

Living the Halachic Process
Volume 2

LIVING THE HALACHIC PROCESS

QUESTIONS AND ANSWERS FOR THE MODERN JEW

Answers to Queries Sent to the

ERETZ HEMDAH INSTITUTE

Headed by

Rabbi Yosef Carmel Rabbi Moshe Ehrenreich

Edited by

Rabbi Daniel Mann



Living the Halachic Process

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A companion CD to this book containing source sheets for the questions in the book is available. Contact Eretz Hemdah at:

3 Rabbi Chiya HaGadol St.
P.O.B. 36236 Jerusalem 91360 Israel
(972-2) 537-1485 fax (972-2) 537-9626
E-mail: info@eretzhemdah.org
Web Site: www.eretzhemdah.org

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We dedicate this book
with feelings of thanks and high regard

To Mr. Selik and Mrs. Susy Wengrowsky

Who Love and support Torah and have
been true partners in the building
of “Eretz Hemdah” From the start.

We wish them a continued life of
love of Torah and performing acts of
kindness with health and happiness
and the experiencing of great
nachat from their whole family

In memory of

Frieda Chana Goldmontz, o.b.m.

The daughter of Reb Moshe Menachem Sobel, o.b.m
Lodz – Basel (Switzerland)

A survivor of the death camps, she served her Maker in a God-fearing manner. She gave charity to the poor and raised a generation of righteous descendants. She passed away at an old age and with a renowned reputation
20 Tishrei 5762 (October 7, 2001)

In memory of members of her family who were killed sanctifying Hashem's Name:

Her father, Reb Moshe Menachem
ben Reb Shmuel Shmelke z"l,

May Hashem avenge his death; Her mother, Marat Raizel bat Reb Avraham Yehoshua Heshel, a"h, May Hashem avenge her death; Her brothers, Reb David, Reb Shmuel Shmelke, Reb Simcha Bunim, z"l,

May Hashem avenge their deaths.

"I will cleanse them, but for their blood, I will not cleanse them, and Hashem dwells in Zion" (Yoel 4: 21)

May her soul be bound in the bundle of life.

A year after the passing of our grandfather

Bernard Hochstein זצ"ל

we felt it most appropriate to dedicate this collection of responsa in his memory.

Grandpa perceived the world through the prism of halakhah and made the Torah his compass.

Moreover, he deeply believed that there was no greater mitzvah than leading others onto the path of Torah.

“Learning is not the main thing, but action is” (Avot 1:17)

Shprintzy and Effy

לע"נ
יו"ר כבוד של ארץ חמדה
ידיד אמת
נדיב לב
מכבד תורה
ואוהב אדם

יצחק מוינשטר ז"ל

Dedicated in Memory of
The Honorary Chairman of the Board of
"Eretz Hemdah"

A True Friend
Generous Benefactor
Loved his Fellow Man
Showed Great Respect for Torah

Isaac Moinester z"l

In Cherished Memory of

Perla Levkovich a”h

פרל בת נפתלי נחמן ואסתר גיטל

who will be sorely missed
by her loving family.

*Barbara, Tuvia, Zahava, Talia
and Arel Levkovich*

לעילוי נשמת

הרב פרופסור

ראובן משה רודמן ז"ל

נפטר בי"ז שבט תשס"ו
עמל בתורה ואיש מדע

שמר תם וראה ישר,
כי אחרית לאיש שלום
(תהלים ל"ז, ל"ז)

This Sefer is Dedicated in Memory
of our Beloved Fathers

Leonard Naider

יוסף אריה בן אברהם צבי

Joseph Serle

ישראל בן משה נחום

Who taught us leadership, menschlichkeit
and love of Yiddishkeit and Eretz Yisrael

May their memory be an inspiration to their
grandchildren and great-grandchildren
whom they both loved dearly, and may they be a
source of consolation and blessing for their wives
Molly Naider and Belle Serle
together with whom they instilled their future
generations with true Jewish values.

Anita and Fred Naider

ספר זה מוקדש בהוקרה

**לעילוי נשמת הרב סרג'יו יוסף
בן גרשון סיארה ז"ל**

הרב מנחם עמנואל הרטום ז"ל

החזן יצחק בן ידלף הלוי ז"ל

Rav Menachem Emanuele Artom *z.l.*
and Isacco Levi *z.l.*

על ידי קהילת טורינו, איטליה

Dedicated in memory of
Rabbi Lipman Z. Rabinowitz z”l

Dedicated to the memory of

Leah and Rabbi Jacob Mann

הרב יעקב ולאה מן ז"ל

Quincy, Mass.

Miriam and Abraham Roseman

אברהם אייזיק ומרים רוזמן ז"ל

Kew Gardens Hills, New York

YOUNG ISRAEL OF RIVERDALE

4502 HENRY HUDSON PARKWAY EAST
RIVERDALE, NEW YORK 10471

Mordechai Willig, Rabbi

וְיָא אִי רַ הַשָּׁנָה

חזקתו המהרה ימים יולדו מדי שנה קטנה
 מלפני כולם ארץ המדה קדושים, הניח, קדושה
 הרבה יום ומה ומה אנחנו שלמה, עונה א
 שאנו כל ימים ומינה קדושה נוסף הארץ חלק
 המהרה מופץ א קדושה קדושה - שאנו הרב,
 עזרה יקני ומהמי היקר והנאה היו עשה מן שלמה
 המהרה נבדלו קדושה וקדושה זכור שלם
 מן הוואי שלמה יקני מאר ספר שלם המהרה א
 המהרה המהרה הרבה. ולנו מהרה א כ
 המהרה המהרה זו עיצבו לקדש של שלם הרבה
 מהרה קדושה, מהרה ומהרה
 מהרה ומהרה

11 Iyar 5766

The Eretz Hemdah *Kollel* (Institute) publishes weekly the pamphlet “Hemdat Yamim.” The *Kollel*, headed by Rabbis Yosef Carmel and Moshe Ehrenreich *shlita*, answers the questions of individuals and institutions throughout the four corners of the world. Some of the answers appear weekly in the column “Ask the Rabbi,” which is edited by my dear and prominent friend and student, Rabbi Daniel Mann *shlita*. The answers were written with quotations of sources and logical explanations, and it is proper that the *Kollel* should publish a full book that gathers the answers for the benefit of the community. May all who are involved in this *mitzva* be blessed to sanctify His Name publicly for many healthy and productive years to come.

Mordechai Willig

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How to Use this Book

We have tried to make this book as clear and “user-friendly” as possible. Following are several things to be aware of, which will enable you to make the most efficient use of the book.

The book’s sections (alphabetized from א to כ) are organized roughly according to the order of the Shulchan Aruch, followed by questions of *hashkafa* (Jewish Philosophy). Within most sections, the questions and answers start with the most simple and those of interest even to those with limited background and progress to the more difficult and those that appeal to the more advanced learner. The exceptions are Mo’adim (Section ד – Festivals), which follow the order of the year (from Rosh Hashana), and Berachot (Section ב – Blessings), which is difficult throughout.

Names of books are italicized, whether they refer to the book itself or to the author of the book. When the book is named for the author or the acronym of the author’s name (e.g., the Rambam) or the author is known primarily by the name of his book (e.g., the Chazon Ish), the name is not italicized.

When a source is simply cited at the end of a statement (usually in the footnote), the statement can be found clearly in the source. However, when the citation says “see...” the source *may* not say precisely what the statement does. Rather, it may be arguable whether that is what the source indicates, or the source may be a good place to find information on the issue at hand. (Occasionally “see...” was used because the cited work may not be considered authoritative enough to be a full halachic source.)

A unique CD that accompanies *Living the Halachic Process* is available. It is comprised of source sheets, corresponding to the questions of the book, which contain major sources related to the answers. This enables the advanced learner to come to his or

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her own conclusion and/or deepen his or her understanding of the topics. It is particularly valuable for one who wants to present a class based on the questions in the book in a text-based format. The next page contains a sample source sheet. Those who are interested in the CD should contact us at 972-2-537-1485 or at info@eretzhemdah.org.

The extensive glossary also serves as an index (questions are referred to by the letter of the section, followed by the number within the section). All Hebrew words that are found in the Table of Contents are found in the glossary, even if they were explained in the body of the book.

Enjoy learning *Living the Halachic Process!*

Sample Source Sheet From Companion Compact Disc

A - 1

Individual Requests in *Shemoneh Esrei*

Q Is it permitted and advisable to add individual requests to one's tefilla?

4. שולחן ערוך אורח חיים סימן קיט סעיף א, ב

אם רצה להוסיף בכל ברכה מהאמצעות, מעין הברכה, מוסף, ביצה, וזה לו חולה מבקש עליו רחמים בברכת רפאנו; היה צריך פרנסה, מבקש עלה בברכת השנים. הגה: וכשהוא מוסף, יתחיל בברכה ואח"כ מוסף, אבל לא יוסף ואח"כ יתחיל הברכה (שור סי' תקס"ו); ובשומע תפלה יכול לשאול כל צרכיו, שהיא כוללת כל הבקשות; ולה"ל יונה, כשמוסף בברכה מעין אותה ברכה, אם מוסף אותו בשביל כל ישראל, אומר אותו בלשון רבים ולא בלשון יחיד, ולא יוסף אלא בסוף הברכה ולא באמצע; ואם שאל צרכיו ממש, כגון שיש לו חולה בתוך ביתו או שהוא צריך לפרנסה, יכול לשאול אפי' באמצע הברכה, והוא שישאל בלשון יחיד ולא בלשון רבים; ובברכת שומע תפלה וכן בסוף התפלה בין קודם יהיו לרצון בין אחריו יכול לשאול בין בלשון יחיד בין בלשון רבים, בין צרכיו ממש בין צרכי רבים.

יש מי שאומר שכשמוסף בברכה לצורך יחיד, לא יאריך.

5. ערוך השולחן אורח חיים סימן קיט סעיף ב

ודע דזה דבר פשוט שלא התירו חז"ל להוסיף בשמונה עשרה אלא במקרה כשצריך לה, אבל להוסיף תפלה קבועה תמידית בשמונה עשרה הוא הנחה יתירה והוצפא כלפי אנשי כנסת הגדולה, ועל זה יורה כל תלמיד חכם וכל אדם יראת ה' בקרבנו. ובמי יש לצעוק על המדפיסים שהוסיפו בסידורים בשמע קולו תפלה קבועה אלא ה' נתאחזי וכו' אתה הוא הון ומפרנס וכו'. ורבים מעמי הארץ ואומרים זה תמיד ככל תפלת י"ח, ולבי עלי דוי על המעשה הזה

1. גמרא, ברכות דף כט עמוד ב

רבי אלעזר אומר: העושה תפלתו קבע וכו'; מאי קבעו אמר רבי יעקב בר אריז אמר רבי אשעניא: כל שתפלתו דומה עליו כמשו; ורבע אמרי: כל מי שאינו אומר בלשון תחנונים; רבה ורב יוסף דאמרי תרוייהו: כל שאינו יול לחדש בה דבר. אמר רבי זירא: אנה וכלנא לחודשי בה מילתא, ומסתפינא דלמא משרדינא.

2. גמרא, עבודה זרה דף ח עמוד א

וחכמים אומרים: לא כדברי זה ולא כדברי זה, אלא שואל אדם צרכיו בשומע תפלה. (אמר רב יהודה אמר שמואל, הלכה: שואל אדם צרכיו בשומע תפלה.) אמר רב יהודה בריה דרב שמואל בר שילת משמיה דרב, אע"פ שאמרו: שואל אדם צרכיו בשומע תפלה, אבל אם בא לומר בסוף כל ברכה ובכמה מעין כל ברכה ובכמה - אומר. א"ל חייא בר אשי אמר רב, אע"פ שאמרו: שואל אדם צרכיו בשומע תפלה, אם יש לו חולה בתוך ביתו - אומר בברכת חולים, ואם צריך לפרנסה - אומר בברכת השנים. אמר ר' יהושע בן לוי, אע"פ שאמרו: שואל אדם צרכיו בשומע תפלה, אבל אם בא לומר אחר תפלתו, אפילו כסדר יום הכיפורים - אומר.

3. שולחן ערוך אורח חיים סי' קיב סעי' א

אל ישאל אדם צרכיו בג' ראשונות, ולא בג' אחרונות; ודוקא צרכי יחיד, אבל צרכי צבור שרי.



Foreword

“*Tovim hash'nayim min ha'echad*” (two are better than one). It is our privilege to present the second volume of “Living the Halachic Process.”

Prominent among the community services that Eretz Hemdah Institute happily provides for the broad Jewish community are the fax and internet “Ask the Rabbi” services, both for rabbis around the world and for the general public. The project was begun at the instruction of our president and spiritual leader, Hagaon HaRav Shaul Yisraeli, *zt”l*, and under his direct guidance. We have continued according to the principles he set out for us. In this framework, we have published six volumes of the BeMareh HaBazak series, comprised of answers in Hebrew to the queries of rabbis throughout the world, and we will soon publish the seventh volume. We are proud to present the second volume of *Living the Halachic Process*, a collection of responsa in English. This gives an opportunity for English-speakers to enjoy the fruits of Eretz Hemdah (which literally means, the desired Land).

We want to take this opportunity to praise our student and friend, Rabbi Daniel Mann, a graduate of Eretz Hemdah, upon whom we bestowed the “crown of *Yadin Yadin*” (ordination as a rabbinical judge) and who serves on our rabbinical court. Rabbi Mann has worked with dedication to have this book published, working hard on the details of each answer in order to present the public with “clean flour” (a polished product). If only there were more like him amongst Israel.

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We thank the heads of the Orthodox Union (OU), our partner in the “Ask the Rabbi” project. Our thanks also to Maggid Books for the professional work on the book.

With Torah blessings,

Rabbi Yosef Carmel

Rabbi Moshe Ehrenreich

Preface

The preface of the first volume of *Living the Halachic Process, Questions and Answers for the Modern Jew* began with our explanation of why we hoped its publication would add to the Jewish bookshelf. We at Eretz Hemdah can only thank HaShem that our expectations about the public's interest were exceeded. Therefore, we have embarked upon the venture of publishing a second volume with a gratified and settled feeling, and with the prayer that HaShem continue and increase our success of spreading the style of Torah publication that we believe in.

Since there are many who are unaware of our institution's activities and especially the service out of which this book emerges, let us review much of what we explained in the foreword of vol. I. To summarize in a sentence what this book consists of, we would say that it is a compilation of responsa written in English in a scholarly, sound, yet simplified and personal manner.

In order to understand this hybrid format, it is important to understand what responsa do (see also Introduction to the History and Process of Halacha, 4D, which is published in vol. I and is available on our website). Responsa literature is a compilation of answers to questions sent to leading halachic authorities (*poskim*), usually regarding specific cases that arose. Historically, they were usually sent by local rabbis who wanted to enlist the expertise of a recognized *posek*. Therefore, these answers of rabbis to rabbis tend to be complicated discourses, which jump from source to source and from topic to topic and include a myriad of questions, theses, proofs, and arguments. The need for simplicity and digestible presentations gives way to the need for the responding rabbi to prove his point to the colleague who asked the question and to centuries of rabbis who would analyze and apply it to parallel cases.

We at Eretz Hemdah have offered, for close to two decades and in collaboration with the Jewish Agency's Department for Religious Services for the Diaspora, a responsa service designed for rabbis from isolated communities. To date, we have published six Hebrew volumes of *BeMareh HaBazak*, which compile responsa written in this forum. We employed much of the classical approach while "updating" it with a more modern, academic style of writing and format, along with modern forms of communication, such as the fax and e-mail.

Living the Halachic Process utilizes a new genre to present a small sampling of some 15,000 questions that we have answered in the second stage of our Ask the Rabbi service. The questions are sent to us from throughout the world via the internet by Jews (and even non-Jews) with every possible level of Jewish knowledge and level of observance.

