

HALACHIC AND HASHKAFIC ISSUES IN CONTEMPORARY SOCIETY

99 - MECHITZA - PART 2 OU ISRAEL CENTER - SUMMER 2018

In Part 1 we saw a number of halachic reasons underpinning the need for a mechitza in a synagogue during prayers. These were:

- (a) The model of Mikdash Me'at - that the Beit HaKenesset is designed according the specifications of the Beit HaMikdash. Since the Mikdash had separation of men and women (at least some of the time¹), so too the synagogue copies that model.
- (b) The power of custom. Some minhagim, initiated by the Sanhedrin and/or Chazal and accepted across Klal Yisrael, have a status of 'minhagot' which the Rambam rules is supported by 2 Torah mitzvot, including Lo Tasur. Rav Kook understood that the total and unanimous acceptance by the Jewish people of separate seating with a mechitza during prayer through history represents a binding minhag with Torah status. He also invoked the concept of 'shma beni musar avicha'.²
- (c) The need for separation of men and women in social settings, especially in prayer and perhaps out of shul too.

A] SYNAGOGUE ARCHITECTURE THROUGH THE AGES

- Over the last 2,200 years since the development of the synagogue³, there have been 4 basic models for women's sections:
 - balconies
 - separate women's sections
 - separate women's shuls
 - no women's section at all

A1] ANCIENT BALCONIES

<p>תני א"ר יודה כל שלא ראה דיפלי איסטבא של אלכסנדריאה לא ראה כבוד ישראל מימי. כמין בסילקי גדולה היה ואסטוי לפנים מסטיו לא היו יושבין מעורבבין אלא יושבין כל אומנות ואומנות בפני עצמה שאם יבוא אכסנאי יהא מודבק בבני אומנותו ומשם היתה פרנסתו יוצאה. ומי החריבה? טרוגיינוס הרשע והקיפן ליגיונות והרגן. אמר לנשיהן נשמעות אתם לליגיונותי ואין אני הורג אתכם. אמרין ליה מה דעבדת בארעיא עביד בעיליאי, ועירב דמן בדמן והלך הדם בים עד קיפריס.</p>	1.
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תלמוד ירושלמי (וילנא) מסכת סוכה פרק ה הלכה א

The ancient synagogue in Alexandria dates from the early 4C BCE and was destroyed by Trajan in 117 CE as part of the Jewish revolt under Bar Kochba. The Talmud relates that each profession sat in separate areas of the synagogue. It does not explicitly discuss the seating of the women⁴ but there is an indication in the tragic slaughter of the community that the women were in the upper level and men in the lower.

- Many ancient synagogues in the Galil have been discovered to have balconies. Academic opinion is divided on whether these were specifically for the women.

A2] SEPARATE WOMEN'S SECTIONS

- Sefer Maharil (40a)⁵ refers to mechitzot of cloths being placed between the men and women when the women came to shul.

1. We saw in Part 1 that there was a balcony in the Ezrat Nashim on Succot, but for the rest of the year there was NOT a clear separation all of the time.
 2. Which operates differently to Lo Tasur. Lo Tasur relates specifically to individual mitzvot whilst Shma Beni relates more holistically to a commitment to the halachic system.
 3. Synagogues began to flourish in Hellenized Egypt in the early 3C BCE, shortly after the spread of the Septuagint.
 4. Although it is unlikely that they would have formed part of the professional guilds.
 5. R' Yaakov ben Moshe Levi Moelin - 14/15C Germany.

2. אבל מחיצה שעושה לצניעות בעלמא מותר, כגון מחיצה שעושה בשעת הדרשה בין אנשים לנשים מותר לעשותה בשבת

מרדכי מסכת שבת פרק כירה שי"א

The Mordechai (12C Germany) rules that one may erect a mechitza on Shabbat to separate the men and women for the drasha.

A3] SEPARATE WOMEN'S SYNAGOGUES

- Many medieval communities had separate buildings used as women's shuls. This was the case in Prague, Worms and Frankfurt.

3. ונוהגים בני אדם לישן בבית הכנסת לפי שאומרים רוב הלילה מזמורים שירות ותושבחות ... וכן נהג מהר"ם אמנם במערב רחוק ממקום התפלה היה ישן או בבהכ"נ של נשים כשלא היו שם נשים

הגהות מיימוניות הלכות שבינת עשור מנהגי יום הכפורים

R. Meir ben Yekutiel of Rottenburg (13C Germany) records that the minhag of his teacher, the Maharam of Rottenburg, was to sleep on Yom Kippur night in the 'women's shul' since there were no women there.

