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"Taking Responsibility for Torah"

HALAKHIC ARTISTRY

By Rabbi Aryeh Klapper

Every ritual recollection of the Beit Hamikdash navigates between a Scylla and a Charybdis. Make the imitation too perfect, and one violates the halakhot protecting its uniqueness; make it too different, and the point is lost.

The name Chanukah, literally inauguration, points to the Temple. The miracle of the oil also draws our attention there. A perfect ritual recollection of the Maccabean reinauguration of the Temple would involve lighting an exact replica of the Temple menorah.

Yet the Temple Menorah has only seven lights, whereas Chanukah has eight nights. Here a beloved chestnut could have created a match: If there was enough oil for one night, then only seven nights were miraculous! Shu"t Sho'eil uMeishiv 1:3:71 suggests that Chanukah was made eight nights long to avoid that match. Perhaps this is also why halakhah does not mandate that chanukah lamps be physically connected to each other at all.

The tension remains. Bottom-line law, one light is enough – yet the *mehadrin* and *mehadrin min hamehadrin* push us toward multiple lights. And once one chooses to put all the lights on a single structure, some sort of similarity to the Temple is unavoidable, especially if one insists that the lights be on a single line.

The question then becomes: what sorts of similarities are halakhically problematic, and/or what sorts of dissimilarities, if any, are sufficient to resolve all problems?

In a learned, informative, and creative [article](#) on TheLehrhaus.com, Rabbi Yosie Levine of The Jewish Center in New York analyzes the approaches of Mahari Colon #267 and Chakham Tzvi #60 to these questions. He contends that Mahari Colon understood the prohibition as audience-centered, meaning that anything viewers perceive as identical is prohibited, while anything they perceive as differentiated is permitted. By contrast:

The *halakhah*, (Chakham Tzvi) insisted, cannot be given to such subjective measures. Whether or not a craftsman is in violation of the *halakhah* is not determined by the audience, but by the craftsman.

It is the creation of an exact *menorah* replica that represents an affront to the Almighty and His Temple. Anything short of duplication is thus permissible. Beauty may be in the eye of the beholder, but fealty to the halakhic system is in the hands of the artist.

Rabbi Levine's thesis is fascinating and beautiful in the eye of this beholder, but I am not convinced that it is a perfect representation of the halakhic positions at issue.

My first demurrer is that an audience-centered prohibition is not subjective when defined by the average rather than the individual viewer. But that is probably a challenge to Chakham Tzvi rather than to Rabbi Levine.

My second is that I don't read Chakham Tzvi as allowing anything short of duplication. Indeed, I suggest that the term "duplication" may be a red herring distracting us from the true nature of this prohibition and its relationship to art.

The textual fulcrum for this conversation is a Tosafot on Menachot 28b. The Talmud there cites a beraita:

A person may not construct a building in the *tavnit*
of the Sanctuary,
nor an *akhsadrah* corresponding to the Entrance Hall . . .

Tosafot protest that an *akhsadrah* by definition cannot correspond to the *tavnit* of the Sanctuary, because an *akhsadrah* has only three walls, while the Sanctuary had four. Tosafot respond:

Nonetheless, because the doorway to the Entrance Hall was very
wide and tall and had no doors –
it was similar to an *akhsadrah*, because it appeared open on one
side.

Maharik understands Tosafot to be arguing for a prohibition against constructing three-walled spaces corresponding to the Sanctuary.

You see explicitly
that even though the sanctuary had *mechitzot* on four sides,
since it appeared as if there were only three –
it is forbidden to make a three-*mechitzah* *akhsadrah* in the *tavnit* of
the Sanctuary.

Chakham Tzvi convincingly argues that Maharik misinterpreted Tosafot. Tosafot were not claiming that a three-walled *akhsadrah* was prohibited. Rather, they were claiming that the category *akhsadrah* includes spaces with a visually ignorable fourth wall. Thus the Sanctuary could be called *akhsadrah*, and similarly, the prohibition against building an *akhsadrah* corresponding to the Sanctuary applied to such a four-walled space.

Maharik derives a halakhic principle from his reading of Tosafot:

So I see that the matter depends on visual appearance,
even though one had not made it literally on the model of the
Temple.