The idea to open an internet Ask the Rabbi site arose over a decade ago, partially in cooperation with the Orthodox Union (OU) in New York. We were excited about the opportunity it presented to Jews who need access to rabbinic rulings or advice, who want to access Eretz Hemdah's expertise, or who want the anonymity that the internet provides. Yet, we were aware of certain complications. Responses in most of our respondents' native Hebrew or even learned answers using complicated rabbinic style would be of little use to many queriers. We have tried to make peace between the rabbinic impulse to be halachically thorough and the practical need to keep things as short and straightforward as possible. The result is the style you will see in the responsa in this book. (Of course, depending on the level of the question and the apparent knowledge-base of the querier, the style and sophistication of the answers also varies.)

Another issue we must deal with is that we are answering directly to an interested party whom we do not know. This is different from classical responsa, where the local rabbi receives the responsum from the *posek* and then proceeds to explain it and apply it to the specific case of the congregant, who he knows. We

have to play the role of both the *posek* and the local rabbi and try to ascertain or intuit the background behind the personal question of someone we “meet” briefly within cyberspace.

The next question arose with regard to sharing the accumulated information with the public. On one level, we try to make as many Q’s & A’s as possible available on our internet site, after removing identifying information and censoring sensitive subject matter. However, we also want to highlight to a broader audience certain representative issues which would do more than just an answer a question. Rather, we want to further the knowledge, appreciation, and sophistication of those with an interest in the “why”s and “how do we know”s of halacha. We view this project as a tool to serve as a window to the fascinating world of responsa literature. In addition to the weekly Ask the Rabbi column, which he have published in our “Hemdat Yamim” and the OU Israel Center’s “Torah Tidbits” (under the title, “The Vebbe Rebbe”), we believe that book form allows for a serious study and learning experience. Thus, the idea for this book, *Living the Halachic Process*, arose.

What we mean by a *window* to responsa literature is that the presentations herein do not conform to the complete style of the responsa. We do explain the basis for our rulings. However, for sake of brevity and simplicity, we withhold the temptation to elaborate on every nuance, proof, derivation, equivocation, etc. that goes into our analysis of the sources referenced and the issues involved at arriving at an answer. We provide the skeleton; with all their flesh, most answers would be 5–10 times longer and much more textual and exacting than they are presented in this forum.

At the same time, we often find it important to hint at some of the practical, moral, or educational issues that affected our approach to the answer, which extend beyond the talmudic and halachic analysis. This is often important for the querier and/or for the public to be aware of.

In order for the learning experience to be more complete, we are concurrently preparing a CD of source sheets to accompany the Q’s & A’s in the book. This allows the more advanced learner to

conveniently look up some of the sources behind our rulings and compare and contrast them with his understanding of the matter. For technical reasons, this could not be distributed along with the book. They can be ordered through our office and are available on our website, under the link to *Living the Halachic Process*. We have been very pleased to see that the sheets have been used by scores of rabbis and Jewish educators to facilitate the study of halacha with an eye toward understanding the sources and logic upon which the final halacha is based.

Let us now discuss briefly our approach to the content of the halachic rulings that we render. In a word, that which we strive for, first and foremost, is balance. As we explained in the Introduction to the History and Process of Halacha, there are different approaches to various elements of rendering halachic rulings. From our perspective, it is crucial for the *posek* to arrive at a healthy balance in most regards, along the lines of the basic Maimonidean concept of “the golden path.” Let us mention a few areas where this is true.

We feel that it is important to be willing to look for significant leniency on many halachic issues. However, we do not feel that the general public should embrace tenuous leniency as a matter of course. Rather, cases of great need, which can take many forms, are the more appropriate time for applying unusually lenient rulings. We respect those who go out of their way to follow halacha stringently in their personal lives, by trying to ensure that their actions are acceptable according to even fringe opinions. However, we do not feel that this is the correct approach to be taken in general. We do not feel that this is a healthy approach, and certainly not for the segment of the community with whom we interact, in general, or those who make use of our Ask the Rabbi services.

We are of the opinion that custom, whether it be that of a family or of a community, should play a strong role in deciding halacha. Of course, our queriers, as well as the readership of our columns and this book, come from diverse communities with varied *minhagim*. However, the general orientation of the community

which we come from and which we serve is what is called in Israel, *Dati Leumi*, and in the Diaspora, Centrist or Modern Orthodox. Members of these communities are likely to have direct or indirect affiliation with such institutions as Yeshivot Hesder, Bnei Akiva, Mizrachi, Yeshiva University, Young Israel, etc. While we have love and respect for other “groupings” and their halachic approaches, our responses are as tailored to our natural “constituency” as possible. We also believe that it is positive to present our querier and our readership with a picture of the “halachic landscape” on a specific question. It is often not appropriate to give the impression that there is one clear ruling which is right in a specific case or for a specific person. Let one know that which is clearly permitted, that which is definitely forbidden, and that which is not clear and may depend on a person’s leanings or the dynamics of his circumstances, which may be beyond our capabilities to discern from a distance.

We also do not believe that our published works, our online services, or those of others are a substitute for a close relationship with a local rabbi. Such a rabbi should hopefully be the primary guide with regard both to halachic and personal matters. However, we are aware that in this “information age,” people do not want to be limited to a single source of information. Just as one may check the internet before or after going to his family doctor, he expects the freedom to become educated on certain issues in places other than at his rabbi’s doorstep. The interest in deeper and broader Torah knowledge is something that, after all, is a very healthy one. We hope that our efforts to be one of many providers of this broadening of people’s knowledge and understanding will continue to be blessed with Divine Assistance. We hope this book, in particular, will provide a new appreciation of the world of studying and applying halacha in a responsible and sensitive manner.

We hope that the reader will discern these approaches and find them balanced and fair but, of course, everything is relative and depends on the eye of the beholder. What might seem

balanced to us might seem extreme to someone else. If people on different sides of certain issues find us extreme in opposite directions, that may be an indication that we are somewhat balanced after all.

It is now my distinct pleasure to thank some of the people who enabled this book to see the light of day in its present form. Like all projects of Eretz Hemdah, this project was guided by our *roshei kollel* (deans), Rav Yosef Carmel and Rav Moshe Ehrenreich. Their continuous dreaming and implementation of the idea of training serious scholars as rabbinic leaders for the Religious Zionist community has enjoyed great success. Likewise, they have been the driving force behind the many additional projects Eretz Hemdah has undertaken to aid the worldwide Jewish community. These include but are not limited to: providing a respected address for halachic responses; training, enriching, and energizing the education of emerging and established rabbis; a variety of publications on subjects of the day; promoting and implementing the centrality of rabbinic courts that run professionally and are responsive to the realities of the modern economic climate. All these successes can also be credited to our founding president, mentor, and spiritual guide, Hagaon HaRav Shaul Yisraeli, whose accomplishments extended to every aspect of rabbinic endeavor. His involvement during the Institute's first decade and his memory over the last fourteen years since his death have shaped our course.

The English language Ask the Rabbi Service, from which the questions before you are primarily taken, has been guided by Rav Carmel with great dedication and expertise. It is he who approves answers written by the young rabbis of the *Kollel*, which are sent out to queriers. Because much editorial work has gone into the preparation of the answers that are published and since the deans and fellows of Eretz Hemdah are not native English speakers, I must take responsibility for the final word and wording of the material within. Keeping this responsibility in mind, I researched and wrote the great majority of the responsa in this book. As always,

everything was done with the approach of Eretz Hemdah in mind as much as possible. Many of the halachic rulings and their presentation were discussed with our deans.

To bring the literary quality of this book up to the standard we strive for, I enlisted the help of *avi mori* (my father/teacher), Rabbi Dr. Jonah Mann. He went over the texts with great dedication, making many important corrections and comments, with some further assistance from *imi morati* (my mother/teacher), Tirtza Mann. To complete the family effort, my daughter, Tehilla, helped me with some of the technical tasks in putting this work together. Riki Freudenstein has been proofreading “Hemdat Yamim,” the feeder to this book, for many years. The office staff at Eretz Hemdah, led by Yafa Rozenhak, has been of inestimable help in all of the Institute’s endeavors, including this one. Special thanks to Mr. Matthew Miller, publisher of Maggid Publications, and his capable staff, especially Rabbis Elli Fischer and Jeffrey Saks, for their dedicated and professional work, which greatly improved the final product.

Teachers, colleagues, friends, and students helped both in researching the answers and in reviewing portions of the text. Those who have helped in researching and crafting answers include: from Eretz Hemdah – Rabbi Menachem Jacobowitz, Rabbi Dr. Menachem Epstein, Rabbi Amotz Kohen, Rabbi Natanel Chayat, and Rabbi Yedidya Kahane; from Yeshiva University, my *rebbe* and now senior colleague, Rabbi Dovid Miller, and Rabbi Assaf Bednarsh. Some of the more recent questions in this volume were the subjects of classes that my students at Yeshiva University’s RIETS Israel Kollel at the Gruss Center in Jerusalem prepared under my tutelage. I felt that the process of researching and presenting real-life questions would be an important part of the training of future American-trained rabbis. I thank the administration of RIETS, under the leadership of Rabbi Zevulun Charlop and now Rabbi Yona Reiss, for encouraging this project, and to the dozens of students who have turned it into a successful experiment. Regarding reviewing parts of the end product, I would like to give

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my special thanks to my *rebbe*, Rabbi Mordechai Willig. In addition to helping me in so many ways over the years, he went over all of the responsa in this book and offered valuable insights on them. (That being said, it would be inaccurate to say that every statement in this book represents his personal opinion.) Another special thanks goes to my wife, Natanya, not only for her support, but for her *rebbetzin's* instincts and insights that also are imprinted on this project. May we be blessed to continue to educate our children in the ways of Torah, *yir'ah*, and *middot tovot* and continue to see *nachas* from them.

Rabbi Daniel Mann
Cheshvan 5770

Section A:
Tefilla (Prayer)

A-1: Individual Requests in *Shemoneh Esrei*

Question: Is it permitted and advisable to add individual requests to one's *tefilla*?

Answer: There is a certain tension between the importance of making *tefilla* responsive to the individual's needs and circumstances¹ and the importance of preserving the set framework of *tefilla*, as formulated by the *Anshei K'nesset HaGedola*.

The *gemara*² and *poskim*³ mediate this tension through the following balanced approach:

During the first three and last three *berachot* of *Shemoneh Esrei*, in which one praises and thanks HaShem, we make no requests.⁴ During the middle *berachot*, which are comprised of fixed requests, one may add private requests that pertain to the given *beracha* to address a present need (and not a future one, such as "Please may I not get sick").⁵ Some say that personal requests should be formulated in the singular, since using the plural, which is the format of the set *tefilla*, gives the impression that the *tefilla* itself is being altered.⁶

The last of the middle *berachot*, *Shomei'a Tefilla*, is the most general of all the petitionary *berachot* and thus most easily lends itself to personal requests. Therefore, any request may be added at that point, even those that relate to potential or future needs, and it may be formulated in the plural.⁷ However, even in this case, some *poskim* place limitations:

1. See *Berachot* 29b.
2. *Avoda Zara* 8a.
3. *Orach Chayim* 119.
4. *Shulchan Aruch*, *Orach Chayim* 112:1.
5. *Ibid.* 119:1.
6. *Ibid.*
7. *Ibid.*

1. The personal insertion should not be too long.⁸
2. A supplementary prayer should not turn into a permanent part of the *Shemoneh Esrei* text, as it is an affront to the *Anshei K'nesset HaGedola*, especially if the voluntary prayer is printed in a *siddur*.⁹ Others, however, are not troubled by this possible insult as long as the text of the supplementary prayer comes from a recognized source, such as the *Zohar*.¹⁰ Certainly, in the case of an acute and persistent need, one may continue praying for it on a regular basis.

The proper place to insert the addition is in the middle of the *beracha*,¹¹ preferably just prior to the last phrase preceding the *beracha*'s ending, e.g., where *Aneinu* is inserted on fast days.

The simplest place to insert personal petitions, however, is after the conclusion of the actual *Shemoneh Esrei* (before *Elokai Netzor*), either before or after reciting “*Yiheyu l'ratzon...*”¹² where none of the above reservations apply. There is a range of opinions whether it is best to use this safer system, or whether one should insert the request where permitted at the earlier, central part of *tefilla*.

There is no obligation to make any additions to *Shemoneh Esrei*. Moreover, it is perfectly appropriate for one to meditate on his private needs at the appropriate parts of the *tefilla*, without adding any words. Nevertheless, those who would benefit from expressing what is on their minds are encouraged to take advantage of this halachic opportunity. This also demonstrates that *halacha* at times has certain built-in flexibility and individuality, and is not as rigid and impersonal as some claim.

8. Ibid.

9. *Aruch HaShulchan, Orach Chayim* 119:2.

10. *Kaf HaChayim, Orach Chayim* 119:5.

11. *Shulchan Aruch, Orach Chayim* 119:1.

12. Ibid.

A-2: Responding to Adjacent *Minyanim*

Question: When I *daven* at the *Kotel* or other places where one can hear several *minyanim* simultaneously, can/should I respond to *Kedusha* and other prayers I hear from other *minyanim*?

Answer: We must analyze this question based on its halachic components and also deal with the issue as a practical whole.

The classical sources on this matter relate to *Kedusha* of *chazarat hashatz*. The Rama¹ rules that if one who already said *Kedusha* enters a *beit k'nesset* at that point in the *davening*, then he recites it again along with the congregation. Although his source² indicates that it is *optional* to repeat *Kedusha*, the *poskim* generally understand it is *preferable* for one to do so. Some explain that if one did not join the congregation for *Kedusha*, it would appear as if he disagrees with the concepts expressed therein, which is a disgrace.³ (All agree that this is a legitimate concern with regard to the first *pasuk* of *Kri'at Shema*.⁴) Others explain that the opportunity to sanctify HaShem's Name obligates one to answer.⁵ Both rationales apply to *Kaddish* and *Barchu*, where the congregation joins together to sanctify HaShem's Name.⁶

The passages for which it is proper to interrupt include the *p'sukim* that constitute the main part of *Kedusha*: “*Kadosh...*” and “*Baruch k'vod...*” (The introductory passages do not warrant interruption.⁷ Regarding the *pasuk* of “*Yimloch...*” it depends on where in the *davening* one is). In *Kaddish*, it applies to “*amen, Y'hei Sh'mei Rabba*” and the “*amen*” following “*...da'amiran b'alma.*”

1. *Orach Chayim* 125:2.
2. *Shut HaRashba* 1:249.
3. See *Yabia Omer* v1, *Orach Chayim* 20.
4. *Shulchan Aruch*, *Orach Chayim* 65:2.
5. *Igrot Moshe*, *Orach Chayim* 111:89.
6. See *ibid.* and *Mishna Berura* 65:9.
7. *Mishna Berura* 66:17.

The laws governing *hefsek* (interruption) allow one to respond to crucial passages during the great majority of one's prayer, including *P'sukei D'Zimra*, *Kri'at Shema*, and its *berachot*.⁸ During *Shemoneh Esrei*, one may not answer at all, but should stop and listen intently.⁹ During *chazarat hashatz*, one may respond.¹⁰

It would logically follow that upon hearing a passage that mandates a response at a point where one is permitted to respond, one certainly should do so. There are, however, other factors: Firstly, in the midst of one's own *tefilla*, it is possible that the principle of 'osek b'mitzva patur min hamitzva' (one who is involved in a *mitzva* is exempt from performing a different *mitzva*) applies.¹¹ Second, the concern that one would give the impression that he is not participating in the congregation's praise of HaShem is not relevant, since it is clear that he is part of a different *minyana*, which either has recently recited or will soon recite those same *tefillot*. Finally, it is not clear that there is an absolute obligation to respond to what he hears from others,¹² especially if he hears the *tefilla* from a distance or from a different room.¹³

These factors reduce the urgency of responding to the *tefillot* in question. There is the additional concern that it is difficult to respond to several different *minyanim*, especially in places such as the *Kotel*, where numerous *minyanim* may take place simultaneously. The *Tzitz Eliezer*¹⁴ cites Rav Chayim Palachi as being stringent on the requirement to answer, but as bemoaning the need to interrupt *tefillot*. The latter thus recommended avoiding places where this situation arises. (Of course, the inestimable positives of *davening* at the *Kotel* preclude applying such a recommendation there).

8. *Shulchan Aruch*, *Orach Chayim* 66:3 and *Mishna Berura* 51:8.