4. אבל בעירך שבית הכנסת של נשים הוה מרתיפו של השמש שמא חשיב לצורך סעודה למשוך יין בלילה, וכ"ש אם מדליקין בבית הכנסת של נשים אצל היין.

שו"ת מהר"ל סימן נג

The Maharil (14/15C Germany) deals with the question of women who wish to light Shabbat candles in a women's synagogue, which was located in the wine cellar of the shamash!

5. שאלה: לאה ורחל חולקין בשביל מקומות בבהכ"נ של נשים, והביאה לאה שתי נשים שהמקומות שלה הן, ורחל הביאה איש א' מעיד שהמקומות שלה הן, איזה עדות עדיפה טפי דשתי נשים או של איש אחד?

תרומת הדשן סימן שנג

In the penultimate teshuva of the Terumat Hadeshen (15C Vienna) he deals with a dispute between two women about fixed seats in the women's shul.⁶

6. Evidence suggests that in early centuries⁷, they were either excluded from synagogue activity⁸ or were accommodated in annexes. By the fourteenth century, a first women's annex was built at the Altneuschul with small windows that opened to the main room where the men gathered. This allowed women to hear the prayers but not to see the men or be seen by them. In the fifteenth and eighteenth centuries, the congregation built additional annexes to accommodate the increasing numbers of women who elected to, or were allowed to, attend religious services.

<https://smarthistory.org/altneuschul/>

B] REASON FOR MECHITZA - 4: SO THAT THE MEN CANNOT LOOK AT THE WOMEN

7. ... בחג הסוכות היתה שם במקדש שמחה יתירה ... וכיצד היו עושין? ערב יום טוב הראשון היו מתקננין במקדש מקום לנשים מלמעלה ולנשים מלמטה כדי שלא יתערבו אלו עם אלו ...

רמב"ם שופר וסוכה ולולב פרק ח הלכה יב

8. עזרת הנשים היתה מוקפת גזוטרטא כדי שיהיו הנשים רואות מלמעלן והנשים מלמטן כדי שלא יהיו מעורבבין ...

רמב"ם בית הבחירה פרק ה הלכה ט

We saw in Part 1 that the Rambam states in a number of places in Mishne Torah that the reason for the separation of men and women in the Mikdash was so that the men and women would not mix.

6. See also Shu't Rashba 2:226.

7. The Altneuschul was built in 1270.

8. Some accounts state that they were allowed in the shul only on their wedding day.

9. תיקון גדול - כלומר גדול התועלת. והוא שהיו מכינים מקום לנשים ומקום גדור לנשים. ומקום הנשים למעלה על מקום האנשים
גובה ממנו כדי שלא יסתכלו האנשים בנשים

רמב"ם על משנה מסכת סוכה פרק ה משנה ב

However the Rambam in his commentary on the Mishna explains that the main reason for the construction of the balcony on Succot was to stop the men from staring at women!⁹

10. והקיפוח כצוצטרא והיא מחיצה כעין שבכה¹⁰ מפני שהיו מתכנסות בה הנשים לראות שמחת בית השואבה שהאנשים
עושים בעזרה וכדי שלא יתערבו נשים באנשים

בית הבחירה (מאירי) מסכת מידות פרק ב

The Meiri refers to a lattice-work mechitza as part of the balcony structure. Is this a reference to the structure of the balcony, or an additional mechitza built onto the balcony?¹¹

11. פירש הרמז"ם - כדי שלא יסתכלו האנשים בנשים. וכדין עמו. כי האנשים שלמטה היו הרוחץ צשמחה לא השמחים צעלמן ...
ואמנם הסתכלות האנשים בנשים מציא לידי קלות ראש כי הוא ימשל צך כתיב (בראשית ו). ועוד משום קישוי לדעת ושמא יראה קרי.
כ"ס בחזרות בית ה'!

תוספות יום טוב סוכה פרק ה משנה ב

Tosafot Yom Tov rules like the Rambam and understands that the kalut rosh is not simply mingling due to the festive atmosphere, but actual sexual tension and interactions. These could lead to inappropriate sexual thoughts and feelings by the men, which are especially out of place in the Beit Hamikdash!

