain that the Rema's ruling still holds true and rule that the proper place for a Bochur to light the Menorah is the Yeshiva's dining room.

However, many other contemporary decisors question the application of the halacha of a guest pertaining to the average Bochur, due to several reasons, including:

A Bochur's "dwelling place", where he feels "at home" and considers his own personal place, storing all of his belongings, etc. is in his dira / dorm room, and not in the yeshiva's communal dining room.

Students have no personal stake in the dining room; they eat and leave, similar to a restaurant. Therefore, many consider it a stretch to consider a dining room as a Bochur's "prime dwelling place".

Many Yeshiva dining rooms are locked throughout the day and only open mealtimes. How can it possibly be considered someone's personal place if he is denied entry most of the time?

It is possible that a Yeshiva Bochur's din is more comparable to the case of the shepherd (or talmid) that lives in the field yet eats at someone's house, that for him, regarding the halachos of Eruvei Techumin, the Techum follows the place where he sleeps, and not where he eats.[8]

For those living in Eretz Yisrael, nowadays most people do light the Chanukah light outdoors, potentially making the Rosh's shitta once again the core ruling. Ergo, Chashad might once again be a problem. Therefore, one living in Eretz Yisrael should need to light where he sleeps.[9]

Due to these concerns, many contemporary decisors, including Rav Moshe Feinstein, the Minchas Yitzchak, Rav Shlomo Zalman Auerbach, Rav Yosef Shalom Elyashiv, Rav Shmuel HaLevi Vosner, Rav Moshe Sternbuch, Rav Binyomin Zilber, Rav Yisrael Yaakov Fischer, Rav Nosson Gestetner, Rav Menashe Klein, the Rivevos Efraim, and the Nitei Gavriel,[10] all rule that the main dwelling of a Bochur is his dira / dorm room, and that that is the preferred place where he should light his Menorah. Yet, several of these Poskim assert that in order not to come into a halachic dispute and to better satisfy all opinions, that it is preferable that the Bochurim should eat at least one meal a day in their dorm room. Others advocate contributing to someone lighting in the dining room's Chanukah candle expenses, or lighting again there without a bracha.

Safety First

Yet, it must be stressed that many of these Poskim qualify their ruling, explaining that if the hanhala of the Yeshiva forbids lighting Menorahs in the dorm due to the ever possible threat of fire, R"L, and instead orders the Bochurim to light in the dining room, then that is indeed what they must do.[11] Most Yeshivos, especially in Chutz La'aretz, practically follow this minhag, and lighting in the dining room is de rigueur.

Sefardic Illumination

Sefardic Bochurim have a bit of a different issue. Sefardim predominantly follow the Shulchan Aruch's ruling of only the head of the household, functioning as an agent of sorts, lighting one Menorah for the entire family.[12] Poskim are divided as to whether these Sefardic Bochurim who eat and sleep in Yeshiva are considered part of their father's household or not.

Many contemporary authorities, including Rav Ovadiah Yosef, Rav Mordechai Eliyahu, Rav Ben Tzion Abba Shaul, the Tefilla L'Moshe, Rav Ezra Attiah, and Rav Shlomo Zalman Auerbach,[13] rule that a Sefardic Bochur may not light in his Yeshiva at all, as he is exempted by his father lighting at home.[14]

However, others Sefardic decisors, including the Yaskil Avdi, Rav Shalom Mashash, and Rav Yehuda Adess,[15] maintain that a Bochur living in Yeshiva is deemed 'his own man' and therefore even a Sefardic Bochur would be required to light his own Menorah, or join in with someone else lighting (preferably an Ashkenazic Bochur) in his Yeshiva.[16] This is also how many Ashkenazic poskim ruled for Sefardim, including the Chazon Ish, Rav Yosef Shalom Elyashiv, the Az Nidberu, and the Shevet Halevi. Rav Vosner adds that it is nevertheless preferable that these Sefardic Bochurim should have kavanna specifically to not be yotzei with their fathers' lighting.[17]

Every Bochur should ascertain from his Rav or Rosh Yeshiva which opinion the Yeshiva follows before Chanukah, to mitigate any potential halachic mix-ups.

