

HEMDAT YAMIM

PARASHAT TZAV

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This edition of Hemdat Yamim is
dedicated to the memory of
**R' Meir ben Yechezkel Shraga
Brachfeld**

o.b.m

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This week.....

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How and What to Kasher; Why to Kasher

Among the topics some *rabbanim* will discuss at the Shabbat Hagadol *derasha* is *hechsher keilim*, to teach how to remove absorbed taste from the walls of year-long utensils should we want to use them for Pesach. Much of the classical discussion of the topic is in regard to the laws of Pesach (see Orach Chayim 451-2). Before people could afford separate sets of just about everything, for the year and for Pesach, *kashering* for Pesach was an important rite of the season. The Torah talks about *kashering* utensils in two places. The most famous one is in *Parashat Matot* (Bamidbar 31:22-23), in the aftermath of the war against Midyan, when the army took spoils that included cooking utensils that needed *kashering*. The other one is in our *parasha* (Vayikra 6:21), in reference to utensils in which a *korban chatat* was cooked. Because the taste absorbed in the pot's walls would become *notar* (holy meat that remained too long), the Torah writes that *klei cheres* (earthenware utensils) have to be broken and copper ones should be scrubbed and rinsed. *Chazal* learned from here that *hagala* (boiling water) does not work for *klei cheres* (see Rashi, Pesachim 30b).

Why did the Torah wait for these contexts to teach about laws that are so important in maintaining a kosher kitchen? On a halachic note, it is actually unclear if *hechsher keilim* is so critical on a Torah-level perspective. The *gemara* (Avoda Zara 76a) says that according to the opinion (which we accept) that non-kosher taste that spends 24 hours in the walls of a utensil does not prohibit food that was subsequently cooked in it, Torah law requires *kashering* only if one wanted to use *treif* utensils within 24 hours of their last use. Thus, before the Rabbis made things stricter, one could avoid most *kashering*, including for Pesach.

The Torah, though, requires *kashering* for holy utensils and discusses it regarding *keilim* acquired from non-Jews. Why is it noteworthy in these contexts? Perhaps the Torah is hinting at the following lesson. *Keilim* can technically have absorbed problematic substances, in which case, technical solutions (including waiting) suffice to solve the problems. However, utensils can also represent the activity with which they were involved. The Midyanite idolaters' utensils represent their heathen lifestyle and the lack of concern for the purity of what they eat. They should be cleansed, both through *hagala* and *tevilla* (immersing) before we can use them for our activities. Just as the meat of *kodashim* needs to be dealt with diligently and not allowed to become stale and stagnant, so too its *keilim* need to remain fresh, thus requiring switching of *klei cheres* and renewing other *keilim*.

We live in a world with tools that can promote sanctity, impurity, or some combination thereof. We must ensure that ours are being used in a manner consistent with the desired result.

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Question: I run a hotel that has many guests for Pesach. Can we put a box of egg matzot on each table so that those who need them will find them easily or must we be concerned of the very likely possibility that some will, out of ignorance or lack of interest, take these matzot when it is not warranted? Would it be considered *lifnei iver* (placing a stumbling block before the “blind”)?

Answer: Although you are aware of the basic bottom line on egg matzot, it is worthwhile to review relevant sources. The *gemara* (Pesachim 35b) says that fruit juices do not leaven flour. According to most *Rishonim* this applies to eggs as well (see Tur and Beit Yosef, Orach Chayim 462). However, there are several problems with using this ruling to make various types of what we call egg matzot a simple Pesach solution. (Realize that different brands of egg matzos use different liquids other than water. We will call all of them egg matzot for simplicity's sake.)

According to many *Rishonim* and the Shulchan Aruch (OC 462:2), not only can fruit juice mixed with water that is kneaded with flour become *chametz*, but it is expected to happen quicker than with flour and water alone. Thus, a *hashgacha* would have to ensure that the flour was not exposed to water before its preparation and not included in the egg *matza* dough. There is also a dispute between Rashi (stringent) and Tosafot (lenient) (Pesachim 35b) whether the *gemara* meant that egg matzot do not become *chametz* at all or just that their leavening is not complete enough for one who eats it to be *chayav karet* but that there is a lesser prohibition. Most *Rishonim*, including the Rambam (Chametz U'Matza 5:2) agree with Tosafot, but the Rama (OC 462:4) says that the *minhag* is like Rashi. The Rama's compromise is that only when there is a pressing need to be lenient, such as a sick or a very old person, may one eat egg matzot on Pesach. The Shulchan Aruch (ad loc.) is lenient, and thus Sephardic practice is to allow eating egg matzot on Pesach (see Yechaveh Da'at 1:10). In any case, it would be wrong for healthy Ashkenazim to eat egg matzot on Pesach (They are allowed to possess them and eat them after Pesach- Mishna Berura 462:18).