9. *Shulchan Aruch*, *Orach Chayim* 104:7.

10. *Ishei Yisrael* (by Rav Avraham Yeshaya Pfeiffer, Jerusalem, 5758) 24:16.

11. *Yabia Omer* op. cit.; *Tzitz Eliezer* XI:3.

12. *Ishei Yisrael* 24:(62) in the name of Rav S.Z. Auerbach.

13. See *Tefilla K'Hilchata* 13:(119) in the name of Rav Y.S. Elyashiv.

14. Op. cit.

A halachic problem may arise with regard to responding to other *minyanim* during one's *minyan's chazarat hashatz* since at least nine people must listen and respond to all of its *berachot*.¹⁵ *Poskim* also consider the confusion in one's own *tefilla* and the negative impact on each *minyan's* cohesiveness that may arise when people's concentration is pulled in multiple directions. As many people find it difficult to concentrate in general, this factor is all the more compelling.

Therefore, we suggest that the average person should not answer to the relevant passages of different *minyanim* in the midst of his own *minyan's davening*. During lulls, when one's concentration on his *tefilla* and *minyan* will not be compromised, it is proper to respond to these "peripheral *tefillot*."

15. See *Ishei Yisrael* 24:(63).

A-3: The Origin and Meaning of the *Haftara*

Question: Why do we read the *haftara*? What does the word mean?

Answer: Moshe Rabbeinu instituted the public reading of the Torah, and Ezra expanded it.¹ The reading of the *haftara* was established at some later point, during the period of the Second *Beit HaMikdash*, certainly before the end of the period of the *Tanna'im*.²

The *haftarot* mirror the reading of the Torah. The *gemara*³ states that the *haftara* should contain at least 21 *p'sukim*, corresponding to the seven *aliyot* on *Shabbat* multiplied by the minimum three *p'sukim* per *aliya*. The classic explanation for the institution of the *haftara*, found first in the Avudraham (14th century) and cited by many in his wake,⁴ is that the *haftara* was instituted during the time the ruling Greeks forbade the Jews from publicly reading the Torah. Instead, the Jews began reading passages from the *Nevi'im* that were thematically related to that week's scheduled Torah and that matched its minimal length. The *Levush*⁵ and *Tosafot Yom Tov*⁶ write that although the decree ceased, the practice, initiated under those difficult circumstances, was adopted permanently. This explanation fits with the grammatical root of *haftara* (*p-t-r*, connoting 'exemption'), in that the Jews of that time 'exempted' themselves from the normal obligation to read the Torah by reading from the *Nevi'im* instead (Avudraham).

Another approach, which Rav Yaakovson⁷ quotes from the

1. See *Bava Kamma* 82a.
2. As it is mentioned in the *mishna* in the 3rd *perek* of *Megilla*.
3. *Megilla* 23a.
4. See *Levush, Orach Chayim* 284:1.
5. *Ibid*.
6. *Mishna, Megilla* 3:4.
7. *Chazon HaMikra*, p. 20.

Likutei Pardes and others, sees the development of the *haftara* as being natural and not reactionary. The ancient custom was that after daily prayer, the congregation would remain in the synagogue and study *Tanach*, *Mishna* and *halachot*. When poverty spread, people had to work longer hours and did not have sufficient time to continue the custom on weekdays. However, on Shabbat and *Yom Tov*, when people did not work and had more time, the custom was preserved and turned into the practice of *haftarot*. According to this approach, the term ‘*haftara*’ may refer to the exemption or fulfillment of the directive to study from the *Nevi'im* (rather than from the Torah, as above). Rav Maimon⁸ suggests that the public reading of the *Nevi'im* was begun to counter the claims of the Samaritans who did not include those works in their canon.

The Avudraham cites other explanations of the term *hafatara* that relate to its position at the end of Torah reading, at which point it is permissible to talk (until *Musaf* and at appropriate times) along the lines of the phrase “*yaftiru safu*.”⁹ Similarly, it is the end of *Shacharit* (and thus, *haftara* is used in the same sense as “one may not conclude [*maftirin*] after the Pesach meal...”¹⁰).

8. *Chagim U'Moadim*, p. 199.

9. Rabbeinu Tam.

10. *Mishna, Pesachim* 10:1

A-4: One Who Is Unsure Where he Is in *Davening*

Question: I suffered a mild brain injury in a car accident and, as a result, I experience short-term memory loss. I sometimes lose my place in *Shacharit* or *Musaf*. Where do I begin from? Other times, I cannot remember if I *davened Mincha* or *Maariv*. Do I *daven* it over again? What should I do?

Answer: You deserve a lot of credit for your impressive perseverance and resolve to *daven* properly under difficult circumstances. These good questions can arise for anyone, and in a variety of situations. Unfortunately, many people lose their place in the middle of *davening* or forget whether or not they have *davened*. Before dealing with what to do in situations of uncertainty, it may be advisable to take preventative measures. Using a *siddur* with a different *beracha* on each page may eliminate some of your doubts. Similarly, it may be wise to check off on a calendar after you have completed a given prayer.

If one loses his place in the middle of *Shemoneh Esrei*, he returns to the first *beracha* he *knows* for sure that he *did not* say.¹ Several *poskim*² disagree with this opinion and maintain that one should start from the first *beracha* that he *might not* have said. The main reason for both positions is that, as opposed to a normal case of doubt about making a *beracha*, where the rule is to shy away from *berachot*, the *berachot* of *Shemoneh Esrei* are different.³ Despite this reasoning, the simple ruling is still that it is better to skip the *berachot* in doubt than to risk repeating them.⁴ This also

1. *Chayei Adam* 24:21.

2. See *Yabia Omer* 11, *Orach Chayim* 9, who cites these opinions and rules like them.

3. See the reason offered in *Yabia Omer* *ibid.*; *Tefilla K'Hilchata* 12:(217).

4. *Ibid.*; *Ishei Yisrael* 31:2. *Mishna Berura* 114:37 implies the same.

seems to be the more practical solution in your case. If the doubt is in one of the first three *berachot*, which are considered one unit, one returns to the beginning of *Shemoneh Esrei*. Similarly, if it is past *Retzei*, he returns to *Retzei*.

If one is unsure whether he already *davened*, he should say *Shemoneh Esrei* on condition that, if he already *davened*, this prayer should be voluntary.⁵ On Shabbat and *Yom Tov*, optional prayers cannot be said because our prayers correspond to sacrifices in the *Beit HaMikdash* and only obligatory sacrifices could be brought on Shabbat or *Yom Tov*. Therefore, if one is in doubt as to whether or not he needs to *daven* a given *Shemoneh Esrei* on Shabbat or *Yom Tov*, he may not *daven*.⁶ One should, however, try to listen to every word of *chazarat hashatz* and have in mind to fulfill his obligation thereby.⁷

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5. *Shulchan Aruch, Orach Chayim* 107:1 and *Mishna Berura* 107:2.
 6. *Shulchan Aruch* *ibid.*; see *Rambam, Tefilla* 10:6.
 7. *Ishei Yisrael* 31:3.

A-5: Davening with a Minyan vs. Vatikin

Question: I am studying on a campus that has a small Jewish population. Sometimes we have a *minyan* and sometimes not. Would it be preferable for me to *daven vatikin* (at sunrise) rather than take a chance at having a *minyan* later, especially since I have heard that *davening vatikin* may be preferable to *davening* with a *minyan* anyway?

Answer: It is difficult to choose between different priorities in *tefilla*. We will begin by providing some preliminary background.

The best time to recite *Kri'at Shema* is before (or, according to some, at) sunrise.¹ The best time to *daven Shemoneh Esrei* is immediately after sunrise. At whatever time of the morning one *davens*, he should proceed from the last *beracha* after *Kri'at Shema* directly into *Shemoneh Esrei*. The practice of *davening vatikin* enables one to have the best of both worlds, by finishing *Kri'at Shema* just before and starting *Shemoneh Esrei* just after sunrise.²

What should one do, however, if he does not have a *minyan* to *daven* with at that time? The *mishna*³ discusses the case of a man who is in a *mikveh* and barely has time to say *Kri'at Shema* before sunrise. It says that he should cover himself up and recite the *Shema*. He clearly does not have a *minyan* or even the opportunity to put on *tefillin*. Although *Kri'at Shema*'s text includes the instruction to put on *tefillin*, which makes it problematic to say it without wearing them, he should not wait. Commenting on that *mishna*, the *gemara*⁴ offers two explanations for this haste: 1. The *mishna* follows the (rejected) opinion that one *must* recite *Kri'at Shema* before sunrise. 2. It is referring to the approach of *vatikin*.

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1. See *Beit Yosef, Orach Chayim* 58.
 2. *Shulchan Aruch, Orach Chayim* 58:1.
 3. *Berachot* 3:5
 4. *Berachot* 25b.

The *Bi'ur Halacha*⁵ derives from here that those who are particular about *vatikin* may *daven* in that manner even if it requires them to do so without a *minyan* and without *tefillin*.

However, we contend that the *Bi'ur Halacha*'s suggestion is not recommended in many cases, as we shall demonstrate:

1. Several *poskim* say that one should give such precedence to *vatikin* only when one consistently follows this practice.⁶
2. For *tefilla* to be accepted as desirable it must be recited either with exceptional concentration or with a *minyan*.⁷ Therefore, only one who is confident about his level of concentration should *daven* without a *minyan*, even *vatikin*.⁸
3. Since the exact time of *vatikin* is difficult to calculate,⁹ it is not certain that one will receive its full benefit. Therefore, *tefilla* with a *minyan* is likely to be preferable.¹⁰
4. One whose ability to function during the day is negatively affected by having risen early for *vatikin* should consider whether the gain justifies the loss. (Rav S.Z. Auerbach said that, for this reason, he did not *daven vatikin*.)

In the case you describe, there is an additional, crucial factor that should be taken into account: In a small campus community like yours, it is crucial that those who are interested in having a *minyan* strengthen each other. Even if and when *vatikin* would be halachically preferable, your obligation to help strengthen your present community in general, and to increase the chance of a *minyan* specifically, outweighs the gain attained by *davening vatikin*.

5. To 58:1.

6. See *Ishei Yisrael* 18:(8).

7. See *Ta'anit* 8a.

8. *Yalkut Yosef* 1, p. 139.

9. See *Mo'adim U'Zemanim* IV:321.

10. *Tefilla K'Hilchata* 3:(34) in the name of Rav M. Feinstein.

A-6: Singing Along With the *Chazan*

Question: In the *shul* where I am *gabbai*, there are some parts of *chazarat hashatz* where the congregation sings along with the *chazan*, be it a few words or an entire section. A member of the community complained that it prevents him from hearing the *chazan* as he should. Should I intervene?

Answer: Public policy matters, especially concerning the way *tefilla* operates, are the domain of the congregational rabbi. In this response, we assume that your *shul* either does not have a *rav* or that you want to know whether or how to bring the matter to his attention.

The Rosh¹ strongly opposed those who recite *chazarat hashatz* along with the *chazan*, for several reasons. Most of his concerns do not apply (or are less applicable) to the present case, but one main potential issue may remain. Let us address our case in view of the Rosh's issues.²

Issue 1 – If one says *chazarat hashatz* along with the *chazan*, he is making *berachot l'vatala*,³ as he has already said his private *Shemoneh Esrei*. In our case, though, congregants recite only sections or words that do not include the “*baruch ata HaShem...*” formula, which is the problematic portion of the *beracha*.⁴ The concern that the congregation might continue on to the *beracha*'s conclusion⁵ does not apply, assuming that the parts sung in your *shul* never extend that far.

Issue 2 – By singing along, one does not have the opportunity to answer “*amen*,” as he is not allowed to utter this response right

1. *Shut HaRosh* 4:19, cited by the *Tur* (*Orach Chayim* 124).
2. The *Beit Yosef* and *Bach* (*Orach Chayim* 24) disagree whether issues 2 and 4 troubled the Rosh.
3. Blessings of no value.
4. See *Beit Yosef*, *Orach Chayim* 124.
5. See *Sha'arei Teshuva* 124:7.

after reciting the same *beracha*.⁶ This, too, does not apply in our case for the above reason.

Issue 3 – It is arrogant⁷ and frivolous to sing along out loud with any part of the repetition. This applies when a self-appointed assistant accompanies the *chazan*. However, when the congregation finds it uplifting to sing some sections together, it is not necessarily arrogant or frivolous.

Issue 4 – The *Mishna Berura*⁸ and *Igrot Moshe*⁹ maintain that the requirement that nine people listen to *chazarat hashatz*¹⁰ applies not only to the end of each *beracha*, but to its entirety.¹¹ One might want to argue that the principle of *shomei'a k'oneh* allows one to combine the parts of *chazarat hashatz* that he hears from the *chazan* with those he recites himself into one complete unit. In fact, when a *chazan* is unable to continue, we allow someone else to continue without going back to the beginning;¹² thus, one can fulfill *chazarat hashatz* (*b'di'eved*) with multiple *chazanim*. However, that applies only in between *berachot*. If a *chazan* is replaced in the middle of a *beracha*, the new one must start at the beginning of that *beracha*,¹³ even if he had been listening to every word until that point.¹⁴ Thus, two cannot share one *beracha*. Furthermore, it is difficult to concentrate on words that a group recites in unison.¹⁵

This matter can be addressed as follows: Firstly, when only a few words are sung in unison, the words that are not heard properly

6. *Shulchan Aruch, Orach Chayim* 51:2 and *Mishna Berura* ad loc.:3.

7. *Mishna Berura* 124:16.

8. 124:18.

9. *Orach Chayim* 1v:19.

10. See also *Nefesh HaRav*, p. 126.

11. The *Beit Yosef* does not mention this as one of the Rosh's concerns, but he may refer to a case where many others could hear the *chazan* and were listening.

12. *Shulchan Aruch, Orach Chayim* 126:2.

13. *Ibid.*

14. See *Mishna Berura* 126:8.

15. *Shulchan Aruch, Orach Chayim* 141:2.

usually do not disqualify the *beracha*.¹⁶ Even in critical sections, if the congregation only provides some background voices, then there will be at least nine who hear the *chazan* clearly enough to fulfill the requirements of *chazarat hashatz*. When the congregation totally drowns out the *chazan* during entire sections of the *tefilla*, it is proper for him to wait until quiet is restored before reciting that section.

Let us put things in perspective: Although, from a purist's approach, it is best for everyone to listen silently to the *chazan* with great concentration, we should be realistic. Practically, in most of our *shuls*, singing together significantly enhances the atmosphere and increases concentration. Therefore, trying to prevent it may not only be unfeasible, it would probably undermine efforts to achieve the atmosphere necessary to keep our *shuls* inviting, vibrant, and focused.

16. See *Mishna Berura* 126:10.

A-7: Changing Family Traditions of Pronunciation¹

Question: I have moved to a community where people pronounce Hebrew differently from the *minhag* on which I was brought up. How should I act privately and publicly?

Answer: The great majority of *poskim* agree that it is preferable to maintain the style of pronunciation that one ‘inherited’ from his father.² This is based on the concept “do not forsake the Torah of your mother.”³ One should maintain his family *minhag* even if he regularly prays in a *shul* where people use a pronunciation different from his; even if one already switched, it is best to switch back.

Exceptions to the rule pertain to some specific pronunciations about which all experts agree; in those cases, it is proper to use the accurate pronunciation. This applies, at least, to the letters “*ayin*” and “*chet*” and the vowel “*cholam*,” which are all pronounced correctly by the Sephardic community. One should exercise caution before making such changes, however, as it is better to use his previous pronunciation than to be inconsistent and inaccurate in the new, improved one. Regarding other changes, the purported experts do not always agree unanimously. When reciting *Kri’at Shema*, one should take care to stress the appropriate syllables, in accordance with the rules of Hebrew grammar, and as found in precise *siddurim* and *sifrei Tanach*.

