

# Halachically Speaking

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## Personal Use of a Shul

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Mazal Tov to Yaakov and Atara Glatter on the Bar-Mitzvah of their son Yoni  
From the Kleins

The *Gemorah*<sup>1</sup> says since our *shuls* (*bais hakenesses*) and *batei midrashim* are called *mikdashei me'at*<sup>2</sup> one has to treat them with proper respect.<sup>3</sup> *Hashem* gave us these *mikdashei me'at*, and if we treat them properly the *shuls* will merit going to *Eretz Yisroel*.<sup>4</sup> The *Gemorah* in *Berochos*<sup>5</sup> says *Hashem* can always be found in *shuls* and *batei midrashim*. Therefore, not treating a *shul* with the proper respect is denying the existence of the *Shechinah*.<sup>6</sup> The *Gemorah*<sup>7</sup> says our *tefillos* are more likely to be accepted when said in a *shul*.<sup>8</sup> Whoever comes to *shul* (or *bais medrash*) in this world will merit coming to them in the world to come.<sup>9</sup> People who enter *shuls* and *batei midrashim* full of sins can leave them full of *mitzvos*.<sup>10</sup> The *Yalkut*<sup>11</sup> says *davening* in a *shul* is like *davening* in the *Bais Hamikdosh*. One should treat a *shul* with the utmost respect and with great awe, since it is a place where we connect with *Hashem*.

The *poskim* are in dispute whether the *mitzvah* to honor the *shul* and *bais medrash* is a *mitzvah d'rabanan* or a *d'oraisa*.<sup>12</sup>

<sup>1</sup> Megillah 29a.

<sup>2</sup> See Yechezkel 11:16, Radak.

<sup>3</sup> Rambam Hilchos Tefilla 11:2.

<sup>4</sup> Droschos Chasam Sofer 2:page 309.

<sup>5</sup> 6a. Refer to Emek Halacha pages 195-197, Mishnas Yosef 21:page 132. Since it is the house of *Hashem* there is no obligation for a *mezuzah* (Chasam Sofer Y.D. 281).

<sup>6</sup> Ben Ish Chai Vayikra 1:1.

<sup>7</sup> ibid.

<sup>8</sup> See Medrash Shir Hashirim perek 7, Mesechtas Pesachim 87a.

<sup>9</sup> Medrash Ki Sova 7:1.

<sup>10</sup> Yalkut Shemonei Balak remez 771 "kenachalim."

<sup>11</sup> Tehillim 659.

<sup>12</sup> See Ran Megillah 14a, Semak Mitzvah 6, Semag laven 164, Rambam Hilchos Bais Ha'bechira 1:20, 7:7, 6:16, Rambam Hilchos Tefilla 11:5, Eishel Avraham Butchatch 154:1, Levush 151:1, Pri Megadim M.Z. 151:1, 153:1, Chai Adom 17:6, Ben Ish Chai Va'yikra 1:1, Rav Poalim 2:20, Sdei Chemed 2:43, Chofetz Chaim Loshon Hara pesicha asei 7:footnote 8:page 56, Be'er Mayim Chaim, Aruch Ha'shulchan 153:4, Shevet Ha'Levi 3:13, Igros Moshe O.C. 1:45, 51:2, Yabea Omer O.C. 7:24:page 61, Halichos Shlomo Tefilla 19:1:footnote 10, Bais Yehuda pages 2-3:footnote 4, Mishkan Dovid pages 3-6, Halacha Berurah 151:1:footnote 1. Refer to Igros Moshe O.C. 1:45.

### ***Shul or Bais Medrash***

A building which was originally designated as a place for adults to learn with a *chavrusa* on a steady basis (i.e. at least an hour or two a day) is classified as a *bais medrash*,<sup>13</sup> which has greater *kedusha*.<sup>14</sup>

### ***Talmid Chachum***

Except as noted below, all the *dinim* discussed in this issue also applies to a *talmid chachum* who may consider a *bais medrash* his home since he spends most of the day there.<sup>15</sup>

### **Treating a *Shul* Properly**

When leaving a *shul* one should walk with his back to the door to avoid turning his back to the *sifrei Torah* in the *aaron kodesh*.<sup>16</sup> If the exit is on the side of the *shul* then turning ones back when leaving is permitted.<sup>17</sup> Accordingly, if there is no *sefer Torah* in the *aaron kodesh* it is permitted to turn ones back to it when leaving.<sup>18</sup>

There is a *mitzvah* to run to *shul*.<sup>19</sup> However, in the *shul* itself one should walk in a manner which demonstrates fear and awe of *Hashem*.<sup>20</sup> Therefore, children should not be allowed to run in a *shul*. One who is running in *shul* in order to hear a *kaddish* is allowed to do so.<sup>21</sup>

Many *poskim* say that one should not raise his voice in a *shul*.<sup>22</sup> However, one who is learning may raise his voice since doing so is needed for the learning.<sup>23</sup>

One should not spit in a *shul*,<sup>24</sup> especially if one does not spit in his house.<sup>25</sup> It goes without saying that one should not spit in front of other people because doing so disgusts them.<sup>26</sup>

One should not throw garbage<sup>27</sup> such as candy wrappers or tissues on the floor of a *shul*.<sup>28</sup> There is an uncertainty if one has to pick up garbage that he sees on the floor of the *shul*.<sup>29</sup> It would seem that the right

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<sup>13</sup> Horav Yisroel Belsky Shlita. Refer to Divrei Chachumim 9:126 who says in the name of Horav Moshe Feinstein zt"l that a *bais medrash* is if people learn there all day. See Tefilla K'hilchoso 2:36 who quotes the opinion of Horav Shlomo Zalman Aurbach who says that our *shuls* are considered to be *batei medrashim* because people learn there.

<sup>14</sup> Refer to Mesechtas Megillah 26b, Rambam Hilchos Talmud Torah 4:9, Reishis Chuchma Shar Hayira 15:page 188, Shulchan Aruch 153:1, Mishnah Berurah 3, Aruch Ha'shulchan 151:5.

<sup>15</sup> Mishnas Yosef 26:3, see Mishnah Berurah 3, Shar Ha'tzyion 9.

<sup>16</sup> Refer to Yerushalim Berochos 5:1, Reishis Chuchma Shar Hayira 15, Magen Avraham 132:6, Kitzur Shulchan Aruch 25:7, Doleh U'mashka page 152, Derech Sicha page 322.

<sup>17</sup> Bais Yehuda 2:footnote 10. See *ibid*:pages 212-217 in depth on this topic.

<sup>18</sup> Bais Yehuda 2:footnote 10.

<sup>19</sup> Shulchan Aruch 90:12, Birchos Naftali 2:page 116.

<sup>20</sup> Magen Avraham 24, Ben Ish Chai Mekeitz 1:2-3, Kitzur Shulchan Aruch 12:11, Mishnah Berurah 41. The same is true for a *bais medrash* (Bais Yehuda 3:footnote 2).

<sup>21</sup> Bais Yehuda 3:footnote 4.