On *seder* night there is an additional problem. An egg matza, even if not *chametz*, is *matza ashira* (rich), which is not valid for fulfilling the *mitzva* of the night. Therefore, even Sephardim and the sick should not have egg matza where matza is required for the *seder*. (Other alternatives for those who don't chew or digest “regular matza” well exist but are beyond our present scope).

It is a good question whether putting egg matzot on tables, knowing that some people who shouldn't be eating them will, is a violation of *lifnei iver*. (See Yechaveh Da'at (ibid.) who demonstrates that even a Sephardi, who may eat egg matza, may not give them to an Ashkenazi). If you are not aware of the status of the people at each table, then you could use the principle of *t'liyach* (see Yoreh Deah 251). This means that when it is quite possible that the object one is giving will be used properly, it is permitted to give it to another even though there is a good chance it will be used improperly. While this is a legitimate approach to take in cases with problems without easy solutions (e.g., someone who runs a large store and cannot keep track of who is buying what), it is not acceptable here. Firstly, what do you, your waiter, or your *mashgiach* do when he learns who is who and sees them acting improperly? Also, how could you allow those who were told the *kashrut* is good to make a mistake and eat that which was on the table?

A simple solution is to have a table in the corner with egg matzot with a large sign that identifies the egg matzot as something that Ashkenazim may eat only when the situation is pressing. You may suggest that those with questions should ask the rabbi/*mashgiach*.

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The Time for Nature and the Time for Miracles

(based on Ein Ayah, Berachot 1:143)

Gemara: What did [Chizkiya] mean by saying, "I did that which was good in Your eyes"? ... Rabbi Levi said: he buried the book of remedies.

Ein Ayah: Trust in Hashem is mankind's *shleimut* (completeness), but it comes in different forms. Simple trust comes from a miracle, which comes when needed or when a great person deserves it. However, constant trust is to trust Hashem to help when one makes his own efforts. Regarding the nation, there are contradictions. Sometimes one's efforts are praiseworthy and necessary; sometimes they are negative. The battle of Ay was based on strategy Hashem dictated, whereas Gidon used few soldiers so no one should claim they brought the victory.

The matter depends on the nation's moral level. The goal of Hashem's world leadership is to bring His light fully, with its short-term and eternal good. When a person or the nation is on a high level, natural leadership along with organized human life will be recognized as Hashem's Hand. As the Ran writes, one must not relate his success to himself but should recognize that Hashem gave him the tools to succeed and reach *shleimut*. When man realizes this, he will recognize his Maker more when he succeeds naturally, requiring him to make efforts of wisdom and physical and spiritual strength. This is preferable to Hashem doing a one-time miracle. If one thinks how many pieces of Divine help he needs to succeed, his appreciation of Hashem will grow.

When the nation falls from its heights and becomes mired in physicality's vanities, not noticing what Hashem does, people's increasing their natural efforts will not increase recognition of Hashem. That's why at the beginning of the Israelite nation's knowledge of Hashem, miracles were needed, as the *pasuk* says, "for Israel was a youngster, and I loved him" (Hoshea 11:1). Love shown for a youngster may be different than love for an adult. A youngster likes when his father gives him things directly; an adult prefers when his father sets him up so that he can enjoy success with his skills. So too, miracles are good for a young nation, bringing knowledge of and closeness to Hashem in a way that a natural life would not. A more mature nation is better served by a life of diligence, improving itself in all elements and finding Hashem in nature. "Lift up your eyes and see Who created these" (Yeshaya 40:26).

At the time of the battle of Ay, Bnei Yisrael were ready to benefit from their own efforts. This is as Rav Saadya Gaon says that if we were to reach *shleimut* without efforts, Hashem would run the world in that way. In Gidon's time, the nation was at a much lower state, and success through efforts would have lacked moral impact, and so he limited natural efforts.

Chizkiya followed Achaz's evil reign. Due to a moral fall, efforts even regarding national matters, which are almost always good, needed to be replaced by total trust in Hashem. Therefore, Chizkiya said he had no power to combat Sancherev's army in any way. Hashem should save Israel alone and thereby lift the nation's spiritual state. The ultimate, future liberation can begin with miracles or natural successes. The latter is more appropriate if we keep *mitzvot* properly, by bringing national glory. If we will be on a low level, natural success would lower our spirituality.

Chizkiya buried the book of remedies. True, the Rambam said that medical efforts are not a lack of trust in Hashem. But the king saw that the nation would gain more by turning to Hashem in prayer with their great needs more than by searching for medical remedies. This was the good in Hashem's eyes. Similarly, Chizkiya was healed through a miracle as a sign for all of Israel. We, though, can enjoy natural liberation, which can be augmented by miracles to bring knowledge of Hashem to other nations or to elevate us even higher.

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Testimony That Was Accepted in the Absence of a Litigant

(based on Halacha Psuka, vol. 55- A Condensation of Piskei Din Rabboniim VI, pp. 281-291)

Case: The defendant (=def) brought testimony that *beit din* used to confirm her status of being married (illegally, unregistered) to and later widowed from a certain man in order to note this in her identity card. The plaintiff (=pl) was legally married to the same man and seeks to overturn the ruling regarding def, at least until the witnesses testify again. She argues that testimony that affects her (regarding inheritance) must be done in her presence.