He then applies that principle to the specific case before him, which relates to a menorah generally modelled after the Temple Menorah but not having the same dimensions:

All the more so here, as it is obvious that since it has seven
branches with buttons and flowers –
it is similar to that of the Temple.

Maharik's apparent principle is that an object "corresponds" to the Temple if it looks like the original, even if it is not an exact duplicate. Examples include a three-walled space resembling the four-walled Sanctuary, and a shorter or taller candelabra otherwise resembling the Temple menorah.

Chakham Tzvi objects:

According to my impoverished intellect
the Tosafot never considered saying
that even though it is not exactly on the model of the Entrance Hall

–
it is forbidden because it appears to be on that model,
because if that were so, what measure could we use to permit?!

Who could tell us how far a person can err via their visual
imagination?!

The case before Chakham Tzvi was of a menorah with seven branches leading to eight lights, which sounds to me like an attempt to undo the gap between a chanukiah and the Temple Menorah. He was aware that Maharik had prohibited a menorah regardless of size, and sought to distinguish the precedent. Step one, as we have seen, denied that visual similarity was sufficient ground for prohibition.

However, Chakham Tzvi knew that Talmud Menachot 28b cites positions that a menorah may be prohibited even if it is made of metals other than gold, or according to one position even if made of wood. The underlying rationale is that the prohibition is not against duplicating the Temple Menorah, but rather against instantiating its abstract legal description in a nonTemple context. One may not make a menorah that could be used in the Temple, even if no menorah like it has ever been used in the Temple.

It follows that visual resemblance, or duplication, cannot be a sufficient halakhic description of the prohibition. How can an existing object visually resemble an abstraction?

Chakham Tzvi also knew that Rashi explicitly states that a building can be forbidden for resembling the Temple even if its dimensions are different, and he argues compellingly that the same is true all-the-more-so regarding a candelabra, because while a Temple Menorah is ideally 18 handsbreadths tall, it can be valid regardless of size.

The question facing him then was: If a Temple Menorah can be made of any metal, and any size, how can we decide

whether a candelabra "corresponds"? His answer is that we must rely on formal, structural criteria. A candelabra is forbidden only if it could be validly used in the Temple. In practice, he contends that while the beraita on Menachot 28b explicitly permits only an eight-branched candelabra, the permission extends to a candelabra with eight lamps on seven branches.

However, it must be understood that Chakham Tzvi also prohibits any candelabra that could serve as a valid Temple Menorah, even if it is not in any way a "duplicate". Or in his formulation: Everything that would be valid within is its literal instantiation (and therefore forbidden).

Maharik of course also knew that the Talmud bans candelabras that looked nothing like the Temple menorah. In fact, the candelabra he forbade had ornamentation different from that prescribed for the Temple Menorah, and one basis for his strict ruling was that lack of ornamentation does not invalidate a Temple Menorah so long as it is not made of gold. So in what way can his position differ from that of Chakham Tzvi?

Chakham Tzvi understands Maharik as saying that the prohibition of making a building in the *tavnit* of the sanctuary uniquely has two elements: it is forbidden either to build to the exact dimensions of the Sanctuary or to build something that visually resembles the Sanctuary. All other Temple-correspondence prohibitions are defined exclusively by halakhic rather than visual resemblance. He therefore contends that Maharik would have agreed that the seven-branch-eight-lamp candelabra was permitted. But he concedes that this understanding makes Maharik's position untenable.

So I suggest the following instead.

Maharik states that it is obvious that "Anything that is valid for use within the Temple, it is forbidden to make outside the Temple". He also states that "a building is different, because if it is not made literally on the model of the Temple – it would not be so recognizable that it is made in the *tavnit* of the Temple, as there are many tall and long houses. But one cannot say this about the Temple Menorah". How can this claim that the prohibition regarding a building is more tightly bounded to exact correspondence be reconciled with his position that a three-walled space can be prohibited?

I suggest that the three-walled space is in fact precisely the dimensions of the Sanctuary. It is an incomplete rather than an imprecise instantiation. Incomplete instantiations are forbidden when they can be visually mistaken for their model.

Here's a test case to consider. An artist installs a partial menorah – four branches - so that it appears as if three and only three other branches and lamps exist just out of view. Is it forbidden?

Shabbat shalom!

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