<sup>22</sup> Reishis Chuchma Shar Hayira 15:page 187, Moreh B'etzvah 155.

<sup>23</sup> Bais Yehuda 3:footnote 12.

<sup>24</sup> Refer to Shulchan Aruch 151:7, Magen Avraham 9, Be'er Heitiv 9, Pri Megadim Eishel Avraham 9.

<sup>25</sup> Shar Ha'tzyion 15, Mishnas Yosef 26, Halacha Berurah 151:31.

<sup>26</sup> Mishnah Berurah 24. Refer to Ben Ish Chai Vayikra 1:10 who mentions if one does something disgusting in front of his friend he will have to give a *din* and *chesbon* on his action.

<sup>27</sup> Kaf Ha'chaim 48. This is very common for those who smoke to throw cigarette butts on the floor. This should not be done (Halichos Shlomo Tefilla 19:footnote 2, Mishnas Yosef 26:2, Bais Yehuda page 259). In regard to turning a *shul* into a *matzah* bakery before *Pesach* see Lechem Salma 2:13, Maharsham 5:61, Bais Yehuda page 263. It would seem that doing so to a *shteibel* is permitted since it does not have the *kedusha* of a *shul*.

<sup>28</sup> Mishnas Yosef 26:2:page 134.

<sup>29</sup> Refer to Bais Yehuda 16:footnote 8.

thing to do is to pick up the garbage from the *shul's* floor.<sup>30</sup> One should keep the garbage cans outside of the *shul*.<sup>31</sup>

There is a discussion in the *poskim* if one who cuts or bites his nails in *shul* may throw them onto the floor.<sup>32</sup> *L'maseh*, doing so is permitted since it is a small thing which is not a disgrace to the *shul*.<sup>33</sup>

### **Touring a Shul**

One is not allowed to take a walk in *shul* without a specific purpose.<sup>34</sup> Many people tour old *shuls* to see the beauty of them. There is uncertainty in some *poskim* if this is permitted.<sup>35</sup> The *minhag* seems to be that doing so is permitted, since it is an honor for the *shul* that people come to see its beauty.<sup>36</sup>

### **Entering a Shul for personal reasons**

The *Gemorah* in *Megillah*<sup>37</sup> says one who goes into a *shul* (or a *bais medrash*) to call his friend should read a *halacha*, *Mishnah*<sup>38</sup> or *posuk* before calling his friend.<sup>39</sup> One who is not a learned person should either tell a child to read a *posuk* for him or should sit down for a few moments before calling his friend.<sup>40</sup> This *halacha* applies anytime one enters a *shul* for personal reasons.<sup>41</sup> The reason why these *eitzahs* help is because now one is not going to the *shul* only for his personal reason but he is learning there as well.<sup>42</sup> Some *poskim* say one who can avoid relying on these *eitzahs* should do so.<sup>43</sup>

One who is going into *shul* to get or return a *siddur* may do so without saying a *halacha* etc. since he is going in for a *mitzvah* (*chesed*).<sup>44</sup> The same is true if one is calling his friend to a *mitzvah*.<sup>45</sup> For example, one may go into *shul* to tell a friend that his mother is on the phone, etc. One who is entering a *shul* to do a *mitzvah* and also to retrieve something from the *shul* etc. is subject to a *machlokes haposkim* if he is required to do the *mitzvah* before retrieving the object.<sup>46</sup>

There is an uncertainty among the *poskim* if one who sticks his hand into a *shul* to retrieve an item is required to mention a *halacha*, etc.<sup>47</sup>

<sup>30</sup> Bais Yehuda pages 260-263.

<sup>31</sup> Opinion of Horav Chaim Kanievsky Shlita quoted in Bais Yehuda 16:12:footnote 7. It is permitted to place mice traps in a *shul* (Bais Yehuda 16:8:footnote 13 quoting the opinion of Horav Chaim Kanievsky Shlita).

<sup>32</sup> Refer to Mishnas Yosef *ibid*.

<sup>33</sup> Opinion of Horav Chaim Kanievsky Shlita quoted in Bais Yehuda page 259, see Halichos Shlomo Tefilla 19:footnote 2:page 232.

<sup>34</sup> Shulchan Aruch 151:1.

<sup>35</sup> Bais Yehuda 3:footnote 18.

<sup>36</sup> Kapei Aaron 16, Lekach Hakemach Hachodesh 151:30, Mishkan Dovid 5:44:page 86.

<sup>37</sup> 28a, Rosh 4:7.

<sup>38</sup> Mishnah Berurah 11. One who says a *halacha* etc does not have to sit when doing so (Bach, Aruch Ha'shulchan 151:4, Kaf Ha'chaim 25).

<sup>39</sup> Elya Rabbah 4, Mishnah Berurah 12. There is an uncertainty if the *posuk* etc has to be said immediately upon entering the *shul* or right before you call your friend (Bais Yehuda 10:3).

<sup>40</sup> Rambam Hilchos Tefilla 11:9, Tur, Shulchan Aruch 151:1. Some say if one is not a learned person then his friend should tell you a *devar Torah* (Bais Yehuda 10:2:footnote 8). The amount of time that one has to sit if he is not learned is the time it takes to walk through two doors which is the time it takes to walk eight *tefachim* (Refer to Darchei Moshe 1, Rama 151:1. See Mishnah Berurah 13).

<sup>41</sup> Bais Yehuda 10:1:footnote 6.

<sup>42</sup> Refer to Rashi to Mesechtas Megillah *ibid* "oy."

<sup>43</sup> Shar Ha'tzyion 151:2.

<sup>44</sup> Bais Yehuda 10:footnote 19.

<sup>45</sup> Bais Yehuda 10:6.

<sup>46</sup> *Ibid*:10:9:footnote 23.

<sup>47</sup> Bais Yehuda 10:10:footnote 24.

It must be stated that some *poskim* maintain that the *eitzah* of waiting also applies to a learned person as well.<sup>48</sup> Therefore, one cannot say such a person is behaving incorrectly by waiting without saying a *halacha*, etc.