Ruling: The Shulchan Aruch (Choshen Mishpat 28:15) rules that one must accept witnesses in monetary matters in the presence of both litigants. However, in our case, the matter about which the witnesses testified was not one of money. At the time it was accepted, the issue at hand was def's personal status. The Rashba (Shut IV, 200) says that we accept witnesses to allow one to marry a woman in the absence of his ex-wife despite possible impact on her if that was not the direct content of his testimony. Thus, we see in general that those who might be impacted by deliberations on another's personal status need not be present at related testimony. The Meiri, Mahari Bei Rav and Radvaz concur. In our case, pl's existence was not even known when def's status was explored.

Pl's claim is not one of personal status. She is certainly the deceased's widow, even if def also is one. Her issue is monetary, since the law recognizes a widow as having a stake in her husband's inheritance. Testimony that was accepted in regard to personal status alone can later be used in regard to monetary ramifications. The matter is clear based on logic. It is unreasonable to expect a couple dealing with the status of their marriage to bring to *beit din* every person who could be affected in the realm of inheritance (note- a man inherits his wife). We see a similar concept in the Chelkat Mechokek (EH 11:11). He says that while testimony about a wife's adultery must be accepted in front of the husband and wife regarding making her forbidden to him, the adulterer (who also becomes prohibited) does not need to be present unless the woman is married to him at the time of the testimony.

Might we require a repeat of the testimony when the new issue arises? The Rama (CM 28:15) cites two opinions regarding if there is a need and an effect of new testimony after testimony was incorrectly accepted in the absence of a relevant party. The Maharam Padova (73) says that if *beit din* already *paskened* based on the testimony, all agree that the testimony does not have to be reheard and cannot be changed. In our case, not only was the testimony done appropriately but even had it not been done correctly, since the proceedings were completed, their testimony is final and cannot be altered.

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Baba Kama 91-97

Encouraging Thieves to Repent

This week in the Daf Hayomi (94b), we learnt that Chazal instituted that, if someone had money stolen or if he borrowed money with interest and already paid the interest, then he should not accept his money in return. The reasoning for this Halacha is that, if we would obligate the thief or lender to pay, then he would refrain from repenting and fixing his ways, because of the large debts that he would owe. The Gemara states that, if the object itself that was stolen is still in the hands of the thief, then it must be returned, but if it no longer exists, then payment should not be accepted from the thief.

Many Rishonim (Tosafot "Biyemei Rabbi", and more) proved from many places in the Gemara that the Sages forced thieves to pay even in cases where the object stolen no longer existed. There are three main resolutions to this contradiction:

1. Rabeinu Tam (Tosafot ibid.)- The institution of our Gemara was limited to the time period when Rabbi Yehudah Hanasi was functioning as head of the Sanhedrin, but not for future generations. According to this opinion, this Halacha is not valid today and thieves must pay, and payment is to be accepted from them.
2. R"l (Tosafot ibid.)- The institution was only for thieves and lenders for whom this illicit income was their main occupation. The reasoning is that, for these people, if forced to pay, the debts would be staggering, but someone who stole or lent with interest on an irregular basis must pay and payment is accepted from him.
3. Rambam (Gzeila Ve'aveidah 1, 13)- The institution was only for thieves and lenders that came on their own to repent and return what they stole or the interest they took, but if they did not come on their own, but rather the Beit Din obligated them to pay, then they must pay and payment is accepted.

The Tur (Choshen Mishpat 366, and this is the opinion of the Nimukei Yosef as well) combined the opinions of the R"l and the Rambam and ruled that the institution is only for a thief whose main occupation was theft and who came on his own to repent. The Shulchan Aruch (Choshen Mishpat 366, 1) rules this way as well.

The Rishonim limited this Halacha in a few more ways. The Magid Mishneh (in his commentary on the Rambam ibid.) states that, from the wording of the Gemara that "one who accepts payment the Sages are not pleased with his actions," we see that the Beit Din does not force the person whose money was taken unjustly not to accept the payment, and if he insists that he wants the payment then the Beit Din must force the thief to pay.

The Tur writes that if the thief insists on paying than one may accept from him, and this is accepted by the Shulchan Aruch (ibid.).

In Sefer Chasidim by Rabbi Yehudah Hachasid, it is stated that if the person from whom the money was stolen is himself in debt to others and is unable to pay his debts, then he should accept the payment in order to repay his debts, as the institution was not meant to come at the expense of other debtors. This limitation is quoted by the Shach in his commentary to the Shulchan Aruch (ibid, 1).

the damage never occurred. However, if a person damages an object, even though the damage can be fixed, the fixed object is considered to be something new, and therefore the damager must pay for the damage in such a case.

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