It is widely cited in the name of the Chazon Ish that an Ashkenazi who pronounces Hebrew like a Sephardi should pronounce HaShem’s Name, at least, like an Ashkenazi. However, it appears preferable to recite the entire *tefilla* in a uniform manner, and,

1. Based on *BeMareh HaBazak* 111:1.

2. See Rav Kook’s *Orach Mishpat* 16–18; *Igrot Moshe*, *Orach Chayim* 111:5.

3. *Mishlei* 1:8; see *Chulin* 93b.

furthermore, there is no unanimity on what exactly the Chazon Ish's opinion was.

The above applies to a person's private reading, including his quiet *davening* in a group setting. However, if he is serving as a *chazan* or *ba'al koreh*, it is proper, if he can, to read according to the local *minhag*.⁴ This ruling takes on even greater weight if one's failure to conform to the local *minhag* is apt to confuse the *tzibbur* or, Heaven forbid, cause *machloket*. The need to preserve communal peace overrides the aforementioned concept of "the Torah of your mother."⁵

This response is for one's personal knowledge. In regard to displeasure with someone else's lack of compliance with this or other related rulings, one should realize that, *b'dieved*, one fulfills the *mitzvot* with any discernable pronunciation,⁶ as the *gemara* says, "one who reads and is not exact in his pronunciation fulfills the *mitzva*."⁷ Certainly, one should not *actively promote machloket* in the name of preventing *possible machloket*, unless his position (rabbi, or possibly, *gabbai*) justifies his sensitive intervention.

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4. *Igrot Moshe, Orach Chayim* 1v:23.
 5. *Orach Mishpat* 18.
 6. *Ibid.*
 7. *Berachot* 15b.

A-8: How Do Converts Refer to the Patriarchs?

Question: In a *minyan* of converts, should the *chazan* say, “*Elokeinu V’Elokei avoteinu*” (“our Lord and the Lord of our fathers”), given that the Patriarchs are not their biological forefathers?

Answer: The question of phraseology for a convert arises in the *poskim* regarding a convert in a regular *minyan*. Rabbeinu Tam¹ cites a *mishna*² that a convert cannot recite *mikra bikurim*³ because it contains the line: “the land that HaShem swore to our fathers to give to us.”⁴ Based on this, Rabbeinu Tam says that a convert cannot recite *Birkat HaMazon* to exempt others, since it contains a similar phrase, which is not accurate for him. Privately in *Shemoneh Esrei*, he should say, “*Elokei avot Yisrael*” (“the Lord of the fathers of Israel”). A similar problem would exist in *chazarat hashatz*, both in the first *beracha* of *Shemoneh Esrei* and in *Birkat Kohanim* in the Diaspora, making a convert unable to be *chazan*.

However, the *Shulchan Aruch*⁵ rejects this opinion and favors the view of the Ri in *Tosafot*.⁶ Basing himself on the *Yerushalmi*, the Ri points out that HaShem changed Avram’s name to Avraham, connoting “father of a multitude of nations.” Thus, all converts are considered his children, and the reference to “our fathers” is a proper one.

It is arguable that the convert’s ability to use these terms should be limited to cases in which there is a specific need; this would include reciting a *beracha* on behalf of a Jew from birth or

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1. *Tosafot*, *Bava Batra* 81a.
 2. *Bikurim* 1:4.
 3. The declaration one makes when bringing the first fruit to the *Beit HaMikdash*.
 4. *Devarim* 26:3
 5. *Orach Chayim* 53:19.
 6. Op. cit.

saying the *mikra bikurim*, which is a set quote from the Torah. If this were so, a *minyan* of converts should say, “the Lord of the fathers of Israel.” However, the implication of the *Bach*⁷ and *Mishna Berura*⁸ is that a convert can use the regular terminology in any setting.

It is certainly advantageous that the *poskim* allow converts to use the standard terminology. This helps the convert integrate more smoothly into Jewish society, as the Torah desires.

7. *Orach Chayim* 199.

8. 53:50 and 199:6.

A-9: Listening to *Kedusha* During One's Silent *Shemoneh Esrei*

Question: If I am *davening* the silent *Shemoneh Esrei* and am up to around “*Modim*” as the *chazan* is at *Kedusha*, do I respond to *Kedusha*?

Answer: A person who is *davening* the silent *Shemoneh Esrei* while the congregation is saying *Kedusha* should remain silent and concentrate on what the *chazan* is saying. He should wait and listen at least until the *chazan* completes the verse of “*Baruch kevod...*” and probably would do well to listen at least until the end of “*Yimloch...*”¹ Based on the rule of *shomei'a k'oneh* (listening is tantamount to responding), he is thus credited as one who actually recited *Kedusha*.² Rashi says that even though *shomei'a k'oneh* is effective with regard to receiving credit, it is nevertheless not considered an interruption, as actually answering would be. Rabbeinu Tam and the Ri disagree and say that one should not stop to listen because listening in order to fulfill the *mitzva* of reciting is indeed an interruption. We follow the opinion of Rashi.³

If one finished the *berachot* of *Shemoneh Esrei* and already said “*Yiheyu l'ratzon...*”⁴ prior to or during *Elokai Netzor*, he may say *Kedusha* along with the congregation.⁵ It is preferable to shorten or skip *Elokai Netzor* and take the three steps back before *Kedusha* begins.⁶

It is worth noting that this situation, being in the midst of *Shemoneh Esrei* when the *chazan* reaches *Kedusha*, is not an ideal one. If one comes to *shul* so late that he would not finish *Shemoneh*

1. See *Ishei Yisrael* 32:(53).
2. *Shulchan Aruch, Orach Chayim* 104:7.
3. See *Tosafot, Berachot* 21b.
4. *Mishna Berura* op. cit. 30.
5. *Shulchan Aruch* op. cit. 8.
6. *Ibid.* 122:1.

Esrei by *Kedusha*, then he should not even start.⁷ Many *poskim* say that if one regularly does not finish on time because he *davens* slowly, then he may start with everyone and not be deprived of the full effect of *tefilla b'tzibbur* on a regular basis.⁸ Some suggest anticipating the matter and starting *Shemoneh Esrei* somewhat before the congregation or speeding up the *davening* a bit, as long as these suggestions do not harm his *kavana*.⁹ Fortunate is he who *davens* at a *minyan* where he need not rush and can answer all that he should.

7. Ibid. 109:1 – see there for details regarding when he should start.

8. See *Ishei Yisrael* 33:4.

9. See discussions of the pluses and minuses of various options – *ibid.* (25) and *Yabia Omer* 11, *Orach Chayim* 7.

A-10: Dealing With a Missed *Parasha* When Traveling to Israel from Abroad

Question: I live in *chutz la'aretz* and will celebrate a second day of Shavuot there while Jews in Israel read *Parashat Naso* on what is, for them, a regular Shabbat. I plan to travel to Israel before the following Shabbat (*B'ha'lotcha* in Israel) and return shortly thereafter. What do I do about missing *Naso*?

Answer: Assuming that you will indeed miss *Parashat Naso*, to what extent is that a problem? The basic institution of *kri'at haTorah* on Shabbat is to read at least seven *aliyot* and any twenty-one *p'sukim* of the Torah publicly. In fact, at one time, the Torah-reading cycle in *Eretz Yisrael* was triennial; it took them three full years to complete the Torah.¹ According to the present custom, which originated in Babylonia, there is an additional element – that we are enjoined to complete the reading of the entire Torah annually. Thus, if you hear *Parashat B'ha'lotcha* in Israel but miss *Naso*, you still will have fulfilled the primary *mitzva* of taking part in a public Torah reading on Shabbat. Regarding the requirement to complete the Torah, some posit that it is a communal obligation and therefore not an issue for you as an individual.² It may be proper and sufficient to study *Naso* (in addition to *B'ha'lotcha*) that week in *shnayim mikra v'echad targum*,³ which is a personal obligation and which might have an annual element to it.⁴

At the same time, most *poskim* assume that it is at least worthwhile to make up the missing *parasha* if possible. The week you are coming is a good one to 'hitch a ride' with many others who

1. *Megilla* 29b.
2. See *Yom Tov Shenit K'hilchato* 9:(41) in the name of Rav S.Z. Auerbach and others.
3. The practice of reading the weekly *parasha* twice and the Targum Unkelos or Rashi's commentary on the *parasha* once during each week.
4. See *Ishei Yisrael* 38:(88) in the name of Rav Neuwirth.

are in a similar predicament, as we will explain. Those *bnei chutz la'aretz*⁵ who keep two days of Shavuot in Israel will also be in a quandary about *Naso*. One solution, which many will use, is to read both *Naso* and *B'ha'alotcha* on the Shabbat a week after Shavuot. This is based on a ruling by the Rama⁶ in a similar case: a community that was unable to perform *kri'at haTorah* one week should read the old and new *parshiyot* the next week. Some *poskim* prefer splitting the *aliyot* between the two *parshiyot* in the manner of a regular double *parasha*,⁷ whereas others suggest that the first *aliya* should include the entire first *parasha* and the first *aliya* of the second.⁸

Do not assume, though, that all large concentrations of *bnei chutz la'aretz* will have such a *minyan*. Some may justifiably consider a separate *minyan* unnecessary or even improper. There are also two other solutions that they may have used:⁹ They may have read all of *Naso* at *Mincha* of Shabbat/second day of Shavuot.¹⁰ (It is *theoretically* possible for you to arrange this reading in *chutz la'aretz*.) Alternatively, they may have gone to hear *Naso* read at a regular, "Israeli" *minyan* on their second day of Shavuot.¹¹

In any case, you may *lain* or get an *aliya* on *Parashat B'ha'alotcha* without a problem.¹²

5. Permanent residents of the Diaspora.

6. *Orach Chayim* 135:2.

7. *B'Tzeil HaChochma* v1:58.

8. *Yom Tov Sheni K'Hilchato* 9:(42) in the name of Rav Elyashiv.

9. Each having advantages and disadvantages, the discussions of which are beyond our scope.

10. Similar to *Dagul Merevava* on *Orach Chayim* 135; see article by Rav E. Bluth in *Yom Tov Sheni K'Hilchato* 14.

11. *Ibid.*

12. *Yom Tov Sheni K'Hilchato* 9:16.

A-11: When an Israeli Traveler Abroad Begins Asking for Rain

Question: When a resident of Israel is in *chutz la'aretz* during the period between 7 Cheshvan and December 5, does he say “*v'ten tal u'matar livracha*” (asking for rain) in *Shemoneh Esrei*?

Answer: The saying of “*v'ten tal u'matar livracha*” was instituted by the Rabbis based on the precipitation needs of the major Jewish communities of the time. According to our *minhag*, the entire Diaspora follows the Babylonian practice of praying for rain beginning from the day they calculated to be sixty days into *Tekufat Tishrei* (the autumn season). The Rosh¹ felt that areas with different rainfall requirements should not follow the Babylonian practice. In those countries that need rain at other periods of the year, one should be able to add “*v'ten tal u'matar livracha*” as appropriate. The *Shulchan Aruch*² agrees with the Rosh in principle but not in practice, out of deference to *minhag*. He therefore concludes that someone in a locality that, like Israel, needs the rainy season to begin earlier should nonetheless not begin praying for rain. If he did so, however, it is not certain whether he must repeat *Shemoneh Esrei* like someone who prayed for rain when inappropriate. Thus, he should repeat *Shemoneh Esrei* with the intention that it count as a *tefillat nedava* (voluntary prayer). The Rama³ does not require repeating *Shemoneh Esrei*.

The *Mishna Berura*⁴ cites two opinions on whether a *ben Eretz Yisrael* (one who resides in Israel) visiting abroad should follow the schedule of Israel (7 Cheshvan) or of the place where he is currently (December 5). The rationale to follow Israel's schedule

1. *ShutHaRosh* 4:10.
2. *Orach Chayim* 117:2 – see *Beit Yosef* ad loc.
3. Ad loc.
4. 117:5.

is more convincing if he will benefit from the rain, that hopefully will fall during this period, either because his family is there⁵ or especially if he plans to return home during that year.⁶

Because of the doubt that surrounds this matter, major *poskim*⁷ suggest the following simple solution: It is permitted to ask for rain in *chutz la'aretz* during the summer in the *beracha* of *Shomei'a Tefilla*, and it is sufficient *b'di'eved* to do so during the winter (useful for one who forgot to say "*v'ten tal u'matar livracha*" in its regular place). Thus, if a resident of Israel who is abroad says "*v'ten tal u'matar livracha*" in *Shomei'a Tefilla* (rather than in its usual *beracha*) during this intervening period (between 7 Cheshvan and December 5), he is safe according to all opinions.

Rav Feinstein,⁸ on the other hand, implies that these people should recite "*v'ten tal u'matar livracha*" in its regular place. This is because the *Shulchan Aruch* really agrees with the aforementioned Rosh and rules against him only because of the *minhag*. Since there is no clear *minhag* regarding travelers, a *ben Eretz Yisrael* can say "*v'ten tal u'matar livracha*" in its usual place after 7 Cheshvan in a country where rain is desirable at that time of the year. Nevertheless, the former opinion is the safer one, especially for Sephardim.⁹

One who began saying "*v'ten tal u'matar livracha*" in Israel and left with plans to return should continue to insert it in his *tefilla*,¹⁰ at the very least in *Shomei'a Tefilla*.¹¹ According to most authorities, a *ben Eretz Yisrael* in *chutz la'aretz* at this time may

5. *Ba'er Heiteiv* 117:4 in the name of the Maharikash.

6. *Ibid.*, in the name of the *Pri Chadash*.

7. Rav S.Z. Auerbach and Rav Elyashiv, quoted in *Yom Tov Sheni K'Hilchato* 10:2; *Yalkut Yosef, Kitzur* 117:15.

8. *Igrot Moshe, Orach Chayim* 11:102.

9. See *Birkei Yosef, Orach Chayim* 117:5; *Kaf HaChayim, Orach Chayim* 117:11.

10. *Birkei Yosef, Orach Chayim* 117:6.

11. *Yom Tov Sheni K'Hilchato* 10:4.

serve as *chazan*. He should follow his accepted practice in his silent *Shemoneh Esrei* but should omit “*v’ten tal u’matar livracha*” during *chazarat hashatz*.¹²

12. *Ishei Yisrael* 23:39.

A-12: A New *Beracha* When the *Oleh*¹ Was Shown the Wrong Place

Question: The *ba'al korei* showed the *oleh* the wrong place prior to his *aliya* and realized it during the *oleh's beracha*. The *ba'al korei* rolled the Torah to the correct place as the *oleh* continued his *beracha*. Should the *oleh* have started the *beracha* over?

Answer: Knowing the answer to this type of question is important because a quick decision is needed, and sometimes the *rav* is not present. It is difficult to choose from among the various opinions on the matter, and there are distinctions about which *poskim* differ. We will try to explain the basic approaches and then offer our suggestions.

The *Beit Yosef*² relates the following incident discussed by the Avudraham: On *Rosh Chodesh* of Tevet, the *sefer Torah* for the Chanuka reading was incorrectly opened before the one for *Rosh Chodesh*, and the problem was corrected after the *oleh* made his opening *beracha*. The Avudraham cited an opinion that the *oleh* should have made another *beracha* because of the delay caused by the rolling of the *sefer Torah* to the correct place. This position further compared the case to one who made a *beracha* on one food but ended up eating another – he is required to make a new *beracha*. Another authority disagreed with the first premise and, regarding the second, said that the *beracha* applies to all passages in the *sefer Torah*. Therefore, he says, making a new *beracha* is improper.

The *Beit Yosef* concludes that since we require a new *beracha* on the food he had not intended to eat even though it was before him at the time of the first *beracha*,³ the misled *oleh* also must

1. The person who receives an *aliya*.
2. *Orach Chayim* 140.
3. See *Shulchan Aruch, Orach Chayim* 206:6.

make a new *beracha*. Although he includes both aforementioned opinions in the *Shulchan Aruch*,⁴ he favors the one that mandates another *beracha* (without repeating the introductory passages of *Barchu*⁵). Nevertheless, recent Sephardic *poskim*⁶ conclude, contrary to the *Shulchan Aruch*'s ruling, that since there is a doubt whether or not to repeat the *beracha*, one should refrain from reciting it.