### Entering Due to the Sun or Rain

Entering a *shul* because it is hot or raining outside is forbidden.<sup>49</sup> If it is too cold outside and one wants to enter the *shul* to heat up it is also forbidden.<sup>50</sup> This *halacha* applies even to a *talmid chachum*.<sup>51</sup> According to some *poskim* the aforementioned *eitzah* of saying a *halacha* etc would not work in this situation.<sup>52</sup> The *Aruch Ha'shulchan*<sup>53</sup> maintains that saying a *halacha* etc does help. However, even the *Aruch Ha'shulchan* opines that waiting without saying any *Torah* does not help in this case even for an un-learned person.<sup>54</sup> In any case, the *minhag* is not in accordance with this *Aruch Ha'shulchan*. The reason is because one has a choice not to enter the *shul* for shelter since he can go somewhere else.<sup>55</sup> One who was learning *Torah* may walk into a *shul* because of the sun or rain.<sup>56</sup>

One who is so cold or so hot that he wants to enter the *shul* and learn may do so.<sup>57</sup> There is an uncertainty in the *poskim* if one who is already learning can wait in the *shul* until the rain stops.<sup>58</sup>

### Shortcut

One should not use a *shul* as a shortcut between two locations.<sup>59</sup> One who has no other way may cut through a *shul* if he says a *posuk*, etc.<sup>60</sup> Some say one may use a *shul* as a shortcut for a *mitzvah*.<sup>61</sup> However, *l'halacha* one should not rely on this opinion.<sup>62</sup> One who is *davening* or learning inside a *shul* may exit out a door that is closer to his destination.<sup>63</sup>

Some say that one should exit the *shul* from a different door than he entered from. By doing this one shows the *shul* is dear to him.<sup>64</sup> Others say it is a *mitzvah* to do so.<sup>65</sup>

It is very common for a *shul* to have different rooms where *minyanim* are taking place. One is permitted to walk through one room to get to another room. The reason is because the entire *shul* is considered to be one big room.<sup>66</sup>

<sup>48</sup> Refer to Chai Adom 17:12, Shulchan Shlomo 151:1, Kitzur Shulchan Aruch 13:3, Ketzos Ha'shulchan 29:1:badi 6.

<sup>49</sup> Mesechtas Megillah 28b, Shulchan Aruch 151:1, Levush 1, Ketzos Ha'shulchan 29:1.

<sup>50</sup> Biur Halacha "b'chama."

<sup>51</sup> Mishnah Berurah 151:6.

<sup>52</sup> Mishnah Berurah 151:4, Shar Ha'tzyion 2.

<sup>53</sup> 151:4.

<sup>54</sup> Bais Yehuda page 252:35.

<sup>55</sup> Shar Ha'tzyion 2.

<sup>56</sup> Shar Ha'tzyion 2, Halacha Berurah 151:16.

<sup>57</sup> Opinion of Horav Chaim Kanievesky Shlita quoted in Bais Yehuda 12:3:footnote 6.

<sup>58</sup> Refer to Bais Yehuda 12:4:footnote 8.

<sup>59</sup> Refer to Mesechtas Berochos 62b, Megillah 29a, Rosh Megilla 4:9, Shulchan Aruch 151:6. One is permitted to go through the *ezras nashim* into the *shul* (Mishkan Dovid 4:12:footnote 28 quoting the opinion of Horav Korelitz Shlita). Refer to Tzitz Eliezer 12:16.

<sup>60</sup> Biur Halacha "la'sosa derech," Kaf Ha'chaim 35, Divrei Chachumim 9:123, Bais Yehuda pages 247-249, Mishkan Dovid 4:7:footnote 17 quoting the opinion of Horav Korelitz Shlita, see Halichos Shlomo Tefilla 19:2:footnote 3. The Bais Boruch 2:17:83:footnote \* says the *halacha* is not like the *Biur Halacha*. It is unclear where the *Bais Boruch* got this from.

<sup>61</sup> Kol Bo 17, Pri Megadim Eishel Avraham 6, Biur Halacha "l'katzer darko." For example, if one will miss out in *tefilla b'tzibur* then he may take a shortcut through the *shul* (Mishkan Dovid 4:3:footnote 11).

<sup>62</sup> Biur Halacha *ibid*.

<sup>63</sup> Mishnah Berurah 151:6.

<sup>64</sup> Pri Megadim Eishel Avraham 7, Kaf Ha'chaim 37.

<sup>65</sup> Levush 5, Elya Rabbah 9, Magen Avraham 7, Be'er Heitiv 8, Mishnah Berurah 21, Bais Yehuda 11:footnote 26.

Some say one who cleans the *shul* is permitted to take a shortcut through the *shul* to get the supplies that he needs.<sup>67</sup>

### Entering with Personal Belongings

Entering a *shul* with a walking stick<sup>68</sup> and other such items that one is not *makpid* on are permitted.<sup>69</sup> Walking in with a knife which is uncovered and visible is forbidden. The reason is because a knife shortens life and *tefilla* lengthens life.<sup>70</sup> When eating in *shul* (see below) one is permitted to bring a knife into *shul* to cut the *challah*.<sup>71</sup>

In *Eretz Yisroel* it is very common for soldiers to carry their guns into *shul* to *daven*. The question arises if doing so is permitted according to *halacha*. Many say that since the soldiers have no choice and have to carry it because of danger he may carry the gun on his back while in *shul*.<sup>72</sup> However, others say if possible one should remove the gun before *davening*.<sup>73</sup> Others say since it is common for a soldier to carry a gun, he may also do so in *shul*.<sup>74</sup>

One is not allowed to enter a *shul* without covering his head.<sup>75</sup> One is permitted to take off his *tefillin shel rosh* in *shul* even if in the interim his head will be uncovered.<sup>76</sup> One should try to convince a worker who is a *yid* but is not *frum* to wear a *yarmulka* while he is working in *shul*.<sup>77</sup>

It would seem that one should not enter *shul* while carrying an umbrella.<sup>78</sup>

*Hatzalah* men are permitted to walk into *shul* while wearing a radio on their belts.<sup>79</sup>

A bike should not be brought into a *shul*.<sup>80</sup>

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<sup>66</sup> Aruch Ha'shulchan 8, Yaskil Avdi 2:5:9:page 14b, Avnei Yushfei 1:23. For this reason one is permitted to go into the *Arizal's shul* to get to the cave because it is considered one big room (Mishkan Dovid 4:20:footnote 44).

<sup>67</sup> Mishkan Dovid 4:5:footnote 13.

<sup>68</sup> Refer to Mesechtas Berochos 63a, Tur 151, Kol Bo 17, Shulchan Aruch 151:6. Refer to Orchos Rabbeinu 1:page 74:41 who was stringent with bringing a walking stick into *shul* (Refer to Ben Ish Chai Vayikra 1:6, Kaf Ha'chaim 38). An old or weak person does not have to be stringent (Ben Ish Chai ibid, Kaf Ha'chaim ibid, Halacha Berurah 151:28).

<sup>69</sup> Bach. Some say it is permitted to walk into a *shul* with a wet towel from the *mikvah* (Bais Yehuda 4:7:footnote 17, Doleh U'mashka page 101). One should not read even a Jewish newspaper in a *shul* (Piskei Teshuva 276:page 44). It is permitted to walk into a *shul* with a wallet containing money (Bais Yehuda 4:13). In regard to bringing in music instruments to a *shul* see Lev Chaim 2:9, Chasam Sofer C.M. (Hashmutos) 192, Sdei Chemed Bais Hakenesses 2:paes 228-229, Mishnah Berurah 338:10, Igros Moshe O.C. 2:30, Betzel Hachuchma 2:85, Zekan Aaron 1:6, Yaskil Avdi 6:4:7, 8:29, Shevet Ha'Levi 1:26, Minchas Yitzchok 5:97. The *minhag* is to allow music in a *shul* for *simchas bais ha'sho'evah* and for a *siyum* (Halacha Berurah 151:7, see Be'er Sarim 3:62:5).