12. והטעם לזה כי אנו מאמינים שכל תפלה או שבח והודאה שמתערב במחשבה ההיא שום הרהור אפ"י באשתו לא תעלה
במעלות לפני ה' ולא תקובל לפניו ומפני זה אנו מפרישי הנשי' מן האנשים בבה"כ בפ"ע שלא יבאו לידי הרהור בשעת
תפלה ותהי' תפלה נדחית רחמנא לצלן ויצא לנו זה משמחת בית השואבה דאמרי' מס' סוכה.

שו"ת חתם סופר חלק ה - השמטות סימן קצ

The Chatam Sofer brings this as the explicit reason for mechitza. Sexual thoughts could be inadvertently interwoven with thoughts of prayer - a dangerous admixture which will prevent the tefillah from being effective.

13. And as long as men will be men and women will be women, there is nothing more distracting in prayer than mixed company ...
It is too much to expect of a man, sitting in feminine company, to concentrate fully upon the sacred words of the Siddur and submit completely to God. We are speaking of the deepest recesses of the human heart; it is there that prayer originates. And how can one expect a man's heart to be with God when his eyes are attracted elsewhere? We are speaking of human beings, not angels, and the Halakhah recognizes both the strength and weakness of a man. It is simply too much to ask of a man that he sit in the company of women, that he behold their loveliness - and at the same time undergo a great religious experience. What man can feel the nearness to God when if he but raises his eyes from the corner of the siddur he finds himself attracted to more earthly pursuits which do not exactly encourage his utter devotion to the pursuit of Godliness. And what woman can concentrate on the ultimate issues of life and feel the presence of God, when she is far more interested in exhibiting a new dress or new chapeau? How can she try to attract the attention of God when she may be trying much harder to attract the attention of some man? When the sexes are separated, the chances for such distraction are greatly reduced ...
And it is not only that what one sees prevents one from experiencing kavvanah, but that mixed company in general, in the relaxed and non-business-like atmosphere of the synagogue, is conducive to a kind of frivolity - not disrespectful, but levity nonetheless...

Rabbi Dr. Norman Lamm, "Separate Pews in the Synagogue: A Social and Psychological Approach," Tradition, Vol. 1, No. 2 (Spring 1959), pp. 141-164

Rabbi Lamm, in an article written shortly after the Michigan mechitza case, raises both of these angles of kalut rosh - the frivolous levity of social mixing between men and women, and the sexual tension of male/female interactions.

9. Rav Moshe Feinstein's position, that the purpose of mechitza is to avoid separation and not to stop looking, is difficult to fit with this source. He would have to argue that the looking which the Rambam is talking about is looking which would lead to mixing. Alternatively, he would regard the Rambam's stance in Mishne Torah as primary.

10. A 'sevacha' was made from a lattice-work or netting.

11. Rav Yehuda Henkin in Shu't Bnei Banim 1:1 understands that, according to this, the balcony in the Beit HaMikdash included some kind of opaque partition which prevented the men from seeing the women (although apparently still enabled the women to see out).

14. The reasoning of some posekim that every person experiences sexual thoughts in every situation assumes that relations between people are at all times and in all instances of a biological natural character; it assumes that a man is incapable of seeing a woman or hearing her voice without perceiving her as an object. True, Hazal (Bava Batra, 164b) count sinful thoughts as a transgression which no man can escape even for a single day, and there is no doubt that the sexual urge is one of the most powerful and primal within man; however, this is not to say that man is unable to escape sinful thoughts at every hour of every day. Just as Halakhah takes care to preserve the boundaries of modesty, it is also careful not to present man as a creature exclusively driven by urges, and halakhic authorities should take caution against charging every encounter between a man and a woman with sexual tension.

Kol Isha: A Woman's Voice, Rav Moshe Lichtenstein, Tradition 46:1, 2013 p22

Rav Moshe Lichtenstein cautions against viewing every interaction as Male-Female, rather than Man-Woman! The challenge is where and how to strike the balance. Some in the orthodox world default immediately to the total sexualization of every mixed interaction. Is this over-cautious and pessimistic, resulting in unintended but deep-seated resentment¹². In the secular world there is a general assumption of non-sexualization, with men and women expected to fully interact with no uninvited sexual attention. Is that naive and over-optimistic? Is it simply a thin veneer over an enormously sexualized society?