The Gemara teaches, and is later codified in halacha, that someone who is scrupulous with kindling Ner Shabbos and Ner Chanukah will merit having sons who are Talmidei Chachamim.[18] Therefore, it certainly seems worthwhile and apropos that our budding Talmidei Chachamim should be meticulous in making sure that their lighting of the Menorah is truly "mehadrin min hamehadrin".

This article was written l'zechus Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua sheleimah teikif u'miyad!

For any questions, comments or for the full Mareh Mekomos / sources, please email the author: yspitz@ohr.edu.

Rabbi Yehuda Spitz, author of M'Shulchan Yehuda on Inyanei Halacha, serves as the Sho'el U'Meishiv and Rosh Chabura of the Ohr Lagolah Halacha Kollel at Yeshivas Ohr Somayach in Yerushalayim. He also currently writes a contemporary halacha column for the Ohr Somayach website titled "Insights Into Halacha": http://ohr.edu/this_week/insights_into_halacha/. His first English Halacha sefer is due out soon.

[1] Also in his Darchei Moshe (Orach Chaim 677, 1).

[2] See the Taz's (Orach Chaim 677, 2) explanation of the Rashba's intent. Although others argue that this was not necessarily the Rashba's true intent, nonetheless, in the words of the Pri HaSadeh (Shu"t vol. 2, 70) "we need to pasken like the Rashba, according to the Taz's understanding".

[3] See Darchei Moshe (Orach Chaim 671, 9), Rema (ad loc. end 8), Mishna Berura (ad loc. 54), and Biur Halacha (677 s.v. pesach).

[4] Bach (Orach Chaim 677 s.v. uma"sh HaRosh), Magen Avraham (ad loc 6 & 7), Taz (ad loc 2), Pri Chadash (ad loc), Pri Megadim (ad loc Eshel Avraham 5), Chayei Adam (vol. 2, 154, 32), Aruch Hashulchan (ad loc 3), and Mishna Berura (ad loc 11). The Rema, as well as several others, maintain that in their times, even the Rosh would agree to the Rashba's ruling.

[5] These decisors' opinions are cited in Ma'aseh Ish (vol. 4, pg. 132), Shu"t Teshuvos V'Hanhagos (vol. 2, 342, 11), Orchos Rabbeinu (vol. 3, pg. 25 - 26; new edition 5775, vol. 3, pg. 152 - 154; however, it is known

that although ruling this way lemaaseh, the Steipler Gaon was not so happy with the setup of many Yeshiva dining rooms, explaining that they are too much like restaurants), Rav Shimon Eider's Sefer Hilchos Chanukah (pg. 37, footnote 32), and Emes L'Yaakov (on Tur / Shulchan Aruch, Orach Chaim 677, footnote 591). A similar ruling is given by the Pri HaSadeh (Shu"t vol. 2, 70). However, the Chazon Ish and Steipler Gaon qualify their ruling, maintaining that if the Bochorim can eat two of their daily meals in their dorm rooms during Chanukah, then it would be preferable for them to light there. [On the other hand, see footnote 10, citing Rav Moshe Sternbuch's concern with this.] See also Rav Eliyahu Schlesinger's Mitzvas Ner Ish U'Beiso (vol. 1, Ch. 5, 10, and footnote 34) who writes that the ikar follows those who hold a bochor should light in the Yeshiva's dining room; yet, he concludes in the footnote that there are many valid opinions and therefore "d'avid k'mar avid, d'avid k'mar avid", whichever shitta one decides to follow, he is acting correctly.

[6] Chovas HaDar (Neiros Chanukah, Ch. 1, footnote 59; at length). After weighing the issue, Rav Blau explains that Yeshiva Bochorim are not the true Baal HaBatim, as technically speaking, the Yeshiva hanhala can expel them if it wishes to do so. Hence, they are considered on some level as Bnei Bayis of the Rosh Yeshiva. Therefore, he maintains that the whole Yeshiva campus is considered one living place for all students, and they therefore should light where they eat. He adds that if one wants to davka light where he sleeps, he should have in mind not to be yotzai with the lighting in the dining room, as me'ikar hadin, since all students are all considered Bnei Bayis, only one of them technically has to light. [Yet, it should be noted that Rav Blau zt"l did not address a case where the students rent their own private dira that is not part of Yeshiva's campus. In such a scenario, it seems that he would agree that the Bochorim should light where they sleep, as then, they are not considered true Bnei Bayis of the Rosh Yeshiva.]