<sup>70</sup> Refer to Mesechtas Berochos ibid, Shulchan Aruch 151:6, Taz 2, Pri Megadim Eishel Avraham 8, Elya Rabbah 10, Mekor Chaim 6, Mishnah Berurah 22, Aruch Ha'shulchan 10, Kaf Ha'chaim 42, Igros Moshe O.C. 5:20:8, Shevet Ha'Kehusi 2:73, It is forbidden to *shecht* and animal in a *shul* (Aruch Ha'shulchan ibid).

<sup>71</sup> Refer to Biur Halacha "b'sakin," Mishkan Dovid 5:14:footnote 9.

<sup>72</sup> Tzitz Eliezer 10:18, Ohr L'tzyion 2:45:59, Be'er Sarim 2:10, Oleinu L'Shab'each 2:page 576.

<sup>73</sup> Tzedaka U'mishpat 12:footnote 42. Refer to Piskei Teshuvos 151:16. Some say it is better to *daven* by yourself than in a *shul* while wearing a gun (Tzedaka U'mishpat ibid).

<sup>74</sup> Yechaveh Da'as 5:18, Rivevos Ephraim 2:66, 6:431:15.

<sup>75</sup> Shulchan Aruch 151:6, Levush 6, Magen Avraham 8, Mishnah Berurah 22, see Elya Rabbah 10, Birchei Yosef 9. Refer to Biur Halacha "oy."

<sup>76</sup> Bais Yehuda 4:5:footnote 11.

<sup>77</sup> Mishkan Dovid 5:27:footnote 54 quoting the opinion of Horav Elyashiv Shlita.

<sup>78</sup> Birchos Naftali 2:page 126:3.

<sup>79</sup> Bais Yehuda 4:15.

Children should not drop their knapsacks off in a *shul* and then go to play outside. A *shul* should not be used as a storage closet.<sup>81</sup>

### Shoes/Rubbers

Some say walking into *shul* while wearing shoes shows a lack of honor.<sup>82</sup> However, as a matter of *halacha l'maseh*, walking into *shul* wearing shoes is permitted.<sup>83</sup> When it rains many times dirt gets stuck to the bottom of the shoes. One should remove such dirt from his shoes before entering a *shul*.<sup>84</sup> One should not walk into *shul* wearing rubbers over his shoes since doing so will cause the floor of the *shul* to get wet.<sup>85</sup>

### Lights/Ner Tamid

The custom is to light candles etc near the *shatz* as honor for the *shul*.<sup>86</sup> These candles should be lit before people come to *shul*.<sup>87</sup> However, the *minhag* is not like this. Many *tzadikim* lit these candles themselves and did not let the *shamos* of the *shul* do it.<sup>88</sup> There is a discussion in the *poskim* if this light may be from electric light.<sup>89</sup> Some *poskim* require one to have wax candles there.<sup>90</sup> However, many have the custom to have electric lights by the *shatz*.<sup>91</sup> The candle by the *shatz* may be extinguished after *davening*.<sup>92</sup>

Aside from these lights, there is an additional light in the *shul* which is always kept burning.<sup>93</sup> This light is called the *ner tamid*, and is kept lit in honor of *Hashem* who is found in every *shul*.<sup>94</sup> The custom in many places is to have an electric *ner tamid*, while some say it should be made of wax candles.<sup>95</sup>

### Kissing Someone in a Shul

Kissing a child (or anyone else) in a *shul* etc<sup>96</sup> shows that he is demonstrating love to that person and not to *Hashem*. Therefore, one may not kiss a child while in *shul*.<sup>97</sup> (Parenthetically many *poskim*<sup>98</sup> say it is not a good idea to bring young children to *shul*. They tend to run around and cause people not to be able to *daven* properly).<sup>99</sup>

<sup>80</sup> Oleinu L'Shab'each 2:pages 575-576, Yalkut Yosef 151:26, Mishkan Dovid 5:25:footnote 48 quoting the opinion of Horav Korelitz Shlita, Birchos Naftali 1:page 126:4. One should not bring a carriage into *shul* either. If a child does not want to go out of the carriage then one is permitted to bring the carriage with the child into *shul* (Birchos Naftali 2:page 126:3).

<sup>81</sup> Poskim.

<sup>82</sup> Magen Avraham 91:5, Kaf Ha'chaim 25.

<sup>83</sup> Mekor Chaim 6, Birchei Yosef 151:8, Yalkut Yosef 151:29.

<sup>84</sup> Refer to Eben Ezra Bereishis 35:2, Rambam Hilchos Tefilla 11:10, Shulchan Aruch 151:8, Levush 8, Ben Ish Chai Vayikra 1:6, Aruch Ha'shulchan 10, Kaf Ha'chaim 44, Bais Yehuda 4:10. The same applies to dust on one's shoes (Kaf Ha'chaim 38).

<sup>85</sup> Horav Yisroel Belsky Shlita, see Mishnah Berurah 91:12, Shevet Ha'Levi Y.D. 120:3, Be'er Sarim 3:38:3.

<sup>86</sup> Refer to Mesechtas Megillah 28b, Shulchan Aruch 151:9, Levush 9, Magen Avraham 10, Be'er Heitiv 10. Refer to Pela Yoetz (Hadlaka) pages 172-173 (new).

<sup>87</sup> Pri Megadim Eishel Avraham 10, Elya Rabbah 15, Mishnah Berurah 27, Aruch Ha'shulchan 10, Kaf Ha'chaim 15.

<sup>88</sup> Piskei Teshuvos 151:footnote 85.

<sup>89</sup> Kochvei Yitzchok 1:12, Teshuvos V'hanugos 1:702.

<sup>90</sup> Mekor Chaim 151:9, Be'er Moshe (kuntres electric) 7:101.

<sup>91</sup> Mishkan Dovid 5:34.

<sup>92</sup> Magen Avraham 514:34, Mishnah Berurah 34, Be'er Sarim 4:60:3.

<sup>93</sup> Shulchan Hatohar 148:1.

<sup>94</sup> Yosef Ometz 327, Biur Halacha 514 "sh'harei," Mishnah Berurah 31, 34, Ketzos Ha'shulchan 29:2, Minhag Yisroel Torah 151:2.

<sup>95</sup> Refer to Be'er Moshe (kuntres electric) 7:101.

<sup>96</sup> Bais Yehuda 14:1.

<sup>97</sup> Sefer Chasidim 255, Rama 98:1, Aruch Ha'shulchan 98:2.

<sup>98</sup> Magen Avraham 98:4, Be'er Heitiv 2, Pri Megadim Eishel Avraham 98:1, 151:18, Elya Rabbah 98:2, Kaf Ha'chaim 13, Me'am Lo'ez Devarim 4:page 1238.

<sup>99</sup> Refer to Bais Yehuda 16:4.