Ashkenazic *poskim* generally require a new *beracha* in such a case, but several caveats make the application of this rule somewhat rare. Most classical *poskim* rule that the matter depends on the *oleh*'s intention during the *beracha*. Since most *olim* do not think very deeply about what they are making a *beracha* over, the *poskim* must assess the *oleh*'s implicit intent. If the *oleh* becomes aware of the mistake before the end of the *beracha*, he need not make a new *beracha*.⁷ (Rolling the Torah without the *oleh* realizing would not help.) The *Mishna Berura*⁸ rules that all sections of the Torah that are visible to the *oleh* are included in his *beracha*. (The *Sha'arei Ephrayim*⁹ requires that both the correct and intended texts be in the same column). Thus, the most common mistakes that require a new *beracha* occur in the first *aliya*; likely scenarios include instances where the wrong Torah was taken out, the Torah was rolled inaccurately, or the correct opening column was moved during the previous *hagba*.

The *Pri Megadim*¹⁰ proposes a further limitation on the basic ruling. Noting that the case discussed by the *Rishonim* involved people who thought that they were supposed to read the Chanuka portion first, he says that if the *oleh* was aware of the correct reading but was inadvertently shown the wrong column,

4. Ibid. 140:3.

5. *Mishna Berura* 140:3.

6. See *Kaf HaChayim* 140:15; *Yalkut Yosef, Orach Chayim* 140:4.

7. *Bi'ur Halacha* 140:3.

8. Ibid. 9.

9. 4:17.

10. *Eshel Avraham* 140:4.

then he does not make another *beracha*. Although the classical *poskim* and the *Mishna Berura* apparently reject the *Pri Megadim* and the accepted practice seems to follow the *Mishna Berura*, the *Pri Megadim* makes a lot of halachic sense. The Radvaz¹¹ raises a further point, namely, that the *beracha* relates primarily to the *mitzva* of public Torah reading, with the specific text being secondary. Of great importance is the fact that leading recent *poskim*,¹² including Rav Moshe Feinstein,¹³ accept the position of the *Pri Megadim* and the fact that we try to avoid questionable *berachot*.

We suggest the following (if the *rav* is not present). If you recall that the *shul*'s practice is to follow the *Mishna Berura* and that the correct column was not visible to the *oleh* when he made his *beracha*, have him make a new *beracha*, unless he is Sephardic, he refuses, or you expect him to be upset if told to repeat the *beracha*. Otherwise, do not instruct the *oleh* to make a questionable *beracha*, given the opposition of many important *poskim*.

11. 1:248.

12. See *Piskei Teshuvot* 140:3.

13. *Igrot Moshe, Orach Chayim* 1:36.

A-13: Who Says the *Kaddish* Following *Kri'at HaTorah*?

Question: Who is supposed to say the *Kaddish* following *kri'at haTorah*: the *ba'al korei* or a mourner?

Answer: Let us begin with some background: Each *Kaddish* has its own independent function, but there is also a significant goal to have a minimum of seven *Kaddeishim* each day, in line with the *pasuk*: “Seven [times] in the day I praised you.”¹ The central element of *Kaddish* is the phrase “*Y’hei sh’mei rabba...*,” which sustains the world.² In addition to the general sanctification of HaShem’s Name, there are specific reasons why it is important for a mourner to say *Kaddish*. Firstly, the resulting *kiddush HaShem* may atone for a *chillul HaShem* that the deceased might have caused or been involved in, and for which he had not completed the *teshuva* process.³ It also can serve as *tzidduk hadin* (acceptance of Divine judgment).

When a mourner serves as *chazan*, he has the opportunity to say the *Kaddeishim* that are part of the *tefilla*. In addition, *Kaddish Yatom* was instituted to provide mourners (one or all, depending on the local *minhag*) an opportunity to recite *Kaddish* even if they are not serving as *chazan*. Even though *Kaddish Yatom* can be recited on behalf of deceased non-relatives, generally, one whose parents are both alive should not say it.⁴

The *Kaddish* after *kr'iat haTorah* is not really a *Kaddish Yatom*, and the *ba'al korei* may recite it even if both of his parents are living.⁵ However, several *sefarim*⁶ cite a *teshuva* of the Rashbetz that

1. *Tehillim* 119:164; see *Beit Yosef, Orach Chayim* 55.
2. *Sota* 49a.
3. *Gesher HaChayim* 1:30:4.
4. *Rama, Yoreh De'ah* 376:5; *Pitchei Teshuva* ad loc. 3.
5. *Gesher HaChayim* 1:30:8.
6. *S'dei Chemed, Aveilut* 163; *Gesher HaChayim* *ibid.*; *P'nei Baruch* 34:14.

states that mourners are entitled to say this *Kaddish*. Although a mourner may do so even if he was neither the *ba'al korei* nor the last to receive an *aliya*,⁷ sometimes it is arranged that the one who will say *Kaddish* be given the last *aliya*.⁸

On the other hand, we have heard in the name of Rav S.Z. Auerbach that the *Kaddish* after *kri'at haTorah* belongs to the *ba'al korei*. In practice, different congregations have different customs in this regard, and many have no set policy on the matter.

It is critical to remember the *Gesher HaChayim*'s⁹ warning: Since *Kaddish* is designed to rectify *chillul HaShem*, it is tragically counterproductive to fight over it and create further *chillul HaShem*.

7. *Elef HaMagen* 3:3.

8. *Kol Bo Al Aveilut*, p. 374.

9. 1:30:9.13.

A-14: Steps to Ensure that *Kri'at Shema* is Recited at the Right Time

Question: It bothers me that, at the *shul* where I usually *daven*, we often miss *sof z'man Kri'at Shema*.¹ What can I do about this problem, and is it proper for me to continue *davening* in that *shul*?

Answer: Many *shuls* do not reach *Kri'at Shema* before *sof z'man Kri'at Shema*, which corresponds to the midpoint between sunrise and noon. (We will not discuss here how to calculate that time.) This is an issue primarily on Shabbat and at the late *minyán* on Sunday (in the Diaspora) during certain times of the year. Even if one missed *sof z'man Kri'at Shema*, he may recite it normally for at least another full halachic hour, but with a qualitatively inferior fulfillment of the *mitzva*.²

We will mention solutions to this problem in descending order of preference: If the congregation will miss *sof z'man Kri'at Shema* by a matter of minutes, you can *inconspicuously* recite *Kri'at Shema* at the right time and wait for the congregation to catch up during the following portion of the *tefilla*, which is the long *beracha* after *Kri'at Shema*. During that time, you should answer only “*amen, y'hei sh'mei rabba...*,” “*amen*” at the end of *Kaddish*, and *Barchu*.³ According to most opinions, you may wait for a long time at that point in the *tefilla*, but it may be preferable to say a sentence every few minutes.⁴

This system works well halachically, but is not appropriate for everyone, as it is too complicated for some people. Furthermore, one may not be adept at being inconspicuous or may *daven* in a *shul* where his neighbors would react negatively if they became

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1. The end of the time during which *Kri'at Shema* may be recited properly.
 2. *Shulchan Aruch, Orach Chayim* 58:6.
 3. *Ibid.* 66:3 and *Mishna Berura* ad loc. 17.
 4. *Ibid.* 65:4.

aware of his actions. It may be wrong for people to be overly sensitive to what strikes them as ‘holier than thou’ behavior. Nevertheless, this reaction is such a common human reaction and its consequences are so potentially negative that scores of *halachot* are based on avoiding these situations.

A simpler idea is to recite the three sections of *Kri’at Shema* prior to the *tefilla*, at the proper time, in order to fulfill the main *mitzva*, and repeat them, along with their *berachot*, as part of the *tefilla*. Some opinions regard this system as qualitatively lacking, as the *Kri’at Shema* that leads into *Shemoneh Esrei* should be the one that fulfills that *mitzva*. However, the classical *poskim* seem to treat this compromise as a reasonable one.⁵ If one is not sure whether the congregation will make *sof z’man Kri’at Shema*, then some say it is possible to have in mind to fulfill the *mitzva* of *Kri’at Shema* at the earlier point on the condition that the congregation will not have made it in time in the normal place in *tefilla*.⁶ If the congregation will not even make it to *Kri’at Shema* and *Shemoneh Esrei* by *sof z’man tefilla*⁷ (a halachic hour later than *sof z’man Kri’at Shema*), it is halachically preferable to *daven* without a *minyan*, but at the right time.⁸

The question of whether it is proper to *daven* in a *shul* that routinely misses *sof z’man Kri’at Shema* cannot be answered in a vacuum, yet cannot be ignored. Many *shuls* have an early *minyan*, and *sof z’man Kri’at Shema* is a legitimate factor in favor of attending it. It is also proper to consider *sof z’man Kri’at Shema* when choosing a *minyan* during vacation time. Those who tend to be careful on matters like *sof z’man Kri’at Shema* may be bothered with the following question: what type of community am I in if

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5. *Rama, Orach Chayim* 46:9 and *Mishna Berura* 46:32.
 6. Notes of Rav Akiva Eiger on *Magen Avraham* 46:16. There is a fascinating discussion whether or not this works; see *Yalkut Yosef, Kri’at Shema* 4 and elsewhere.
 7. The end of the time during which *Shemoneh Esrei* of *Shacharit* may properly be recited.
 8. *Mishna Berura* 46:32 and 90:36.

people do not care enough to *daven* at the proper time? Realize that it is a local rabbi's responsibility to determine *realistically* what is best for his congregation with regard to this and many other factors. Once he has done so, it is important for those members who are more meticulous about their observance than most of their peers to consider the needs of the community as a whole as a sacred responsibility. At times, this warrants making compromises on that which is halachically preferable. If one cannot do so with a smile, then he might do more harm than good by staying in the *shul*. The issue can be discussed with the rabbi with the proviso that it is presented in a manner that is not only intended to be respectful, but is received that way as well.

A-15: Which Comes First – *Kaddish* or *HaGomel*?¹

Question: On Mondays and Thursdays, we often give the third *aliya* to someone who has to say *Birkat HaGomel*. Does he make the *beracha* before or after *Kaddish*?

Answer: The *Kaddish* that is recited after *kri'at haTorah* is connected to it. Therefore, there should not be a serious break between the end of *kri'at haTorah* (and its normal concluding *beracha*) and *Kaddish*. However, we have to look for precedents to see whether the recitation of *HaGomel* and the corresponding response constitutes a problematic break.

The *Kitzur Shulchan Aruch*² says that if the *chazan* at *Mincha* stopped between the end of *Ashrei* and *Kaddish* to put on a *tallit*, he should say a few *p'sukim* before *Kaddish*. This is because *Kaddish* relates to the *p'sukim* of *Ashrei* and because putting on the *tallit* is too significant a break. Following this approach, one would assume that *HaGomel* is also too great a break between *kri'at haTorah* and *Kaddish*.

We can counter this indication in several ways: First, there are other breaks that are not deemed problematic. For example, we do not recite *Kaddish* immediately after *kri'at haTorah* of *Mincha* on *Shabbat*, so that it will be recited directly before *Shemoneh Esrei*. That *Kaddish*, though, also relates to *kri'at haTorah*. The *Magen Avraham*³ explains that *hagba-gelilla* and the *p'sukim* recited upon returning the *sefer Torah* are not considered a break. Nevertheless, we cannot use this as a firm proof because, as he explains, those parts of the *tefilla* are considered just an extended

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1. This response is based on *BeMareh HaBazak* v:6.
 2. 69:5.
 3. 292:2.

ending of *kri'at haTorah*. One can claim that, in contrast, *HaGomel* is unrelated to *kri'at haTorah* and constitutes a halachic break.

Second, returning to the first analogous case, many *poskim*, including the *Mishna Berura*,⁴ say that putting on a *tallit* or *tefillin* is not a sufficiently long break to mandate repeating *p'sukim* before *Kaddish*. Since he stresses the break's brevity, not its subject matter, *HaGomel*, a short *beracha*, should not be considered a break either.

Third, normal interruptions do not count as halachic breaks between *Kaddish* and the preceding passages to which it applies. For this reason, we say *Kaddish Shalem*, which relates to *Shemoneh Esrei*, despite the breaks for *Hallel*, *kri'at haTorah*, etc. in between *Shemoneh Esrei* and that *Kaddish*.⁵ One can argue that since *HaGomel* is normally said at the conclusion of one's *aliya*, it is, at least informally, part of the *kri'at haTorah* procedure and hence not a halachic break.⁶ Still, one may counter that *Kaddish Shalem* is different because it was originally intended to be said long after *Shemoneh Esrei*. In contrast, the *Kaddish* after *kri'at haTorah* can, and perhaps should, be recited immediately after the end of the last *aliya*. Nevertheless, the idea that normal procedure does not constitute interruption likely remains pertinent.

Another difference between the cases is that the *ba'al korei*, who usually recites the *Kaddish*, is not the one who is reciting *HaGomel*. In a similar situation, the *Mishna Berura*⁷ urges the *chazan* not to talk between *Shemoneh Esrei* and *Kaddish Shalem*, to avoid an unwarranted break. However, we do not find that the rest of the congregation has the same restriction. Similarly, what the *oleh* does should not be so important. On the other hand, an opposing view can be taken, namely, that the whole congregation responds to *HaGomel*, and that public interruption is more

4. 54:12.

5. *Terumat HaDeshen* 13; *Mishna Berura* 123:18.

6. See *Kaf HaChayim*, *Orach Chayim* 123:27 regarding a *Mi Shebeirach*.

7. 123:18.

problematic than an individual talking before *Kaddish Shalem*. Nevertheless, the fact that the *ba'al korei* does not recite *HaGomel* seems significant, at least if he does not respond.

After comparing our case to halachic parallels and making distinctions, we conclude as follows: All things being equal, it may be preferable for the third *oleh* to wait until after *Kaddish* to recite *HaGomel*. After all, there is no halachic requirement to connect *HaGomel* to an *aliya*; indeed, one who says *HaGomel* does not need an *aliya*. However, if he wants to recite it before *Kaddish*, we do not have sufficient grounds to disallow him from doing so.

A-16: Making Up Missed Portions of *Kri'at HaTorah* at *Mincha* of Shabbat

Question: On Shabbat morning, the *ba'al korei* omitted two words in the midst of the *laining*. People initially assumed they had heard incorrectly, but the matter became clear near the end of *Musaf*. No decision was made about what to do until *shul* dispersed (the *rav* was away). At *Mincha*, we started reading from the point of the error, and the *kohen's aliya* ended at its regular place in the new *parasha*. Were we correct?

Answer: The *Shulchan Aruch*,¹ in discussing the case of a *ba'al korei* who missed a *pasuk*, makes the following distinction: If the omission occurred during a weekday *kri'at haTorah*, then as long as the minimum number of *p'sukim* were read, we need not go back to read the omitted *pasuk*. However, on Shabbat morning, we must go back and read the omitted *pasuk* together with two adjacent *p'sukim*.² If need be, this is done even after the *sefer Torah* has been returned to the ark. Most *poskim* rule that we do the same even if just a single word was omitted.³ The regular *birkot haTorah* are recited before and after the three *p'sukim*.⁴ However, if we become aware of the mistake right after the *aliya* where it occurred, then we do not need a separate *aliya*, rather, the next *aliya* starts from the place of the mistake and continues into the reading of the next *aliya*.⁵ If the *pasuk* in question is within three *p'sukim* of a break

1. *Orach Chayim* 137:3
2. The requirement found regarding *Megillat Esther* for the text to be read in order does not apply to *kri'at haTorah*; see *Da'at Torah* ad loc.
3. *Mishna Berura* 137:8.
4. *Magen Avraham* 137:6; *Taz* 137:3; see *Massechet Sofrim* 21:6.
5. *Mishna Berura* 142:2. The *Sha'ar HaTziyun* 142:3 explains that it is halachically sufficient to begin the new *aliya* with the problematic *pasuk* and perhaps another two, and then to skip to the next *aliya*. However, it is preferable to read straight.

in the Torah text (*p'tucha* or *s'tuma*), we start reading from the beginning of that section.⁶

Your case is more complicated in that the *Shulchan Aruch's* ruling was not employed immediately. The question is whether *Mincha* is a suitable time to make up the omission, and, if so, how? There is little discussion of this matter amongst the classical *poskim*, but the following approach emerges from our analysis.