15. This argument has often been objected to on the grounds that it takes an unrealistic and exaggerated view of man's erotic responsiveness and that certainly devout Jews who come to pray should not be suspected of romantic daydreaming. That such objections can be raised seriously in our present post-Freudian culture and society is unthinkable. ... Evidently, our Sages, who lived in a society of much greater moral restraint, had a keener and more realistic insight into psychology than many of us moderns in our sophisticated society where the most grievous moral offense is no longer regarded as particularly shocking. The late Dr. Kinsey's¹³ works prove that the intuitive insights of the Jewish sages are confirmed by modern statistics and sexological theory

Rabbi Dr. Norman Lamm, "Separate Pews in the Synagogue: A Social and Psychological Approach," Tradition, Vol. 1, No. 2 (Spring 1959), pp. 141-164 (footnote 1)

16. לענין איסור הסתכלות לכו"ע המסתכל באשה אפילו באצבע קטנה כיון שמסתכל בה להנות עובר בלאו דלא תתורו אחרי עיניכם. ואמרו שאפילו יש צידו תורה ומע"ט לא ינקא מדינה של גיהנום!

משנה ברורה סימן עה ס'ק ז

It is a Torah prohibition for a man to stare in an inappropriate sexual manner at another women. This even applies if he stares at her little finger!

But to what extent must women bear responsibility for men's weakness? We do not ask of women not to show their little fingers, just because a man may find this to be an irresistible distraction! So too, should women be asked to become increasingly invisible just to protect the men from a lack of self-control?

17. ... אשר שאל בענין מחיצת בית הכנסת שבין אנשים ונשים והיא של זכוכית ונראין דמות נשים אעפ"י שאין ניכרין אבל נראין. אם כי קשה להורות למקומות שיש בהם מורה הוראה ות"ח כי אולי עשו עפ"י הוראת חכם ירא אלקים, מ"מ באופן כללי נראה הדבר תמוה. דאפילו נימא דהוא באופן שאין חשש ראי', מ"מ עצם הדבר לעשות רק מחיצה של זכוכית, חדשה היא ומאן מפיס באיזה שיעור ואופן, ועיין ברכות כה: ערוה בעשישית ...

שו"ת שבט הלוי חלק א סימן כט

Rav Wosner declared invalid a mechitza made from glass, even if somewhat opaque.

18. והנה שאלת המחיצה כבר נתעוררה בדור הקודם. ובספר לב העברי ח"ש נדפס פסק דין על כך אשר עליו חתומים למעלה משבעים גאונים, ובראשם המהר"מ אש והגר"ש גאנצפריד ז"ל ... וז"ל: **אסור לעשות המחיצה המבדלת בין עזרת נשים ואנשים רק באופן אשר לא יוכל להסתכל אנשים בנשים. רק יעשו כנהוג בימי קדם, וכן אם כבר נעשה לא יכנסו בה**

שו"ת ציץ אליעזר חלק ז סימן ח

The Tzitz Eliezer records that, in the 19C, a psak was issued by 70 Rabbanim, headed by the Hungarian Rabbi, Rav Shlomo Ganzfried, that mechitzot in shuls MUST be made in such a way that the men cannot see the women.

12. For instance in the expunging of all pictures of young girls from public display.

13. Rabbi Lamm then engages in an analysis of the Kinsey reports and their impact on Jewish perspectives concerning sexual attraction.

19. אמנם רבני אונגארן מחמירים מאוד ודורשים שהמחיצה תהי' גבוהה למעלה מראשי הנשים. ועוד מרחיקים ללכת ודורשים שבאם אין בביהכ"נ מחיצה כזו אסור להתפלל שם, ואסור לנשים לבוא ולהתפלל ומוטב שישארו בבתיהם. וודאי שכוונתם לטובה, לשמור על הצניעות כפי שהיתה נהוגה בדורות הקודמים. אבל בזמננו נשתנה המצב ונשתנו הטבעים, והנשים אם תשארנה בבית ולא תבואנה לביהכ"נ תשתכח מהם תורת היהדות לגמרי, ובוודאי שאסור להדיחן ולהרחיקן בגלל חומרא תיירה שאין לה יסוד מוצק בש"ס ופוסקים.

ש"ת שרידי אש חלק א סימן ח

The Seridei Eish - R' Yaakov Yechiel Weinberg - rejects this position of the Hungarian Rabbis, although accepts their motivation. He stresses the importance of encouraging women to come to shul and certainly does not wish to push them away by insisting on higher halachic standards for the mechitza, standards which he ultimately views as a chumrah!