Some say this concern only applies during *davening*, and one would be permitted to kiss someone in *shul* if there is no *davening* taking place.<sup>100</sup>

Many times a child is crying and if the father would kiss the child it would calm him down. This type of kissing is permitted in a *shul*. The reason is because one is not doing it to show love for the child, but just to calm him down. Furthermore, the child's crying causes others not to be able to concentrate on *davening* properly.<sup>101</sup>

One is permitted to kiss the hand of one's father or *rebbe* after an *aliyah* since it is done out of honor and humility and not love.<sup>102</sup> The same is true when someone says *Shabbat Shalom* to you and kisses you.<sup>103</sup> One who receives a kiss may kiss the person back.<sup>104</sup>

A *Chosson* at his *aufruf* should not kiss or be kissed by anyone in *shul*.<sup>105</sup>

A *Rav* is permitted to kiss his congregants in order to bring them closer to *Hashem*. This is permitted because it is being done out of love to *Hashem*.<sup>106</sup>

### **Sleeping in Shul**

One may not sleep (even a temporary sleep) in a *shul*, but in a *bais medrash* it is permitted.<sup>107</sup> It is a pious act not to sleep in a *bais medrash* either.<sup>108</sup> However, *al pi din* doing so is permitted<sup>109</sup> even for someone who does not learn there a whole day.<sup>110</sup> Some say for such a person only a temporary sleep is permitted,<sup>111</sup> while someone who learns there a whole day may even sleep a long sleep.<sup>112</sup> A *talmid chachum* may even sleep in a *shul*.<sup>113</sup> Some say if one sees his friend sleeping in a *shul* he should wake him up.<sup>114</sup>

It is not proper for one to sleep while a *Rav* is speaking (in a *shul* or a *bais medrash*).<sup>115</sup> One who feels that he is too tired to hear the *shiur* should go outside of the *bais medrash*, etc and sleep there.

### **Making a Condition- T'nai**

The *Gemorah* in *Megillah*<sup>116</sup> says that the *shuls* in *Bavel* were built on a condition to permit certain activities to be done in them. There is widely held belief that if a condition was made at the time of the building of the *shul*

<sup>100</sup> This is the opinion of Horav Moshe Feinstein zt"l (as related by Horav Yisroel Belsky Shlita). The reason is because this *halacha* is brought in *Hilchos Tefilla* not in *Hilchos Bais Hakenesses* (Horav Yisroel Belsky Shlita).

<sup>101</sup> Bais Yehuda 14:2:footnote 4, Kovetz Olos Hachodesh 1:page 21, Oleinu L'Shab'each 2:page 579, V'ein Lumo Michshal 5:page 51.

<sup>102</sup> Kaf Ha'chaim 151:6, Ohr L'tzyion 2:45:35, Bais Yehuda 14:3, Ishei Yisroel 11:footnote 64, Rivevos Ephraim 8:436:38:page 288. See Be'er Sarim 2:17.

<sup>103</sup> Bais Yehuda 14:4:footnote 6.

<sup>104</sup> Ohr L'tzyion ibid.

<sup>105</sup> Mishkan Dovid 5:30.

<sup>106</sup> Mishkan Dovid 5:31. Those who have a *chupah* in *shuls* should be careful about kissing (Rivevos Ephraim 2:66).

<sup>107</sup> Refer to Mesechtas Succah 28a, Shulchan Aruch 151:3, Levush 3, Shemrias Haguf V'hanefesh 88:1,

<sup>108</sup> Refer to Rav Akiva Eiger 151:4.

<sup>109</sup> Shach Y.D. 15, Be'er Heitiv 8, see Rama Y.D. 246:16. Refer to Orchos Rabbeinu 1:page 74:40.

<sup>110</sup> Refer to Mekor Chaim page 448:3, Mishnah Berurah 16. See Biur Halacha "avol.," Kaf Ha'chaim 31.

<sup>111</sup> Mishnah Berurah 151:16. For a *talmid chachum* even a long sleep is permitted in a *bais medrash* (Mishnah Berurah 151:16).

<sup>112</sup> Chai Adom 17:14, Kitzur Shulchan Aruch 13:4, Mishnah Berurah 151:16.

<sup>113</sup> Mishnah Berurah 151:15, Kaf Ha'chaim 30.

<sup>114</sup> V'ein Lumo Michshal 1:page 146:19, Rivevos Ephraim 5:480:9.

<sup>115</sup> Refer to Be'er Heitiv 151:5, Mekor Chaim page 448:3, Chesed L'alafim 151:5, Kaf Ha'chaim 151:29, V'ein Lumo Michshal 1:page 48:1, see ibid:footnote 26.

<sup>116</sup> 28a, see Rashi "al," Rosh 4:7. See Aruch Ha'shulchan 14 who does not understand why a condition helps at all.

that there should be no *kedusha* on the *shul* then one is permitted to conduct himself as he pleases in such a *shul*. However, this is not a simple manner.<sup>117</sup>

Many *Rishonim* hold that such a condition only helps after a *shul* in *Chutz L'aretz* is destroyed to permit mundane activities on the spot the *shul* once stood.<sup>118</sup> According to these *Rishonim* a condition would not help for a *shul* while it is still standing. Other *Rishonim* hold that a condition helps even when the *shul* is still standing.<sup>119</sup> Most *poskim* do not follow this second opinion. Some say a condition only helps when the *shul* is still standing in cases of extreme necessity.<sup>120</sup> Some say in any case the condition should be made out loud at the time of building the *shul* etc.<sup>121</sup>

It is important to point out that the whole discussion of making a *t'nai* only applies to conduct that is considered a little *kalos rosh* like eating and drinking.<sup>122</sup> However, activities that are *divrei chol* but not *kalos rosh* are permitted.<sup>123</sup>

A condition does not help to call your friend from a *shul*.<sup>124</sup> A condition does not permit joking and fooling around in a *shul*.<sup>125</sup>

It is very difficult to permit mundane activities in a *shul* in *Eretz Yisroel* even with a condition.<sup>126</sup> The *shuls* in *Eretz Yisroel* are always *kodesh*, while those in *Chutz L'aretz* will be uprooted and moved to *Eretz Yisroel* when *Moshiach* comes.<sup>127</sup> Most *poskim* say that a condition does not help for *shuls* in *Eretz Yisroel*,<sup>128</sup> while others maintain a condition does help.<sup>129</sup>

*L'maseh*, one is permitted to eat and drink in a *shul* (even if he is not a *talmid chachum*) in *Chutz L'aretz* (and in *Eretz Yisroel* according to some *poskim*) if it is of utmost necessity.<sup>130</sup>

### **Eating/ Drinking in a Shul**

Generally one should not eat or drink in a *shul*.<sup>131</sup> A *talmid chachum* who can't find a different place to eat may eat in a *bais medrash*<sup>132</sup> since he learns there a whole day<sup>133</sup> it is considered his home.<sup>134</sup> The *Mishnah*

<sup>117</sup> Refer to Teshuvos V'hanhugos 1:166.