[7] Kuntress Minchas Asher B'Hilchos Chanukah (5772, 5). He maintains that from the words of the original Rishonim grappling with this issue (the Rosh and Rashba ibid.), it certainly seems that they would cover the case of a Yeshiva Bochor; as even in those days, one who always eats his main meal at his friend's house does not have a set seat at his friend's house, and still eats small meals and snacks in his own place. And even so, the Rishonim still maintain the place of eating's preference over the place of lodging for Chanukah candle kindling. Accordingly, the Yeshiva dining room is still the preferred place to light. Rav Weiss concludes that even so, if one cannot fulfill the Mitzvah with all of its nuances properly in the dining room, then it is preferable that he should light where he sleeps.

[8] Case based on Gemara Eruvin 73a. See Shulchan Aruch (Orach Chaim 409, end 7), Magen Avraham (ad loc. 14), Machatzis HaShekel (ad loc.), and Pri Megadim (ad loc. Eshel Avraham 14). However, Rav Asher Weiss (Kuntress Minchas Asher B'Hilchos Chanukah 5772, 5, 2) points out that the Magen Avraham (Orach Chaim 370, 10), when citing this ruling, concludes with 'Tzarich Iyun', which both the Machatzis HaShekel (ad loc. s.v. mashma) and Pri Megadim (ad loc. Eshel Avraham, end 10) understand to mean that the Magen Avraham himself was unsure if this rule that applies to Eruvei Techumin would apply by Eruvei Chatzeiros. If so, continues Rav Weiss, it certainly would not by Neiros Chanukah!

[9] It is well known that Rav Yosef Shalom Elyashiv zt"l maintained this very strongly, that nowadays in Eretz Yisrael, with no problems regarding lighting outdoors, one must do so. Consequently, Chashad becomes a problem again and therefore one must light where he sleeps. Recently, a talmid of Rav Elyashiv's ruled for a visiting relative in Eretz Yisrael who was eating out over Shabbos Chanukah, that although the ikar place for lighting Shabbos candles is where one eats [see Shulchan Aruch (Orach Chaim 263, 9), Shulchan Aruch HaRav (ad loc. 1), Chayei Adam (vol. 2, 5, 14), Kitzur Shulchan Aruch (75, 8), Aruch Hashulchan (ad loc. 3 & 4), and Mishna Berura (ad loc. 40 & 41)], nevertheless, one must first light the Chanukah Menorah where he was sleeping.

[10] Rav Moshe Feinstein (Shu"t Igros Moshe, Yoreh Deah vol. 3, 14, 5; Orach Chaim vol. 4, 70, 3; and Orach Chaim vol. 6, 45), the Minchas Yitzchak (Shu"t vol. 7, 48), Rav Shlomo Zalman Auerbach (Halichos Shlomo, Mo'adim vol. 1 Ch. 14, 5, pg. 273 -275 and Ma'adanei Shlomo, Mo'adim pg. 118 - 119), Rav Yosef Shalom Elyashiv (cited in Shvus Yitzchak on Hilchos Chanukah pg. 112; also in Ashrei Halsh, Orach Chaim vol. 3 pg. 269 – 270, 36), Rav Shmuel Halevi Wosner (Shu"t Shevet HaLevi vol. 3, 83), Rav Moshe Sternbuch (Shu"t Teshuvos V'Hanhagos vol. 2, 157, 7 s.v. u'linyan & 342, 11; Mo'adim U'Zmanim vol. 6, 88, and vol. 8, Lekutei Ha'aros to vol. 6, 88; in the latter source he adds that it should not help if one changes his usual eating place just for Chanukah, as the halacha should follow his usual year-round routine as that would be one's ikar keveeyas dira), Rav Binyomin Zilber (Shu"t Az Nidberu vol. 5, 38, 2), Rav Yisrael Yaakov Fischer (Shu"t Even Yisrael vol. 9, Inyanim, 51; see also Halichos Even Yisrael, Moadim vol. 2, pg. 346, 12), Rav Nosson Gestetner (Shu"t L'Horos Nosson vol. 6, 44, 5 - 6), Rav Menashe Klein (Shu"t Mishnah Halachos vol. 11, 538), the Rivevos Efraim (Shu"t vol. 4, 163, 2), and Nitei Gavriel (on Chanukah pg. 16)