We saw in Part 1 that R. Moshe Feinstein did not believe that there was a concern in the Mikdash if the men could see the women, since the assumption was that the men would not look in an inappropriate way (and that the women would be appropriately dressed in the Mikdash). Does that still hold true today?

20. א טפח מגולה באשה במקום שדרכה לכסותו, אפ"ל היא אשתו, אסור לקרות ק"ש כנגדה. כגה: וי"א דוקא צאשה, חבל צאשה אחרת אפילו פחות מטפח הוי ערוה. ונראה מדברי הרא"ש דטפח צאשה ערוה אפ"ל לאשה אחרת, רק שצענמא יכולה לקרות אף על פי שביא ערומה
ב שער של אשה שדרכה לכסותו, אסור לקרות כנגדו. כגה: אפ"ל אשתו, אבל בתולות שדרכן לילך פרועות הראש, מותר.

שולחן ערוך אורח חיים סימן עה סעיף א-ב

Men are not halachically permitted to daven when facing a woman who is not fully dressed, even their own wife. This is certainly a concern today when not everyone who comes to shul is appropriately dressed.

21. בדבר המחיצה שעשה חלק ממנה מזכוכית בערך שליש מלמעלה, הנה יפה כתב כתר"ה שמדין המחיצה ליכא חסרון. אבל מצד אחר שאולי ילכו בלבושי פריצות שנראה בשרן כמו שהן רגילות ללכת בעוה"ר הרבה נשים במדינתנו וא"כ יהיה אסור להתפתללין כשפניהן לצד עזרת הנשים להתפלל ולומר דברי תורה ...

ש"ת אגרות משה אורח חיים חלק א סימן מג

R. Moshe Feinstein also stresses this concern. For him, a glass mechitza is totally acceptable qua mechitza, but if there are women who are not appropriately dressed, it will be halachically prohibited for the men to daven there.

C] REASON FOR MECHITZA - 5: TEFILLA SHOULD A LONELY EXPERIENCE

22. [A Jew] approaches God out of solitude and insecurity, relying completely upon Him for his very breath. This complete concentration on God, this awareness only of Him and nothing or no one else, is called kavana... without kavana, prayer becomes just a senseless repetition of wordsThe approach of the Jew to God must be out of a sense of isolation, of insecurity, of defenselessness. There must be a recognition that without God none of us has any security at all¹⁴, that my husband's life is dependent on God's will, his strength on God's favor, his health on God's goodness ...

Rabbi Dr. Norman Lamm, "Separate Pews in the Synagogue: A Social and Psychological Approach," Tradition, Vol. 1, No. 2 (Spring 1959), pp. 141-164

23. [T]he entire concept of 'family pews' is in contradiction to the Jewish spirit of prayer. Prayer means communion with the Master of the World, and therefore withdrawal from all and everything. During prayer man must feel alone, removed, isolated. He must then regard the Creator as an only Friend, from whom alone he can hope for support and consolation. *Behold, as the eyes of servants look to the hand of their master, as the eyes of a maiden to the hand of her mistress; so our eyes look unto the Lord our God, until He shows us mercy* (Psalms 123:2). Clearly, the presence of women among men, or of men among women, which often evokes a certain frivolity in the group, either in spirit or in behavior, can contribute little to sanctification or to the deepening of religious feeling; nor can it help instill that mood in which a man must be immersed when he would communicate with the Almighty. *Out of the depths have I called to You, O Lord* (Psalms 130:1), says the Psalmist. Such a state of being will not be realized amid 'family pews'.

Rabbi Dr. Joseph B. Soloveitchik, On Seating and Sanctification - The Sanctity of the Synagogue, p. 116

14. It must be mentioned that 'family seating' would also be alienating for those with no immediate family, especially the single, divorced and widowed.

24. when Orthodoxy tells the modern woman not to worship at the side of her husband in whom she so trusts, it reveals an appreciation of her spiritual competence Torah tells her that she need not rely upon a strong, superior male. It tells her that she is his spiritual equal and is as worthy of approaching God by herself as he is. It reminds her that women are the daughters of God no less than men are His sons, and that our Father is no less disposed to the company of His daughters than of His sons. It tells her to address God by herself; that she both cannot and need not rely on anyone else.