<sup>118</sup> Tosfas Megillah ibid, Mordechai Megillah 829:page 19, Tur, Bach, Prisha 9, Shulchan Aruch 151:11, Levush 11, Mishnah Berurah 33.

<sup>119</sup> Refer to Biur Halacha "avol" who quotes the Rishonim.

<sup>120</sup> Ibid, Aruch Ha'shulchan 13.

<sup>121</sup> Refer to Tur, Shulchan Aruch 151:11, Magen Avraham 12, Be'er Heitiv 12, Levush 11, Mishnah Berurah 31, Aruch Ha'shulchan 12. The Machtzis Ha'shekel 12, Elya Rabbah 17 and Mishnah Berurah 32 say the condition does not have to be said out loud. Refer to Bais Yehuda 19:10.

<sup>122</sup> Refer to Magen Avraham 14, Pri Megadim Eishel Avraham 14, Be'er Heitiv 14, Mishnah Berurah 14, Aruch Ha'shulchan 3.

<sup>123</sup> Mishnah Berurah 34, Aruch Ha'shulchan 2. This is even in the *shuls* in *Eretz Yisroel* (Mishnah Berurah 38).

<sup>124</sup> Biur Halacha "lo."

<sup>125</sup> Opinion of the Rambam quoted by the Ran in Mesechtas Megillah page 9a, Bais Yosef 151, Magen Avraham 14, Shar Ha'tzyion 20, Biur Halacha "lo," Kaf Ha'chaim 66.

<sup>126</sup> Bais Yehuda 19:footnote 11.

<sup>127</sup> Tosfas Mesechtas Megillah ibid "batei," Korbon Nesanel Mesechtas Megillah 4:50, Levush 11, Machtzis Ha'shekel 15, Elya Rabbah 21, Mishnah Berurah 37. Refer to Magen Avraham 15.

<sup>128</sup> Footnote ibid, Magen Avraham 12, Shulchan Aruch 151:11, Levush 11.

<sup>129</sup> Orchos Rabbeinu ibid, Biur Halacha "avol."

<sup>130</sup> Outcome of the opinion of the Biur Halacha "avol." See Aruch Ha'shulchan 3, Halichos Shlomo Tefilla 19:1.

<sup>131</sup> Mesechtas Megillah 29a, Rashi "ein," Tosfas "ein," Rambam Hilchos Tefilla 11:6, Tur 151, Shulchan Aruch 151:1, Levush 1. Refer to Yalkut Yosef 151:pages 240-241. (In regard to smoking in a *shul* see Sharei Teshuva 154:20, Ben Ish Chai Vayikra 1:5, Kaf Ha'chaim 151:10, Melamed L'hoel 1:15, Yaskil Avdi O.C. 4:7:3, E.H. 6:1:2, Teshuvos V'hanhugos 1:159, Birchos Naftali 2:page 174:footnote 19). One who learns in a *bais medrash* all day should ask a *Rav* before smoking (Birchos Naftali 2:page 125).



*Berurah*<sup>135</sup> says one should not be stringent in this situation. Some say the reason why a *talmid chachum* is allowed to eat in a *bais medrash* is because it would be *bitul Torah* if he has to eat outside.<sup>136</sup>

Some *poskim* say in order to qualify as a *talmid chachum* one only has to know a minute amount of *Torah*.<sup>137</sup> This *heter* does not work to permit eating in a *shul*.

One who is learning or listening to a *shiur* in a *bais medrash* (and he does not meet the requirement for a *talmid chachum*) may drink in the *bais medrash* if he becomes thirsty, so that he does not have to interrupt his learning.<sup>138</sup>

It is important to point out that although a *talmid chachum* may eat and drink in a *bais medrash* he may still not act in a disrespectful way in a *bais medrash*.<sup>139</sup>

Many times when *tehillim* or a *shiur* is said in *shul* cake and drinks are distributed. This is permitted because it is being done to strengthen the recital of the *tehillim* or to increase attendance at the *shiur*.<sup>140</sup>

Children who come to *shul* may eat in *shul* because in this way they will be able to answer to *kaddish* etc.<sup>141</sup>

### ***Seudas Mitzvah***

The *poskim* say that eating a *seudas mitzvah* is permitted in a *shul* or a *bais medrash*.<sup>142</sup> Some say if one has no other place to make a *seuda* for a *siyum* then it is permitted to be made in a *shul* (or *bais medrash*).<sup>143</sup> The *minhag* is to make a *siyum* and serve food on *Erev Pesach* in a *shul* (or *bais medrash*).<sup>144</sup>

The custom is to allow *shalosh seudas* to be made in a *shul* (and in a *bais medrash*).<sup>145</sup>

The custom is that a *bar-mitzvah kiddush*, a *kiddush* for a baby girl and a *shalom zochor* are permitted to be made in a *shul* (or *bais medrash*).<sup>146</sup> The same is true for a *sheva berochos* or an *aufruf kiddush*.<sup>147</sup> Others say if

<sup>132</sup> Shulchan Aruch 151:1, Machtzis Ha'shekel 1, Elya Rabbah 2, see Taz 1. Refer to Biur Halacha "m'dochek," Mishnas Yosef end of 29.

<sup>133</sup> Aruch Ha'shulchan 5. Learning an hour or two does not make them eligible for this *heter* (Opinion of Horav Elyashiv Shlita quoted in Bais Yehuda 17:footnote 7).

<sup>134</sup> Mesechtas Megillah 28b, Rashi "may," Tur, Rama, Levush 2, Elya Rabbah 2, Mishnah Berurah 7-8, Kaf Ha'chaim 16. Opinion of Horav Elyashiv Shlita quoted in Divrei Chachumim 9:124. One who learns in a camp or bungalow *bais medrash* on a daily basis may eat and drink there because it is considered his home (Mishkan Dovid 2:7:footnote 19 quoting the opinion of Horav Korelitz Shlita).

<sup>135</sup> 151:9.

<sup>136</sup> Mishnah Berurah 151:7.

<sup>137</sup> Da'as Torah 151:page 4.

<sup>138</sup> Biur Halacha 151 "v'chein." Refer to Kaf Ha'chaim 9, Tzedaka U'mishpat 12:footnote 17.

<sup>139</sup> Biur Halacha 151" v'yeish omrim," see Aruch Ha'shulchan 2.

<sup>140</sup> Bais Yehuda 8:footnote 9.

<sup>141</sup> Bais Yehuda 8:11. Refer to *ibid*:8:footnote 24 if eating candy from the bags thrown by an *aufruf* in a *shul* or *bais medrash* is allowed.

<sup>142</sup> Refer to Shulchan aruch 151:4, Magen Avraham 5, Pri Megadim Eishel Avraham 5, Levush 4, Elya Rabbah 7. Some say a big *seuda* is forbidden (Machtzis Ha'shekel 5).