[11] See Emes L'Yaakov, Halichos Shlomo, Shu"t Az Nidberu, Shu"t Shevet Halevi, Shu"t Mishnah Halachos, and Mo'adim U'Zmanim (ibid.). The reason is that according to several shittos, the dining room is the preferred locale for lighting; and even according to the majority who argue, nevertheless, most hold that it is still second best. However, Rav Moshe Feinstein (Shu"t Igros Moshe ibid.) writes that it is preferable that different Bochorim take turns watching the Menorahs in the dorms to make sure that a fire does not break out.

[12] Shulchan Aruch (Orach Chaim 671, 2), based on Tosafos (Shabbos 21b s.v. hamehadrin). See also Ben Ish Chai (Year 1, Parshas Vayeishev, Hilchos Chanukah 16) who writes that the minhag in Baghdad was even for a married son living in his own wing of his parent's house to first hear his father's brachos and lighting and then light himself in his private quarters - without a brachah, as he was already yotzei with his father.

[13] Rav Ovadia Yosef (Shu"t Yechaveh Daas vol. 6, 43), Rav Mordechai Eliyahu (Darchei Halacha Glosses to Kitzur Shulchan Aruch 139, 28), Rav Ben Tzion Abba Shaul (Kovetz Zichron Yehuda vol. 1, pg. 104), the Tefilla L'Moshe (Shu"t vol. 2, 52), Rav Ezra Attiah (quoted in several of the above sources), and Rav Shlomo Zalman Auerbach (Halichos Shlomo and Ma'adanei Shlomo ibid.).

[14] Interestingly, Rav Ovadia Yosef (Chazon Ovadia on Hilchos Chanukah pg. 150 - 151; also cited in Yalkut Yosef on Moadim pg. 231, 2) and Rav Shlomo Zalman Auerbach (Halichos Shlomo ibid. footnote 22; however, he prefers that the Sefardi Bochor join into someone else's lighting) maintain that even if a Sefardi Bochor is in a different country and time zone than his parents (ex. an American Sefardi boy learning in Eretz Yisrael), he nevertheless should still not light his own Menorah, as he is still considered part of their household, since the father is still sending him allowance, paying his tuition and expenses etc. However, most other poskim (including Rav Ben Tzion Abba Shaul and Rav Mordechai Eliyahu) do not agree, and in this instance maintain that the Bochor is required to light his own Menorah. See sefer Toras HaYeshiva (Ch. 12) at length.

[15] Shu"t Yaskil Avdi (vol. 7, Hashmatos 8), Rav Shalom Mashash (cited in R' Moshe Harari's sefer Mikraei Kodesh, Hilchos Chanukah Ch. 9, 26, footnote 93; see also Shu"t Tevuos Shemesh, Orach Chaim 7), and Rav Yehuda Adess (Sefer Shiurei Chanukah, 14)

[16] Accordingly, all the Sefardim can get together and light one Menorah. Alternatively, the Sefardi Bochor might fulfill his obligation by the Menorah lighting in the Beis HaMidrash (see Shu"t Yechaveh Daas ibid.).

[17] Chazon Ish (Ma'aseh Ish vol. 4, pg. 131), Rav Yosef Shalom Elyashiv (cited in Shvus Yitzchak ibid.), the Az Nidberu (ibid.), and Shevet HaLevi (Kovetz M'Beis Levi on Moadim pg. 118, 3).

[18] See Gemara Shabbos (23b); Rashi (ad loc. s.v. banim), Rambam (Hilchos Shabbos Ch. 5, 1), Tur and Shulchan Aruch (Orach Chaim 263, 1), Aruch Hashulchan (ad loc. 11), and Mishna Berura (ad loc. 2). See also Sod Hadlakas Ner Chanukah from the Raavad's son. There are additional ways of understanding this passage as well; for example, see Kaf Hachaim (Orach Chaim 264, 38).

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.