Rabbi Dr. Norman Lamm, "Separate Pews in the Synagogue: A Social and Psychological Approach," Tradition, Vol. 1, No. 2 (Spring 1959), pp. 141-164

25. ואסור לאדם לנשק בניו הקטנים צדקה"י כדי לקבוע זלזו שאין אהבה כאהבת המקום

רמיה שולחן ערוך אורח חיים סימן צח סעיף א

The Shulchan Aruch rules that one may not kiss one's small children in shul since only love of God is appropriate in a Beit Knesset!

D] REASON FOR MECHITZA - 6: CHUKAT HAGOY

26. Wise, however, did not invent family seating. To understand what he did do, and why, requires first a brief digression into the history of church seating in America. The earliest New England churches and meetinghouses, following the then-traditional British practice, separated men, women, and children in worship. Men and women sat on opposite sides of a central aisle, and children, also divided according to sex, sat in the back or upstairs. ... Beginning in the mid-eighteenth century, church seating patterns began to change. Families at first won permission to sit together in church on a voluntary basis, and subsequently family seating became the norm. Outside of New England, the history of church seating has not been written, and the pattern may have been more diverse. Missouri Synod Lutherans, for example, maintained separate seating in their churches (which were heavily influenced by German practice) down to at least the end of the nineteenth century. For the most part, however, the family pew won rapid and widespread acceptance in church circles, and Americans, forgetting that there were other possibilities came to believe that 'the family that prays together stays together.'

Dr. Jonathan Sarna, *The Debate Over Mixed Seating in the American Synagogue*¹⁵, The American Synagogue: A Sanctuary Transformed. New York: Cambridge University Press, 1987

27. כַּמְעֵשָׂה אֶרֶץ-מִצְרַיִם אֲשֶׁר יִשְׁבֹּתֶם-בָּהּ לֹא תַעֲשׂוּ וְכַמְעֵשָׂה אֶרֶץ-כְּנָעַן אֲשֶׁר אָנִי מְבִיא אֵתְכֶם שָׁמָּה לֹא תַעֲשׂוּ וּבַחֻקֹּתֵיהֶם לֹא תִלְכוּ

ויקרא יח:ג

*Torah prohibits following the 'chukot' of the nations*¹⁶.

28. אין הולכין בחוקות העובדי כוכבים (ולא מדמין להם). (טור בשם הרמב"ם) ... ולא יבנה מקומות כבנין היכלות של עובדי כוכבים כדי שיכנסו בהם רבים, כמו שהם עושים.

שו"ע יו"ד קעח סעיף א

The Shulchan Aruch rules that a specific application of this is the design our places of worship in a similar way to non-Jewish churches and temples.

29. ... the whole idea of mixed seating in the synagogue is thoroughly objectionable. It is an unambiguous case of religious mimicry. The alien model in this case is Christianity; worse yet, the specifically pagan root of Christianity. ... The position of the early church was against allowing its women to take part audibly in public worship, and included a prohibition on praying in mixed company. The Corinthian Church proved, however, to be a channel for the introduction of pagan elements¹⁷ into Christianity, foreign elements which later were to become organic parts of that religion. Corinth itself was a city of pleasure, noted for its immorality which usually had religious sanction. It was full of prostitutes, thousands of courtesans attached to the temple of Aphrodite. This pagan environment, with its moral laxity, had a profound effect upon the Corinthian Church.

15. Available at <https://www.brandeis.edu/hornstein/sarna/synagoguehistory/Archive/TheDebateoverMixedSeatingintheAmericanSynagogue.pdf>

16. Although some Rishonim understand this to apply only to the customs of Egypt and Canaan, most understand that it applies to all non-Jewish nations.

17. The overtly sexual connotations to pagan ecstatic prayer in the ancient world are well known. This may have been at the front of the minds of the Sanhedrin who segregated men and women during the very mixed and high-energy celebrations on Succot!

The effort to introduce mixed seating and women's preaching is thus part of the pagan heritage of Christianity, just as Paul's initial efforts to resist these reforms¹⁸ were part of Christianity's Jewish heritage. The pagan influence ultimately dominated, and today mixed seating is a typically Christian institution. When Jews agitate for mixed pews they are guilty, therefore, of religious mimicry. In this case, as stated, it is a borrowing from paganism transmitted to the modern world by way of Christianity.