There is a general *machloket* between Sephardic and Ashkenazic *poskim* as to whether a community can read the weekly *parasha* at *Mincha* of Shabbat when they were unable to do so at *Shacharit*. Sephardic *poskim* do not suggest doing this,⁷ whereas Ashkenazic *poskim* do.⁸ Therefore, Rav Yosef⁹ says that if a Sephardic congregation missed a *pasuk* and did not act on it prior to the end of the Shabbat morning services, they should read that *pasuk* at the beginning of *kri'at haTorah* on the next Shabbat morning along with three *p'sukim* from the new *parasha*. It follows from that approach that Ashkenazim could do the same at *Mincha*: read the problematic *pasuk* and perhaps two others, and then skip to the beginning of the next Shabbat's *parasha* during the same *aliya*. This is preferable to reading three *p'sukim* with *berachot* from the morning's *parasha* independently of the new *kri'at haTorah*. Since there was a complete set of seven *aliyot*,¹⁰ some would say a separate reading with *berachot* is unnecessary¹¹ and, therefore, it is better to attach the makeup *p'sukim* to the reading for *Mincha*.

The fact that you read straight from the place of the mistake until the beginning of the next *parasha* was, in some ways,

6. *Aruch HaShulchan, Orach Chayim* 137:4.

7. See *Yabia Omer* IV, *Orach Chayim* 17.

8. *Mishna Berura* 135:5.

9. *Yalkut Yosef, Orach Chayim* 137:4. The book was written by Rav Yitzchak Yosef, based on the rulings of and reviewed carefully by his father, Rav Ovadya Yosef.

10. As opposed to the case in *Mishna Berura* op. cit.

11. See *Magen Avraham* 137:6.

halachically preferable (see the *Sha'ar Hatziyun* cited in n. 5, which may be applicable here). However, it was apparently unnecessary and is not recommended because of *tircha d'tzibbura* (public inconvenience). *B'dieved*, though, your solution was effective for an Ashkenazic community and was reasonable under the circumstances.

Section B:
Berachot (Blessings)

B-1: Talking Between *Netilat Yadayim* and Eating

Question: When and why are we not to talk in between *netilat yadayim*, making *HaMotzi*, and eating?

Answer: There are three different stages to deal with in this context, and many people are not aware of the different levels of seriousness of a *hefsek* (interruption) during these stages.

Usually, *berachot* precede the *mitzvot* that they are connected to. When it comes to *netilat yadayim*, however, we recite the *beracha* after washing because sometimes dirty hands prevent us from making the *beracha* beforehand.¹ In order not to introduce a *hefsek* between the main part of the *mitzva* and its subsequent *beracha*, one should not talk from when he starts to wash until he says the *beracha*.

The second stage, between the *berachot* of *netilat yadayim* and *HaMotzi*, is actually the least severe. We remain quiet and try to minimize the interruption between the two because of the *gemara's* statement² that the *beracha* comes right after washing. However, there are different opinions about which washing the *gemara* is referring to (the other being the *mayim acharonim* before *Birkat HaMazon*).³ In any case, even if one did speak, no *beracha* was severed from its *mitzva*, and there is thus no need to repeat anything.⁴ It is only if one became so involved with other concerns that he forgot about keeping his hands clean that he needs to repeat *netilat yadayim*.

The final stage is the most stringent. The *beracha* of *HaMotzi* must directly precede the consumption of bread. Therefore, one

1. *Shulchan Aruch, Orach Chayim* 158:11; see *Tosafot, Pesachim* 7b.

2. *Berachot* 42a.

3. See *Beit Yosef, Orach Chayim* 166.

4. *Mishna Berura* 166:6.

should not stop, and certainly not speak, between the *beracha* and its referent, i.e., eating bread. If one talks about anything other than matters related to the food, he must repeat the *beracha*.⁵ Since the *beracha* is linked to the main part of the eating process, namely, swallowing, one should not talk until that point.⁶ However, since chewing is the beginning of the eating process, and it is usually accompanied by swallowing some of the food's flavor, one does not repeat the *beracha* if he spoke after he started to chew.⁷

5. *Shulchan Aruch, Orach Chayim* 167:6.

6. *Mishna Berura* 167:34.

7. *Bi'ur Halacha* ad loc.

B-2: Making a New *Beracha* After Having Planned to Finish Eating

Question: Toward the end of a snack, I decided to stop eating after one more cookie and later changed my mind. Did I need to make a new *beracha* before continuing to eat?

Answer: Intention regarding what one plans to eat affects the need for additional *berachot* in two different ways, and at two different points during the eating process. After briefly discussing the principles of each, we will see where your case fits in.

Intention when one begins to eat: If, when one recites a *beracha*, he has in mind to eat several foods, the *beracha* covers other foods that one would make the same *beracha* on, including those that are not in front of him or those that he has no specific plans to eat.¹ If one intends, at the time of the *beracha*, to eat only a certain food or foods, then he needs to recite a new *beracha* before eating other foods, even of the same category.² When one did not give the matter thought, then, according to most *poskim*, he does not make another *beracha*. This is because we assume that, normally, the extent of one's eating is open-ended.³ However, the Rama⁴ says that, to avoid doubt, it is best for a person to have in mind to cover everything that he might later decide to eat with his *beracha*.

Intention when one finishes eating: The *gemara*, in different places, discusses acts that signal the end of a meal: 1) removal of the small table at which a person was eating;⁵ 2) rinsing one's hands with *mayim acharonim*;⁶ 3) announcing that the group is

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1. *Shulchan Aruch, Orach Chayim* 206:5.
 2. *Mishna Berura* 206:20.
 3. *Ibid.*
 4. *Orach Chayim* 206:5.
 5. *Berachot* 42a.
 6. *Ibid.* *Mayim acharonim* refers to the water used to rinse one's hands before *Birkat HaMazon*.

ready to recite *Birkat HaMazon*.⁷ The key issue is *hesech hada'at* ('removal of thought'); by performing an action that indicates that one is preparing for the *berachot* that follow eating, he shows he has 'removed his mind' from the eating that was included in the original *beracha*. Thus, to continue eating, he must make a new *beracha*.⁸ The *Mishna Berura*⁹ says that a clear thought that one has finished eating constitutes *hesech hada'at*, even if the thought has not been verbalized. Some *Rishonim*¹⁰ distinguish between different types of eating: If one was drinking or having a snack,¹¹ then verbal or mental *hesech hada'at* suffices. However, if one was eating a meal,¹² then only *mayim acharonim* constitutes a break. The *Bi'ur Halacha*¹³ says that it is difficult to decide between the different opinions and, therefore, urges one to avoid having cognitive *hesech hada'at* followed by a change of mind during a meal.

Let us now return to our case. If one had decided to have a snack of a single cookie, then the *beracha* would never have applied to other foods. However, once his intention was open-ended enough to apply to other foods, only positive *hesech hada'at* removes the *beracha's* effectiveness. All of the *poskim* we have found discuss *hesech hada'at* from the perspective of the present. (For example, see the language of the Rambam and the *Mishna Berura*.¹⁴) In other words, one says to himself, "I no longer plan to eat," which is equivalent to actively preparing for *Birkat HaMazon*. There is no halachic precedent for a delayed or planned *hesech hada'at* (i.e., "After one more cookie, I will have stopped eating.").

7. *Pesachim* 103b.

8. Discussion of whether he may make a *beracha* and eat before reciting *Birkat HaMazon* is beyond our present scope.

9. 179:3, based on the Rambam, *Berachot* 4:7.

10. See *Shulchan Aruch, Orach Chayim* 179:1.

11. *Shulchan Aruch HaRav, Seder Birkat HaNehenin* 5:1–3.

12. *Ibid.*

13. To *Orach Chayim* 179:1.

14. *Op. cit.*

Thus, if, after finishing the cookie, you continued to think that it was indeed the last one, then you had *hesech hada'at* at that time. As you are presumably referring to a snack, you would have needed a *beracha* before eating more. However, if your resolve to stop eating wavered before you finished eating the originally intended amount, you could have continued without a new *beracha*.

B-3: Does the *Beracha* on Grape Juice Exempt Other Drinks?

Question: I know that when one makes a *beracha* on wine, it exempts him from making *berachot* on other drinks. Does this apply to grape juice as well? For example, if one makes *Kiddush* with grape juice, does he have to make a *Shehakol* on soda that he subsequently drinks?

Answer: The accepted practice, in agreement with the majority of *poskim*, is that grape juice is treated like wine regarding all *halachot*, including, as you assume, *Kiddush*.¹ This ruling applies to exempting other drinks from *berachot*, both *beracha rishona* and *beracha acharona*.²

However, the status of grape juice, or wine for that matter, should not be taken for granted regarding exempting other *berachot*. First, some wines and grape juice are diluted to the point that they lose the status of wine regarding *Kiddush* and *berachot*.³ Since it is difficult for the consumer to know when it is too diluted, it is preferable⁴ that the *hashgacha* on the wine or grape juice state that it is valid for *Kiddush* and that its *beracha* is *HaGefen*. (Some *hashgachot* add that it is valid even for Sephardim, who are somewhat stricter on this issue).

The second point is that one needs to drink a certain amount of wine to be exempt from a *beracha* on other drinks. The *Bi'ur Halacha*⁵ rules that in order for other beverages to be overshadowed by the drinking of the wine, one must drink a minimum of a *m'lo lugmav* of wine (roughly, a cheek full that looks like two

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1. See *Shulchan Aruch, Orach Chayim* 272:2.
 2. The *berachot* recited before and after eating or drinking, respectively
 3. See *ibid.* 204:5.
 4. We stop short of saying it is required.
 5. To 174:2.

cheeks full, or approximately 2 fl. oz.). If, at *Kiddush*, one person had the requisite amount and others had just a taste of wine, then it is highly questionable whether the others are exempt from making a *beracha* on a subsequent drink.⁶ It is also important either that the drinks are present at the time of the original *beracha* or that the person had them in mind.⁷ A guest at a *kiddush* normally has in mind to eat or drink from whatever the hosts/organizers will serve.⁸

The *beracha acharona* of *Al HaGefen*, recited over grape juice and wine, also covers the *beracha acharona* of other drinks.⁹

If a case of doubt arises, it is best to make a *Shehakol* on a solid food before partaking of the other drinks, so that this *beracha* will be clearly warranted and cover the drinks. Alternatively, one may have someone who did not drink wine make a *Shehakol* on his behalf.¹⁰

6. Ibid.

7. Ibid.

8. *V'Zot HaBeracha*, p. 99.

9. *Shulchan Aruch* op. cit. 208:16.

10. *Bi'ur Halacha* op. cit.

B-4: How Often Should One Make *Berachot* When Drinking Throughout a Hike?

Question: I will be hiking for several hours and plan to drink throughout. Should I make one *beracha rishona* at the beginning and one *beracha acharona*¹ at the end, or should I make a *beracha rishona* and a *beracha acharona* each time, at the place I drink?

Answer: We will first determine whether a *beracha rishona* can cover that which one subsequently drinks or eats at various times and places, and then we will see what options are advisable.

Moving from house to house can sometimes require one to make a new *beracha*.² However, the problem is less acute when one starts eating outside with the intention to continue as he goes. In such a case, the change of location is not a change in mindset, and the original *beracha* even covers food eaten in a place that is not visible from the site of the *beracha*.³ (See *Igrot Moshe*⁴ regarding one who starts eating in the house with the intention to leave immediately.)

Therefore, in this case, it is possible to make a single *beracha* that will last throughout the hike, and this is indeed preferable for one who takes sips *frequently* and regularly. (Regarding the *beracha acharona*, note that, in general, one should make a *beracha acharona* only if he drinks a *revi'it* [approximately 90 ml. or 3 fl. oz.] at one time. If one merely sips, it is best to drink a *revi'it* at some point so that he can make the *beracha acharona*.⁵) How-

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1. The *berachot* recited before and after eating or drinking, respectively.
 2. *Shulchan Aruch, Orach Chayim* 178:2.
 3. *Mishna Berura* ad loc. 42.
 4. *Orach Chayim* 11:57.
 5. *Mishna Berura* 210:1.

ever, if one takes significant breaks between drinks, the question is two-fold:

1. Can a single *beracha rishona* remain in effect despite all the breaks?
2. Can the eventual *beracha acharona* relate to that which was drunk long before?

We will start with the second question.

After partaking in a full meal, one may recite *Birkat HaMazon* until the last food eaten has been digested to the point that he begins to become hungry again. This takes a minimum of seventy-two minutes.⁶ However, when one eats lightly or drinks, we need to consider the possibility that the food's filling (or the drink's quenching) effect begins to wear off more quickly. Although there is no consensus among *poskim* as to the maximum one can wait before making the appropriate *beracha acharona*, a reasonable middle-of-the-road opinion is approximately half an hour.⁷ Therefore, if there are likely to be breaks of over thirty minutes, one should certainly make a *beracha acharona* before losing the opportunity to do so. He will subsequently be required to make a *beracha rishona* before resuming drinking.⁸ It is still advisable to have in mind, when making the *beracha rishona*, that it should apply only to that which he drinks until the *beracha acharona*.⁹ This is in deference to the opinion that if one intends to eat or drink intermittently, the *beracha rishona* covers even the food he eats after the *beracha acharona*.

Thus, if one expects to take a sip every few minutes, he should make one *beracha rishona* at the beginning and one *beracha acharona* at the end. If he plans to take long breaks, he should make both

6. *Shulchan Aruch, Orach Chayim* 184:5; see *Mishna Berura* ad loc. 18.

7. *Kaf HaChayim* 184:29; see *V'Zot HaBeracha* p. 52.

8. Based on *Minchat Yitzchak* v:102.

9. *V'Zot HaBeracha* op. cit., fn. 6.

berachot each time. The better question is if one plans to drink every *several* minutes, but it is possible that a significant amount of time will pass. The *Minchat Yitzchak's*¹⁰ approach, addressing those who sit and learn over periodic cups of coffee, is that it is better not to rely on the prospect that he will remember to drink within the requisite time.¹¹ This is even more applicable on a hike, where one could become preoccupied or become thirsty very quickly, after which it is too late to make the *beracha acharona*.

If one took the approach to make only one set of *berachot* and he ends up waiting too long to make the *beracha acharona*, there is a major *machloket* what to do. The *Magen Avraham*¹² says that the previous eating is finished, and there is now a need for a new *beracha rishona*. The *Even HaOzer*¹³ says that as long as one had in mind to continue eating or drinking, the *beracha rishona* is not lost. It is not clear how to rule,¹⁴ which is one more reason to avoid the situation. There are a few ideas how to extricate oneself from doubt in such a case, but they are beyond our present scope.

10. Op. cit.

11. The *Mishna Berura* (190:8) seems to agree; see *Bi'ur Halacha* ad loc.

12. 184:9.

13. Ad loc.

14. See *Yechaveh Da'at* VI:11.

B-5: The Unique Characteristics of the Third to Join a *Zimun*¹

Question: I know that while two people cannot make a *zimun* without a third person to complete the group, they do have a special status of only needing a little help from the third. What are the halachic ramifications of the status of two eating together?

Answer: You are correct that two people who ate together have a special status regarding a *zimun*. This is primarily because two who eat together form the basis of the *zimun*, even though they need a third in order to actually carry it out. The main distinctions are in the following areas, which we present one by one:

Looking for a zimun – It is desirable that two who eat together make some effort (within reason) to include a third to eat with them so that they can make a *zimun*.² Similarly, seven who eat together should preferably look for another three to make a *zimun* of ten with HaShem's Name.³ We do not find that one person has any reason to look for two others for a *zimun*.

Forcing a third to answer – If two are interested in *bentching* and the third is not, the two can require the third to participate in the *zimun*.⁴ In the event the third does not respond, the two fulfill their obligation of *zimun*, even though, in that case, the third does not.⁵ If one person is ready for *Birkat HaMazon* and the others are not, he may not demand that the other two answer him, although they may do so if they wish.