<sup>143</sup> Mishnah Berurah 20, see Pri Megadim *ibid*, Kaf Ha'chaim 34, Yoma Tova L'rabbanan 4:1. The Aruch Ha'shulchan 6 says one is permitted to make a *seuda* for a *siyum* even *l'chatchilah*. There is a discussion in the *poskim* if one is allowed to make a *seudas siyum* in *shul* etc that he does not learn in (refer to Yoma Tova L'rabbanan 4:3, Mishkan Dovid 2:8). A *bas-mitzvah* may not be made in a *shul* (Igros Moshe O.C. 2:30, see 1:104).

<sup>144</sup> Kapei Aaron 47.

<sup>145</sup> Ketzos Ha'shulchan 29:12, Yalkut Yosef 151:3, Yechaveh Da'as 3:10, Ohr L'tzyion 2:10:4, Mishnas Yosef 27:10, Minhag Yisroel Torah 151:1, Yabea Omer 10:14.

one has a different place to make the above mentioned *seudas* then one should do so.<sup>148</sup> A *chanukas habayis seuda* for the *shul* and a *kesivas sefer Torah seuda* are permitted in a *shul*.<sup>149</sup> The *kiddush* that most places have on *Simchas Torah* to celebrate the completion of the *Torah* may be made in a *shul*.<sup>150</sup> Making a *chosson Torah* or *chosson Bereishis kiddush* is also permitted in a *shul* (or *bais medrash*).<sup>151</sup>

If a *kinus* is made in a *shul* (or *bais medrash*) one may serve food and drinks to the participants since the point of the *kinus* is to bring the people closer to *Hashem*.<sup>152</sup>

The custom is to give out drinks and cake after a fast in a *shul* (or *bais medrash*).<sup>153</sup>

### **Yartzeit**

There is a custom to give out schnapps and cake in *shul* when one has *yartzeit*. Some say this should not be done since eating and drinking may not be done in a *shul*.<sup>154</sup> However, the custom is that doing so is permitted.<sup>155</sup> *Horav Yaakov Kamenetsky zt"l* explained the reason as follows: Some say the source to give out *l'chaim* and cake in the morning is because there was a widespread custom to fast on the day one has *yartzeit*, but one was able to redeem himself from fasting by giving a *seuda* to poor people. When one gives out *l'chaim* and cake in *shul* those who eat there sometimes do not eat breakfast because they are on the way to work, so in essence it is a *seuda* for poor people which is a *mitzvah* and permitted in a *shul*.<sup>156</sup>

### **Fundraising Dinner**

A fundraising dinner is permitted to be held in a *shul* because the fundraising dinner is for the benefit of the *shul*. Similarly, other functions which are for the benefit of the *shul* may also be performed in a *shul*.<sup>157</sup> Of course if there is an alternative way to do it not in a *shul* it is definitely preferred.<sup>158</sup>

### **Shteibel**

The idea of a *shteibel* is something that was not around years ago. In order to rid a *shul* or *bais medrash* of *kedusha* many make their places of *davening* etc a *shteibel* and then all actions are permitted there.<sup>159</sup> On the other hand many were against calling a *shul* a *shteibel* because it does not have the same *kedusha* as a *shul* and one is losing out on many other advantages of a *shul* by calling a place where people *daven* merely a *shteibel*.<sup>160</sup>

<sup>146</sup> Refer to *Orchos Rabbeinu* 1:page 75, *Bais Yehuda* 8:footnote 17 in depth, *Shevet Ha'Levi* 9:29, *Doleh U'mashka* page 101, *Mishkan Dovid* 2:21.

<sup>147</sup> *Tzedaka U'mishpat* 12:footnote 19 (old print), *Mishkan Dovid* 2:22, *Divrei Chachumim* 9:125. Refer to *Halichos Shlomo Tefilla* 19:footnote 1.

<sup>148</sup> *Teshuvos V'hanugos* 1:158, see *ibid*:4:46.

<sup>149</sup> *Mishnas Yosef* 27:10, *Mishkan Dovid* 2:15.

<sup>150</sup> *Bais Yehuda* pages 230-231.

<sup>151</sup> *Mishkan Dovid* 2:24.

<sup>152</sup> *Mishkan Dovid* 2:10.

<sup>153</sup> *Mishkan Dovid* 2:11:footnote 26 in depth.

<sup>154</sup> *Sdei Chemed* *bais hakenesses* 40:page 241, *Kaf Ha'chaim* 63, opinion of *Rav Ben-zion Abba Shaul zt"l* quoted in *Birchos Naftali* 2:page 122:footnote 10.

<sup>155</sup> *Orchos Chaim* (*Spinka*) 151:11:page 56, *Keren Dovid* 37:page 49b, *Igros Moshe* O.C. 1:45, *Yalkut Yosef* 151:4:footnote 7, *Doleh U'mashka* page 101. Refer to *Mishkan Dovid* 2:23:footnote 52.

<sup>156</sup> As explained by *Horav Yisroel Belsky Shlita*.

<sup>157</sup> *Horav Yisroel Belsky Shlita* quoting the opinion of *Horav Yaakov Kamenetsky zt"l*.

<sup>158</sup> *Horav Yisroel Belsky Shlita*.

<sup>159</sup> Refer to *Piskei Teshuva* 2:276:page 44, *Igros Moshe* O.C. 2:44, *Divrei Chaim* C.M. 2:32, *Tzitz Eliezer* 9:11:10-11, *Teshuvos V'hanugos* 2:113, *Piskei Teshuvos* 2:151:footnote 100.

<sup>160</sup> *Piskei Teshuva* 276:page 44, *Teshuvos V'hanugos* 1:157, 165, 166, *Kinyan Torah* 4:55. The *Meah Shearim* and *Bais Yisroel Shteiblach* are not real *shteibels* and have the same *kedusha* as a regular *shul* (*Mishkan Dovid* page 27).

## Summer Resorts

It is very common for bungalow colonies to have a place designated for *davening* which is also used for concerts, plays,<sup>161</sup> parties, and other *inyunim* of *kalos rosh* etc. The fact that the building is not called a *shul* does not matter since everyone wants a *shul* where they are staying, and even conduct big *seudas* to commemorate a new “*shul*.” Some say the justification is that they do not want any *kedusha* to go on this building and this was noted before the building was built. However, a *t’nai* does not help for *kalos rosh*, and to say they don’t want this to be a *shul* at all is not a simple manner, since then the *shul* would not be a place of *kedusha* at all. It is praiseworthy for summer resorts and bungalow colonies to have separate building to conduct these activities even if it goes into expenditure it is well worth the money spent on it.<sup>162</sup>

## Living on top of a Shul

Preferably one should not have his house on top of a *shul*.<sup>163</sup> A *goy* should not live on top of a *shul* either.<sup>164</sup> This *halacha* only applies to a situation where one had an apartment and then a *shul* is made underneath. However, if the house was originally set up that there would be a *shul* below the apartment then it is permitted.<sup>165</sup> Although some say one should still remove himself from such a situation,<sup>166</sup> the *minhag* is to be lenient.<sup>167</sup> This would explain how all over the world we have a concept of a *shteibel* where the *Rav* usually lives above the *shul*.<sup>168</sup>