In the more immediate sense, it is a borrowing from Christianity itself - for who of us stops to consider the historical antecedents of a particular ritual or institution which attracts us?

Rabbi Dr. Norman Lamm, "Separate Pews in the Synagogue: A Social and Psychological Approach," Tradition, Vol. 1, No. 2 (Spring 1959), pp. 141-164

30. Mixed seating thus represents a desire by Jews to Christianize their synagogues by imitating the practices of contemporary Christian churches. And this kind of mimicry is, as we pointed out, a violation not only of a specific law of the Torah, but an offense against the whole spirit of Torah. Lest the reader still remain skeptical of our thesis that mixed seating represents a pagan-Christianization of the synagogue, he ought to consider the origin of mixed pews in the synagogue itself. Reform in Europe did not know of mixed seating. It was first introduced in America by Isaac Mayer Wise when he borrowed a Baptist Church for his Reform services in Albany, N.Y., and found the mixed pews of the church so to his liking that he decided to retain this feature for his temple! We thus have only one conclusion as far as this is concerned that those who have favored family pews have unwittingly advanced the cause of the paganization and Christianization of our Synagogues. Understanding that it is wrong to assimilate Jews, we are now witnessing the attempt to assimilate Judaism

Rabbi Dr. Norman Lamm, "Separate Pews in the Synagogue: A Social and Psychological Approach," Tradition, Vol. 1, No. 2 (Spring 1959), pp. 141-164

E] WHY IS THE HALACHA OF MECHITZA IN SHUL NOT TOTALLY EXPLICIT IN THE SOURCES

- There are no shortage of classic sources showing the necessity of mechitza in shul. However it does not appear as an explicit requirement in the Shulchan Aruch. Why not?
- Firstly, not every halacha is brought in Shulchan Aruch. R' Yosef Karo never claims to give a fully exhaustive account of halacha¹⁹, simply a daily guide.²⁰
- Second, it could be that this was simply not a daily reality. Perhaps women did not attend shul in significant numbers until more recent times²¹ so the classic commentators simply do not address it.
- Thirdly, Shulchan Aruch clearly rules (Even Haezer 21) that men and women should not mix at all! He may have therefore thought that the matter WAS clearly ruled.²²
- Lastly, are there some halachot that are so obvious that they do not need mentioning?

31. אבל דיני הציצית והתפלין והמזוזות וסדר עשייתן והברכות הראויות להן וכן הדינים השייכים לכך ... והרי המשנה לא קבעה למצות אלו דברים מיוחדים הכוללים את כל משפטיהם ... וטעם הדבר לדעת פרסומן בזמן חבור המשנה, ושהם היו דברים מפורסמים רגילים אצל ההמונים והיחידים לא נעלם עינים מאף אחד. ולפיכך לא היה מקום לדעתו לדבר בהם. כשם שלא קבע סדר התפלה כלומר נוסחה וסדר מנוי שליח צבור מחמת פרסומו של דבר, לפי שלא חסר סדור אלא חסר ספר דינים

רמב"ם על משנה מסכת מנחות פרק ד משנה א

The Rambam asks why the laws of tefillin and mezuzah were not including in the Mishna. He suggests that they were so well known, they did not need to be included!

18. Rabbi Lamm cites I Corinthians 14:34-5.

19. Although the Rambam DOES claim this for Mishne Torah so the question could be brought more keenly on him.

20. For example, the laws of lashon hara are not comprehensively dealt with in the Shulchan Aruch.

21. Although this is disputed by some, including Prof. Avraham Grossman, who has concluded from research that many women attended synagogue during medieval times, both on Shabbat and mid-week.

22. Another example is the lack of ruling concerning music during the Omer. According the Shulchan Aruch, listening to music is practically prohibited for the WHOLE year, due to the churban.