What they ate – *Zimun* is only for *Birkat HaMazon*, and not for other *berachot acharanot*.⁶ Thus, two of the three must have

1. A joint recital of *Birkat HaMazon*.
2. *Shulchan Aruch, Orach Chayim* 193:1.
3. *Mishna Berura* ad loc. 12.
4. *Shulchan Aruch* op. cit 200:1.
5. *Mishna Berura* ad loc. 3.
6. Blessings recited after one eats.

eaten at least a *k'zayit* (approximately, half a slice) of bread. However, a third person can answer the *zimun* after eating any food or any drink other than water.⁷ Admittedly, some *Rishonim* maintain that including a minority who ate something other than bread with those who ate bread works only to turn a regular *zimun* into a *zimun* of ten. According to them, if two ate bread and one ate fruit, they cannot make a *zimun*.⁸

In order to avoid doubt, Sephardim avoid the situation where two who eat bread together invite a third to eat something other than bread (other grain products are a question). In the event that it happened, however, they should make a *zimun*.⁹ The *minhag* among Ashkenazim is that if the third prefers not to eat bread, it is fine to give him something else to eat or drink and then include him in the *zimun*.¹⁰

If one bentched without waiting – If three ate together but *bentched* without a *zimun*, or even if only two of the three *bentched*, they have forfeited the opportunity to make a *zimun*. However, if only one *bentched*, the remaining two may still make a *zimun*, and the third, who already *bentched*, responds.¹¹ Nevertheless, if the third ate something other than bread and already recited a *beracha acharona*, they may not include him in the *zimun*.¹²

Joining after two basically finished eating – For three to make a *zimun* together, they must have joined together to eat in some way. Yet, if two ate together and a third came after they finished eating but had not yet *bentched*, they can create a *zimun* together under the following circumstances:¹³ The third needs to eat as above. Although the first two need not eat after being joined by

7. *Shulchan Aruch* op. cit. 197:3.

8. *Ibid.*

9. *Ibid.*; see *Yalkut Yosef, Orach Chayim* 196:5.

10. *Mishna Berura* 197:22.

11. *Shulchan Aruch* op. cit. 194:1.

12. *Mishna Berura* op. cit. 9.

13. Regarding if one finished eating and then was joined by two, see *Kaf HaChayim, Orach Chayim* 197:1.

the third, they must be connected enough to the eating that they may halachically eat and actually would eat at least a little more if they were served particularly tasty food.¹⁴ If they already made preparations for *Birkat HaMazon* that preclude their continuing the meal (such as *mayim acharonim*¹⁵), they may not make a *zimun* together. In a case where the two are still considered within their meal and the third concludes what he is eating, they may not *bentch* without a *zimun*. However, if the group neither started nor finished together, they are not required to make a *zimun*.¹⁶ Nevertheless, if they wish to make a *zimun*, the two may join with the latecomer, even if he has not finished.¹⁷

14. *Shulchan Aruch*, op. cit. 197:1 and *Mishna Berura* ad loc. 2.

15. The details are beyond our present scope.

16. *Mishna Berura* 193:19.

17. *Piskei Teshuvot* 193:6.

B-6: *Beracha* on Solution Drunk for Diagnostic Purposes

Question: We have developed a diagnostic tool that works as follows: After a full fast of several hours, one drinks a cup¹ of water that contains a tasteless powder dissolved within. A few minutes later, he breathes into a special machine that detects whether various organs are working healthily. Does one make a *beracha* before and/or after drinking the water? Can he drink a little regular water first to remove the doubt regarding the *beracha*?

Answer: The *gemara*² says that one must make a *beracha* before eating because one may not benefit from the world before thanking HaShem. However, *Chazal*, who instituted the specific rules and formulae of *berachot*, distinguished between different types of benefit. For benefits received from food, there are *berachot*; for medicinal benefits, no *berachot* were instituted.³

The primary property of a food item that is responsible for generating the obligation to make a *beracha* on it is its taste. Because of the *beracha*-related importance of taste, if one eats a food for medicinal reasons but also enjoys its taste, he recites the food's regular *beracha*.⁴ Water is an exception to the rule in this respect since it is assumed to lack a positive taste. If so, why do we ever make a *beracha* on water?

The *mishna*⁵ says that one recites a *beracha* on water when it serves to quench his thirst. The *gemara*⁶ says that this comes to exclude a case where one drinks water to rinse down something that is caught in his throat. The *gemara* does not say what to do if

1. 200 milileters, to be exact.
2. *Berachot* 35a.
3. *Ibid.* 36a.
4. *Ibid.*
5. *Ibid.* 44a.
6. *Ibid.* 44b–45a.

one drinks water neither because of thirst nor to get something out of his throat. Nevertheless, the consensus of the *poskim* is that one makes a *bracha* on water only if it serves to quench thirst or something equivalent.⁷ Therefore, if one drinks water to swallow a pill, he does not make a *beracha* before or after drinking.⁸

Generally, water's thirst-quenching property is equivalent to other foods' property of taste. Therefore, it is logical that if one drinks water for medicinal purposes but also happens to be thirsty, then he does make a *beracha*, as the *Mishna Berura*⁹ confirms. However, there is a difference between water and a tasty food or drink: When someone eats a tasty food for medicinal purposes, our standard assumption is that he will also get the benefit of its taste. However, the standard assumption is that if one is not consciously thirsty, drinking water for medicinal reasons will not provide the type of thirst-quenching benefit that warrants a *beracha*.¹⁰

Regarding the procedure you describe, although the water containing dissolved powder is drunk for medicinal purposes,¹¹ since the examinees fast for several hours before drinking, one can assume that they are thirsty. Thus, unless one notes that he is not thirsty, he should make a *beracha* before and after drinking the solution. If one is not sure, he *cannot* solve the problem by your suggestion of drinking some plain water first: water that is consumed in order to solve a halachic problem is not water that is consumed for thirst and, therefore, does not warrant a *beracha*.¹² This is, in general, an important concept to remember. Often, a person does not know what *beracha* to make on a particular food and wants to solve the problem by making a *Shehakol* on water and thereby covering the food in question. Based on what we

7. *Bi'ur Halacha* 204:7.

8. *Pitchei Halacha, Berachot* p. 135.

9. 204:42.

10. See *Mishna Berura* 204:40.

11. It makes no difference whether it is therapeutic or diagnostic.

12. *Bi'ur Halacha* op. cit.

have seen, if he is not thirsty, the *beracha* on the water is itself a *beracha l'vatala*.¹³

If the examinees are allowed to eat or drink a small amount of something else, that would be a way of removing doubt. After the test, one can eat or drink something (other than water) that warrants the same *beracha acharona*.¹⁴ Nevertheless, excluding the case where one notes he is not thirsty, one can confidently make the *berachot* before and after.

13. A valueless *beracha*, which it is forbidden to make.

14. *Beracha* after eating.

B-7: Reciting *Birkat HaGomel* on Behalf of a Group

Question: When many people have to say *Birkat HaGomel* (e.g., after a flight), the *shul* often has one person recite the *beracha* on behalf of the rest. Can one person say thanks to HaShem for what he received and have it count for others?

Answer: A story in the *gemara*¹ forms the basis of the answer to your question. After Rav Yehuda recuperated from a severe illness, several rabbis visited him and said: “Blessed is HaShem who gave you to us and not to the earth.” Rav Yehuda responded that they had exempted him from the need to thank HaShem (in other words, to recite *Birkat HaGomel*). The *gemara* asks how Rav Yehuda could have been exempted if he had not made the *beracha* himself and answers that he had responded *amen*.

A conclusion one can draw from this *gemara* is that a person can recite *Birkat HaGomel* on behalf of others. Indeed the *Shulchan Aruch*² rules: “If one recited *HaGomel* for himself and intended to exempt his friend and his friend listened and intended to be exempted, he (the friend) fulfilled the obligation even without answering *amen*.” The fact that *amen* is not required should not be surprising, given the rule that one who hears a *beracha* from his friend needs only to listen with proper intent,³ although it is proper to also answer *amen*.

Why, then, does the *gemara* require *amen* in its case? The *Tur*⁴ cites his father, the Rosh, who explains that, in Rav Yehuda’s case, the people who recited the *beracha* were not personally obligated to do so, although it was an appropriate reaction because someone

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1. *Berachot* 54b.
 2. *Orach Chayim* 219:5.
 3. *Ibid.* 213:2.
 4. *Orach Chayim* 219.

they cared about was saved. Under those circumstances, they could not be *motzi*⁵ Rav Yehuda. However, by answering *amen*, Rav Yehuda was considered to have recited the *beracha* himself. Rav Akiva Eiger⁶ says that the issue was that the *language* of the well-wishers, who praised HaShem for helping someone else, did not apply sufficiently to Rav Yehuda (who needed to express praise in the first person) unless he answered *amen*.⁷

In any case, it is clear in the *Shulchan Aruch* that one can say *Birkat HaGomel* on his own behalf and have it fulfill the obligation of another person as well. Yet, one can still ask whether it is better to do it as a group or individually. In principle, when one can make a *beracha* on behalf of others, that is the preferred practice. However, the *Mishna Berura*⁸ raises the point that we usually make *berachot* individually, perhaps out of concern that either the one saying the *beracha* or the one listening to it will not have the proper intentions. The *Piskei Teshuvot*⁹ says that the same applies to *Birkat HaGomel* and that this is the accepted practice.

We agree that each person usually says his own *HaGomel* when just a few are obligated. If many people are involved, it becomes a matter of *tircha d'tzibbura* (congregational inconvenience) and, in addition, encourages talking. Thus, it is a common and perfectly acceptable practice for one to recite the *beracha* after announcing that all others should listen with the intent to be included.

The *Piskei Teshuvot*¹⁰ makes another claim with which we take issue. He says that the one reciting should use the plural form, saying "...*shegemalanu*..." (who granted *us*). His source for this ruling is a case where there was a group salvation; it was not a case where one makes a *beracha* for a personal salvation and others

5. Fulfill the *mitzva* on another's behalf.

6. On *Shulchan Aruch*, op. cit. 4.

7. See more about the basis of these opinions in *Kehillot Yaakov, Berachot* 17.

8. 213:12.

9. 219:17.

10. *Ibid*.

join in his *beracha*. If the *Piskei Teshuvot* were correct, one would have expected one of the *Shulchan Aruch*'s commentators to point out that the *beracha* is different. In fact, the *Shulchan Aruch*'s language strongly suggests no change whatsoever. He describes one who recites *Birkat HaGomel* "for *himself* and *intended* to exempt his friend." This clearly implies that his wording was appropriate for a personal *beracha*, and just his *intention* connected him to his friend. Only in regard to the less formal response of the congregation ("*mi shegemalcha...*"), which is not discussed in this *halacha* of the *Shulchan Aruch*, does it make sense to use the plural form since it includes all of the people covered by the *beracha* in the wish of continued good fortune.

Section C: **Shabbat**

c-1: An Expectant Woman Staying Near the Hospital for Shabbat

Question: Should a woman who is close to her due date find a place to stay near the hospital so as to avoid traveling on Shabbat?

Answer: An expectant mother certainly does not have to find a place close to the hospital for Shabbat.¹ On one hand, it is proper to make preparations before Shabbat to minimize the need to do foreseeable forbidden activity on Shabbat, even of the type that is allowed in order to save lives.² On the other hand, there is a rule regarding *pikuach nefesh* (steps to save lives) on Shabbat that one does not have to take unusually difficult steps to obviate the necessity for permitted *chillul Shabbat*.³

What constitutes unusually difficult steps is subjective and difficult to spell out. However, when there is only a possible need for *chillul Shabbat*, and when dealing with a woman who is soon to give birth (with HaShem's help), there is every reason to proceed with leniency. Therefore, before Shabbat, a woman should take the simple step of packing a bag of things she wants to take along. (Items that may not be taken on Shabbat should be removed before Shabbat). Again, there is no requirement to find a place near the hospital for Shabbat, all the more so if it will detract from the spirit of the day.

The most important consideration at this stage is the health of the expectant mother, including her level of rest and her emotional state. In the case of an important psychological need, Rav

1. *Shemirat Shabbat K'Hilchata* 36:7.

2. *Mishna Berura* 330:1.

3. This rule is explained beautifully in an article by Rav S.Z. Auerbach in *Torah Shebe'al Peh*, vol. 14.

M. Feinstein even allowed a husband to travel to the hospital with his wife on Shabbat.⁴

This being said there are practical advantages for a religious woman to want to be near the hospital. Some women may want to wait until the last minute before traveling on Shabbat, which is not a good idea and is more dangerous when she is far away from the hospital. Others may feel they should go to the hospital at the first signs of what might turn out to be false labor and then find themselves stuck at or near the hospital for the remainder of Shabbat.⁵ Such women should consider these factors when choosing a hospital and making their Shabbat plans. To reiterate, though, the overwhelming concern is how the various scenarios will affect her health.

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4. See the circumstances in *Igrot Moshe, Orach Chayim* 1:132; *Shemirat Shabbat K'Hilchata* 36:8.
 5. See more in *Shemirat Shabbat K'Hilchata* 36:10.

c-2: Making Early Shabbat

Question: It is important for my small children that we make an “early Shabbat” (accept Shabbat and *daven Ma’ariv* an hour or so before sunset). I feel funny doing so because it compromises the proper time of *davening*, about which I am careful. What should I do? Would it be better to accept Shabbat early, make *Kiddush*, eat, and *daven Ma’ariv* with the late *minyán*?

Answer: There is a *machloket* among *Tanna’im* whether the cut-off between the times of *Mincha* and *Ma’ariv* is nightfall or *plag haMincha* (a proportional hour and a quarter before night).¹ There is also a post-Talmudic *machloket* whether night begins basically at sunset (Gra) with *bein hashemashot* (halachic twilight) or around an hour later (Rabbeinu Tam). Our communities primarily follow the Gra that sunset is the main cutoff time. Thus, we regularly *daven Mincha* until sunset and *Ma’ariv* somewhat afterward.

The *gemara*² is flexible regarding the earliest time for *Ma’ariv*, saying that one can follow either opinion in the aforementioned *machloket Tanna’im*. The *Shulchan Aruch*³ says that one should be consistent about which opinion he follows. Those in places that extend *Mincha* until night (which begins with sunset, according to the Gra) should not *daven Ma’ariv* during that time, barring a situation of specific need (*she’at hadechak*). Therefore, it seems problematic to *daven* both *Mincha* and *Ma’ariv* during the hour before sunset. However, there is more to discuss regarding your question.

The *Shulchan Aruch*⁴ says that at the beginning of Shabbat we

1. *Berachot* 26a.
2. *Ibid.* 27a.
3. *Orach Chayim* 233:1.
4. *Ibid.* 267:2.

daven Ma'ariv earlier than during the week. The *Mishna Berura*⁵ explains that we rely on the lenient opinion regarding the earliest time for *Ma'ariv* in order to gain the halachic benefits of accepting Shabbat early. The *Magen Avraham*⁶ suggests that because of the changes on Shabbat in the service in the *Beit HaMikdash*, which *Ma'ariv* mirrors, there is an inherent reason to *daven Ma'ariv* earlier. If we accept the concept that *Ma'ariv* can be done before halachic night, we should permit it after *plag haMincha*. The *Mishna Berura*⁷ cautions that on a day that we *daven Ma'ariv* after *plag haMincha*, we should be careful to *daven Mincha* before *plag haMincha*, to avoid a contradictory situation (*tartei d'satrei*). Even though he raises the possibility of allowing *tartei d'satrei* in certain extenuating circumstances, especially on Shabbat, he objects to it being as early as we are discussing.⁸ (Some communities admirably arrange their early Shabbat schedules to avoid these problems.)

Let us move on to practical *halacha*. We believe that if starting one's Shabbat early during the summer brings significant enhancement to the day, then this is sufficient grounds to do so. In addition, if this is the only practical way to meaningfully include one's children in the celebration of Shabbat evening, this is reason to prefer, if not require, doing so. The parents should decide what works best for the family. Furthermore, realize that there is an old *minhag* to make Shabbat *Ma'ariv* relatively early and a widespread *minhag* in many communities to do so from *plag haMincha*. Just as we take a *minhag* of strictness seriously, so too we take one of (or containing elements of) leniency seriously.