The *Rambam*<sup>169</sup> says that one is permitted to live on top of a *shul*, but he must make sure that he does not have a bathroom directly above the *aaron kodesh*. Others say one’s bedroom should not be on top of a *shul* either.<sup>170</sup> Some say if the *Shulchan Aruch* would have seen this *teshuva* of the *Rambam* he would not have said that one should not live above a *shul*.<sup>171</sup> The *Taz*<sup>172</sup> says that one should not live above a *shul* and it is a danger to do so. The reason is because by having people live above the *shul* it is very common that one will not maintain it in the cleanest manner, and it will hold back the *tefillos* from going up to *shomayim*. Most *poskim* reject the *Taz*’s reasoning that because of the unclean conditions the *tefillos* do not go up to *shomayim*.<sup>173</sup> However, one should be stringent, since the *Taz* says that he lived on top of a *shul* when he was a *Rav* and lost some of his children *r”l* in his lifetime, because he lived on top of the *shul*.<sup>174</sup>

<sup>161</sup> Refer to Divrei Chachumim 9:125.

<sup>162</sup> Horav Yisroel Belsky Shlita.

<sup>163</sup> Mordechai Mesechtas Shabbos 228, Bais Yosef 151, Shulchan Aruch 151:12, Levush 151:12. Refer to Aruch Ha’s hulchan 15-16, Shemiras Haguf V’hanefesh 209:4, Minchas Shlomo 1:91:14. Some say this *din* applies to a women’s section as well (Avnei Yushfei 4:17:3). See Yalkut Yosef 151:footnote 46 on the question if the *shul* has to be the highest building in town (Shulchan Aruch 150:2) how is it possible that a person was able to sleep on top of it, see Halichos Shlomo Tefilla 19:footnote 6:pages 233-234.

<sup>164</sup> Taz 4, Divrei Malkiel 5:10:page 19, Yalkut Yosef 151:36. The Aruch Ha’s hulchan 154:1 says it is *k’dai* to be concerned for the *Taz*.

<sup>165</sup> Darchei Moshe 2, Rama, Magen Avraham 17, Mishnah Berurah 41, Pinenei Rabbeinu Kehillas Yaakov 1:page 99. Refer to Pri Megadim M.Z. 4. This is true even in *Eretz Yisroel* (Pri Megadim Eishel Avraham 17, see Biur Halacha “mutar”).

<sup>166</sup> Magen Avraham 18, Be’er Heitiv 16, Elya Rabbah 23, Kaf Ha’chaim 75. Refer to Mishnah Berurah 42.

<sup>167</sup> Refer to Yabea Omer O.C. 6:26.

<sup>168</sup> Refer to Teshuvos V’hanugos 2:712.

<sup>169</sup> Pe’er Hador 74:page 166, see Sefer Chasidim 813:page 475, Birchei Yosef 151:10, Sharei Teshuva 16, Mishnah Berurah 40. Some say even the floor below the *aaron kodesh* has *kedusha* (Lev Chaim 2:30, Torah L’shma 20). The *Mishnah Berurah* is not lenient like the *Rambam* mentioned above (Avnei Yushfei 1:24:2).

<sup>170</sup> Levush 151:2. Refer to Halichos Shlomo Tefilla 19:3.

<sup>171</sup> Chaim Shaul 1:56.

<sup>172</sup> 151:4, see Be’er Heitiv 16, Chesed L’alafim 151:12.

<sup>173</sup> Shar Ha’tzyion 151:22, Mishnas Yosef 33.

<sup>174</sup> The Aruch Ha’s hulchan 17 says it can’t be that the *Taz* lost some of his children because he lived above a *shul*.

Many *poskim* say the whole concern is if one lives directly on top of the *shul*, but if one lives on second or third floors etc there is no concern.<sup>175</sup> Others hold one should be stringent in this situation as well.<sup>176</sup>

A *shul* may have a bathroom on the second floor of the *shul* since it is for the need of the *shul*.<sup>177</sup>

The aforementioned *halachos* apply only to a *shul* and not to a *bais medrash*.<sup>178</sup> Therefore, a *Yeshiva* may have dormitory facilities on top of a *bais medrash*.<sup>179</sup> Although some say when learning at home he should be in a place that there is no bathroom directly on top of him,<sup>180</sup> the *minhag* is not like this opinion.

When one goes to a hotel, the room which is usually designated for *davening* usually has rooms built directly on top of it. The reason why this is permitted is because such a *tefilla* room does not have the *kedusha* of a *shul*.<sup>181</sup>

There is a discussion in the *poskim* if a catering hall is permitted to be built above a *shul*. Some *poskim* are stringent.<sup>182</sup>

In a hospital or nursing home the *minhag* is to have a *shul* on the bottom floor even though there are people sleeping etc upstairs.<sup>183</sup>

Some say the custom seems to be lenient in regard to these *halachos* because in many cases it would be difficult to find a place to *daven* that does not have a dwelling on top of it.<sup>184</sup>

This would explain why many *minyanim* are made in a basement and a tenant lives on top

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<sup>175</sup> Horav Yisroel Belsky Shlita, see Shevet Ha'Levi 1:27, 10:35:3, Halichos Shlomo Tefilla 19:footnote 10, Yabea Omer O.C. 6:26, Asei Lecha Rav 5:page 346.

<sup>176</sup> Avnei Nezer O.C. 32, Vayeishiv Moshe 2:8-89, Nekius V'kovod B'tefilla page 177:89 quoting the opinion of Horav Chaim Kanievesky Shlita, opinion of Horav Elyashiv Shlita quoted in Avnei Yushfei 1:24:3.

<sup>177</sup> Mishkan Dovid 8:17, Piskei Teshuvos 151:footnote 139. Nonetheless, the *aaron kodesh* should not be underneath the bathroom (ibid).

<sup>178</sup> Eishel Avraham Butchatch 151, Shevet Ha'Levi 9:32, Vayeishiv Moshe 2:88, Mishnas Yosef 34.

<sup>179</sup> It is therefore permitted for a *Kollel* to be underneath apartments (Divrei Shalom 5:33, Mishkan Dovid 8:22).

<sup>180</sup> Kaf Ha'chaim 74. One is allowed to daven in his house even if a bathroom is directly on top of you (Piskei Teshuvos 151:29).

<sup>181</sup> Be'er Moshe 3:22, Betzel Hachuchma 2:56, Mishkan Dovid page 24. The same is true for a *kever* that has a room where to *daven* (ibid:page 24). See ibid:page 25.

<sup>182</sup> Mishkan Dovid 8:24:footnote 44. In regard to a *mikvah* on top of a *shul* see Igros Moshe O.C. 4:51, Minchas Yitzchok 4:43, Mishkan Dovid 8:18.

<sup>183</sup> Mishkan Dovid 8:19.

<sup>184</sup> K'rayna D'igrasa 2:86:page 96, Minhag Yisroel Torah 151:3:pages 278-279. Refer to Eretz Tzvi 1:31.

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