F] THE HEIGHT AND MATERIAL OF THE MECHITZA

- According to those poskim who require a mechitza which prevents the men seeing the women, this will be the key consideration. Curtains and partitions will be required.
- According to those poskim who require a mechitza to separate, but not block out view of the women, there could be many potential halachic options.
- Glass mechitzot: R. Moshe²³ rules that they are in principle acceptable, but problematic if women are inappropriately dressed and could be seen through them. He was in favor of one-way glass. (Igrot Moshe O.C.1:43).
- Curtains on balconies: Rav Moshe rules (OC 1:42) that this is not normally required if the women are appropriately dressed.
- Lattice mechitzot: R. Moshe rules (OC 4:29) on a mechitza on which 50 inches were made from a solid material, but the top 13 inches consist of lattice work. He strongly discourages praying in such a synagogue, and suggested hanging a curtain over them. He notes that some are lenient if the gaps are less than three inches apart, but urges congregations filled with the "God fearing and bnei Torah" not to be lenient. In another teshuva (OC 4:32), however, he permitted a lattice mechitza with small holes, as long as the mechitza was 60 inches high and is able to prevent kalut rosh.
- Raised dais plus short mechitza: R. Moshe (OC 4:31) was asked about a women's section that was raised 40 inches. From the men's side, the mechitza was at least 70 inches high, but from the women's side, it was only thirty. He was not happy with such a mechitza, and insisted that the mechitza should be at least 60 inches high on the women's side as well. In another teshuva (OC 3:23) dealing with a women's section raised 12 inches, he also expressed his disapproval, but wrote that he cannot prohibit it outright.
- As we saw in Past 1, Rav Moshe (OC 1:41) required a mechitza to be 18 tefachim (60 inches high). Elsewhere he rules that higher (66 inches) is preferable (OC 4:31).
- Rav Soloveitchik reportedly ruled that the mechitza should be at least 50 inches high. In extreme circumstances he held that a mechitza need only be 10 tefachim tall, perhaps less than 40 inches.²⁴

32. גם אגלה לו מה שראיתי ושמעתי מגאוני ארצי שהועד נאמנה שהגרי"ד סולוביצקי שליט"א כמה פעמים התיר תפלה במחיצה בת י' טפחים בשעת דחק גדול. ומעשה היה כאשר יצקתי מים על ידי מועז הגאון האדיר ציס"ע הר"א הענקין זצלה"ה ושאלוהו לגבי בית כנסת בבית ספר תיכון שעמדו הבנים מקדימה והבנות מאחור ומחיצת י"א טפחים ביניהם בתפלות המנחה. ולא אמר לא איסור ולא היתר אבל נתן רשות לרב השואל אחרי שישתדל להגביה המחיצה אם רואה שאי אפשר לו לשכנעם להגביה ואין דרך אחרת שיכול להתפלל שם. ופשוט שהצריכו שני רשות שאם אין הסתרת הראות כנהוג מדור דור וגם אין הבדלת רשות מחיצת י' טפחים מאי עבדתה.

שו"ת בני בנים (רב יהודה הרצל הענקין) חלק א סימנים א-ב

Rav Yehuda Henkin reports on various American gedolim who were asked to rule on minimal mechitzot where no alternative was possible. He relates that Rav Soloveitchik permitted someone to daven in extremis with a mechitza of 10 tefachim. Rav Yosef Eliyahu Henkin permitted a school Rav to daven in the school shul with mechitza of 11 tefachim, when he had tried and failed to change it.

- Clearly, as in all halachic issues, there will always be significant differences between bedieved situations of great need and the ideal manner to act lechatchila.

G] THE CHALLENGE OF MECHITZA

- The different reasons we have seen for the halachic requirement of the mechitza will impact differently on the way that women feel a sense of community and belonging in the synagogue. Is it there to protect men from distraction, where the focus is primarily on the needs of the men and the women are a 'problem to be solved'? Or is there to ensure an appropriate atmosphere of koved rosh for all to prayer with focus and kavana, where the focus is on everyone present - men and women.
- Are women part of the tzibbur, even though they may not create the minyan?
- Does the Ezrat Nashim have a technical halachic status which is any different to rest of the shul²⁵?
- Many women wish to feel more part of the broader davening community in shul and not merely as 'welcome guests' in the synagogue. How can the design of mechitzot be enhanced so as to promote this aim at the same time as maintaining halachic standards and hashkafic integrity?

23. Rav Moshe deals with the issue of mechitzot in at least 14 different teshuvot.

24. See Rabbi Aryeh A. Frimer's 'Women and Minyan' (Tradition 22:4, Summer 1988) and Rabbi Michael J. Broyde article at <http://www.yith.org/library/yi%2520ideology%2520Mechitza.pdf+soloveitchik+mechitza&hl=iw&gl=il&ct=clnk&cd=3>

25. In terms of use for other purposes. See Igrot Moshe OC 1:51 on the sale of part of the Ezrat Nashim for use as a mikveh.