Your idea of accepting Shabbat (after having davened *Mincha*), eating, and joining a late *minyana* for *Ma'ariv* will solve some

5. Ad loc. 2.

6. Ad loc. 1.

7. 233:11.

8. Ibid. 267:3.

time-related problems.⁹ The *Mishna Berura*¹⁰ says that one may do this if he starts eating earlier than a half-hour before night; otherwise, he should wait to *daven Ma'ariv*.¹¹ (Other ideas for leniency in this matter are beyond our scope). The *Kaf HaChayim*¹² cites the Arizal's kabbalistically-based objection to switching the order of *Ma'ariv* and *Kiddush*. To us, however, a greater issue is that since our communities already have an established procedure for starting Shabbat early, altering it can potentially be divisive. If you want to use your system discreetly, you have the right to do so, but we do not want to encourage new *minhagim*.

9. Why *Kiddush* can be made early is beyond our present scope.

10. 271:11.

11. There is reason, even regarding standard early Shabbat, to start eating more than a half-hour before the time for *Kri'at Shema*, which one recited too early in *Ma'ariv*. However, in that case, since he already recited *Kri'at Shema*, there may be relatively more room for leniency. See *Shemirat Shabbat K'Hilchata* 47:(106).

12. *Orach Chayim* 271:22.

c-3: What One Must Eat After *Kiddush*

Question: When taking part in a *Kiddush* after *davening* on Shabbat morning, what are the requirements of how much and what type of food(s) I must eat?

Answer: We will start with the background and the standard instructions for eating after making or hearing *Kiddush* and then see some points of possible leniency. Although the basic principles are much the same for *Kiddush* at night and in the daytime, the *poskim* and common practice are more lenient regarding the daytime *Kiddush* (*Kiddusha Rabba*). This is because that *Kiddush* is a rabbinic obligation, whereas the nighttime *Kiddush* is a biblical obligation.¹ Therefore, not all of the leniencies we entertain regarding *Kiddusha Rabba* can be applied to *Kiddush* at night.

The *gemara*² records the opinion of several *Amora'im* that *Kiddush* needs to be made at the place of a meal, and the *Shulchan Aruch*³ concurs. The source for this requirement is the *pasuk* in *Yeshaya* (58:13): “and you shall call Shabbat a delight,” from which we derive that the proclamation of the day of Shabbat (*Kiddush*) should be connected to partaking in delights (a meal).⁴ Yet, in describing an actual case, the *gemara* talks about *tasting* something after *Kiddush*, from which the *poskim* understood that a full meal is not necessary to validate the *Kiddush*. However, the question remains: how much is needed, and of what foods?

The *Shulchan Aruch*⁵ cites the *Geonim* as follows: “Even if he ate a little bit or drank a cup of wine for which he is *required to make a beracha*, he fulfilled [the obligation of] *Kiddush*...but

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1. See *Mishna Berura* 272:29.
 2. *Pesachim* 101a.
 3. *Orach Chayim* 273:3.
 4. *Rashbam, Pesachim* 101a.
 5. *Orach Chayim* 273:5.

only if he ate bread or drank wine; however, if he ate fruit, no.” The *Acharonim*⁶ reason that the requisite quantity for a *beracha* must refer to the *beracha* after eating (*beracha acharona*), since a *beracha* before eating is required for any amount of food. The minimum amount one needs to eat is, therefore, a *k'zayit*⁷ of solid food or a *revi'it*⁸ of wine. (There are opinions that a *revi'it* is not necessary and others that it is not sufficient to be considered the place of a meal.⁹) We caution about the use of wine or grape juice to fulfill the meal requirement at public *Kiddushes* because often there is not enough wine for many people to drink so much. Of course, *derech erez* is an important concern from any healthy Jewish perspective.

The *Magen Avraham*¹⁰ uses the *Geonim*'s logic to expand the list of foods that fulfill the purpose at hand. This includes some foods made from the five major species of grain, which are more meal-like than wine, as we find in the context of the requirements of *seuda shlishit*. Most *Acharonim* assume that such foods need not be *pat haba'a b'kisnin* (cake and the like, which have some bread-like qualities and halachic status). Rather, any food that obligates one to make a *beracha acharona* of *Al HaMichya* suffices.¹¹

The preceding are the standard recommendations for meeting the halachic requirements of *Kiddush*. However, we want to mention some less standard, yet legitimate, lenient positions. The *Chayei Adam*¹² says that if one is somewhat weak and does not have any grain-based food available, he may rely on the opinion that even fruit (or, apparently, any food) is sufficient to satisfy the meal requirement of *Kiddush*. The *Sha'arei Teshuva*¹³ says that

6. Including the *Magen Avraham* 273:10.

7. The size of an olive, or roughly 1 fl. oz.

8. Roughly 3 fl. oz.

9. See *Mishna Berura* 273:22, 27.

10. *Ibid.*:11.

11. See *Shemirat Shabbat K'Hilchata* 54:2.

12. 6:22.

13. 273:7.

when one makes *Kiddush* for a group, every person who wants to make use of the *Kiddush* to eat and/or to fulfill the *mitzva* must himself eat the requisite amount of the correct foods. However, *B'tzel HaChochma*¹⁴ cites a minority view that it is sufficient for one person from a group which took part in a given *Kiddush* (by reciting or listening) to eat. According to this approach, once someone connects the *Kiddush* to a meal, others can rely on that *Kiddush* without connecting it to their own meal. Knowledge of these opinions will help restrain one from correcting others (which should generally be avoided when not absolutely necessary) and can be used in extenuating circumstances. Several *poskim* indicate that the circumstances need not be dire in order to apply reasonable leniency in this matter, which, while we do not treat it lightly, is not a particularly strict area of *halacha*. Such situations include (but are not limited to) cases where there is not enough cake for all and when a person has health concerns about eating carbohydrates at that time.

14. IV:2.

c-4: Women Eating and Drinking Before *Kiddush*

Question: May a woman drink water, tea, or coffee before *Kiddush* on Shabbat morning?

Answer: First, we need to understand the *halacha* for men, and then we can apply it to the case of women. Although prior to *Kiddush* one can usually not eat or drink anything, a man, upon awakening on Shabbat morning, may drink the same light drinks that are permitted before *davening* on any other day.¹ This includes water, tea, or coffee without sugar. Many have the custom to add sugar² or milk to the tea or coffee, which is easier to justify if that is the only way they consume those drinks.³ The reason that it is permitted to drink these beverages before *Kiddush* is that there is no obligation to make *Kiddush* before *davening*. Since *Kiddush* must be accompanied by a meal of some sort and it is forbidden to eat before *Shacharit*, the obligation to recite *Kiddush* begins only once *Shacharit* has been completed.

If a woman always *davens Shacharit* before eating (and does not rely on a short prayer to HaShem after *netilat yadayim*, as was once customary), then her situation is identical to that of a man regarding *Kiddush*. However, if she does not *daven Shacharit* regularly, or if she regularly eats before *davening*, then her obligation to make *Kiddush* applies immediately, and she should not drink before making it.⁴

If a woman feels somewhat weak when she gets up or as the morning wears on (not to mention if she is actually sick) and she cannot make *Kiddush* at that time, then she can drink and even eat

1. *Shulchan Aruch, Orach Chayim* 289:1.
2. It is less of a problem to place a sugar cube in one's mouth.
3. *Mishna Berura* 89:22; see also *BeMareh HaBazak* 111:49.
4. *Pri Megadim, Eshel Avraham* 289:4; see also *BeMareh HaBazak* *ibid*.

as needed before *Kiddush*.⁵ The rationale for this leniency includes the fact that there is an opinion that women are not obligated to participate in *Kiddush* on Shabbat morning. If she has already *davened*, there is no halachic reason why she cannot make her own *Kiddush* and solve the problem. However, if, like some women, she feels uncomfortable doing so before her husband comes home, and not drinking anything is hindering her *oneg Shabbat*, she can also rely on the lenient opinion and eat prior to *Kiddush*.

5. *Minchat Yitzchak* IV:28(3).

c-5: Paying for Work Performed by a Non-Jew on Shabbat

Question: What is the rule regarding having a non-Jew work for you on Shabbat? We have someone come in to help us out only on Shabbat, and we put money aside for her to take when she has finished.

Answer: There are several rules regarding when and how one is allowed to ask non-Jews to do things that may include *melacha*.¹ If you have a specific question in that regard, we will be glad to help you. Otherwise, we suggest that you study the matter in one of the several recent works (including some in English) that deal with modern applications of the issues. We will concentrate on the matter of payment, which is a more self-contained topic that features prominently in your question.

The problem of payment made during the week for work done in a permitted manner on Shabbat concerns work performed by a Jew. The main way around that problem is to avoid earmarking payment for the Shabbat work by lumping it together with work done during the week (even if the majority of work is done on Shabbat).² However, without returning to the issue of what one may ask a non-Jew to do for a Jew on Shabbat, the non-Jew's *receipt* of payment for it is not a problem

You raise the question of whether the actual payment may be made on Shabbat, which is problematic even if the work was done during the week. The *Mishna Berura*³ forbids inviting a non-Jew to receive his payment on Shabbat, and the *Shemirat Shabbat K'Hilchata*⁴ extends this to pointing out to him where the money

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1. Work that is prohibited by the Torah on Shabbat.
 2. See *Shulchan Aruch, Orach Chayim* 306:4.
 3. 325:19.
 4. 30:29.

is. The reason one should not pay on Shabbat is that this would be included in the rabbinic prohibition of *mekach u'memkar*.⁵ For this reason, any discussion of payment should be done before or after Shabbat (otherwise, it becomes quite complicated⁶). However, one may be involved during the week in negotiations and monetary discussions even regarding work that the non-Jew will do on Shabbat in a permitted way. Therefore, if the money is put aside before Shabbat and the worker knows to take the money on her own without further discussion, it is most likely permitted.⁷

-
5. Commerce. Alternatively, it constitutes *uvdin d'chol* (weekday-like activity – see *Magen Avraham* 517:4).
 6. See *Shulchan Aruch, Orach Chayim* 323.
 7. She certainly does it for her own benefit. However, sources on the specifics of these laws are sparse, and Rav Mordechai Willig is not convinced that this leniency is correct. On the other hand, the entire prohibition, especially as applied to the case of permitted work, is not a broadly based classical ruling.

c-6: Violating Shabbat to Save an Animal

Question: Is it permissible to violate Shabbat to save an animal's life? The case involves an animal that is scheduled to be released from an animal hospital on Saturday, and the hospital does not release animals on Sunday.

Answer: To save a human life, it is permitted – even halachically obligatory – to violate Shabbat. In fact, one should be sufficiently familiar with the laws so that he knows what to do without asking. That is not the case with saving the life of an animal. Nevertheless, the principle of avoiding the suffering of animals does come into play.

R. Yehuda said in Rav's name: If an animal falls into a water canal, one brings pillows and bedding and places [them] under it [despite the rabbinic law of *mevatel k'li meiheichano*¹], and if it ascends [out of the canal], it ascends... [The avoidance of] suffering of animals is a biblical [law], so the biblical law comes and supersedes the [law] of the Rabbis.²

Similarly, one may ask a non-Jew to milk a cow on Shabbat so that the accumulation of milk will not cause it pain.³ There is significant disagreement as to which rabbinic laws can be permitted in order to prevent pain to animals.⁴ Violation of Torah laws, such as driving a car, is certainly forbidden.

Notice, however, that leniency applies only to steps on Shabbat to prevent actual pain to the animal. (There is discussion whether or not the aforementioned leniency applies to saving an

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1. Not doing something to a utensil that will make it forbidden to move.
 2. *Shabbat* 128b.
 3. *Shulchan Aruch, Orach Chayim* 305:20.
 4. *Mishna Berura* 305:70.

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animal's life if its death would not be painful.)⁵ That is not the case if one has to violate Shabbat to retrieve the animal from a hospital or shelter. The animal will not be in pain if it remains until Monday. Additional expense for the hospital stay would not be cause to waive even rabbinic laws.

5. See *Shemirat Shabbat K'Hilchata* 27:(98).

c-7: Using White Wine for *Kiddush*

Question: May one make the Shabbat evening *Kiddush* on white wine?

Answer: The *gemara*¹ says that wine for *Kiddush* must be fit for *nesachim* (libations). The ensuing discussion on applying that rule seems to posit that grape juice and white wine are marginally fit for *nesachim* and totally fine for *Kiddush*. However, the *gemara* concludes by quoting a *pasuk*² that indicates that wine is classically red. In order to resolve the apparent contradiction, the Ramban³ distinguishes between white wine with a tint of red (apparently, rosé), which is fit, and pure white, which is not. The *Yerushalmi*⁴ implies that red wine is preferable but that other wine is acceptable as well.

The *Shulchan Aruch*⁵ cites the opposing opinions regarding the suitability of white wine for *Kiddush* and states that custom follows the more lenient opinion. The *Mishna Berura*⁶ says that if the white wine is very white, one should opt for red wine in deference to the Ramban's position. If red wine is not available, or if the red wine is of a significantly inferior quality, one may use the white wine without compunction.⁷

There are many opinions that for *Kiddush* during the day one may use anything that is categorized as *chamar medina* (a popular local beverage; the exact parameters of this concept lie beyond the scope of this essay), and this includes all types of wine.⁸ Therefore,

1. *Bava Batra* 97a–b.
2. *Mishlei* 23:31.
3. *Bava Batra* op. cit.
4. *Shekalim* 3:2.
5. *Orach Chayim* 272:4.
6. 272:12.
7. *Ibid.*; *Sha'ar HaTziyun* 272:20.
8. *Shulchan Aruch* *ibid.* 9.

if red and white wines of similar qualities are on hand, it is preferable to do one of the following: 1. Choose the red wine for the night and the white wine for the day. 2. Since drinking wine is (if done *in moderation*) a positive part of the festive meals of Shabbat and *Yom Tov*,⁹ it is entirely reasonable to make *Kiddush* on the red wine and enjoy some of the white during the course of the meal. (We respect those who do not want their children exposed, either directly or indirectly, to the consumption of wine beyond the minimum required by *halacha*. There are different, valid educational approaches on this issue.)

If a guest brought white wine as a gift and might be insulted if it is not used for *Kiddush*, then this is sufficient reason to use it even at night.

9. Ibid 250:2.

c-8: Women Making *Havdala*

Question: I am a woman who lives alone. Do I need to make *Havdala* on *Motzaei Shabbat*?

Answer: Women must at least recite *HaMavdil*¹ or the equivalent on *Motzaei Shabbat* before doing work that is forbidden on Shabbat.² There is a disagreement whether or not they are required to make *Havdala*. The issue is as follows: *Havdala* is a *mitzvat asei shehaz'man gerama* (time-dependent positive *mitzva*), and as such we would expect women to be exempt. On the other hand, *Havdala* is similar to *Kiddush*, as we sanctify Shabbat when it enters and exits. Since there is a special source that women are obligated in the positive *mitzvot* of Shabbat, including *Kiddush*,³ they should be obligated in *Havdala* as well. Yet *Kiddush* is more closely linked to the Shabbat experience than *Havdala* is. Thus, the exception to the rule exempting women from time-dependent positive *mitzvot*, which obligates women in *Kiddush*, may not apply here.

The *Shulchan Aruch*⁴ cites two opinions, but favors the one that obligates women in *Havdala*. However, the Rama, who serves as the primary authority for Ashkenazic Jewry, instructs women to avoid the issue by hearing *Havdala* from a man who is certainly obligated. The *Bach*⁵ takes issue with the need to hear it from a man, saying that a woman could always accept upon herself to make *Havdala* even if she is not obligated.

There are two additional issues that arise when a woman makes her own *Havdala*, which make it preferable to hear it from a man: First, there is a serious question whether she can make a

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1. A shortened, semi-formal version of *Havdala*.
 2. Rama, *Orach Chayim* 299:10.
 3. *Berachot* 20b.
 4. *Orach Chayim* 296:8.
 5. Ad loc.

beracha on the candle, as this is a time-dependent *mitzva* that is only tangentially related to *Havdala*.⁶ Second, there is a *minhag* that women do not drink from the cup of *Havdala*, which someone must drink.

In the final analysis, if a woman will not hear *Havdala* from a man, she can and should make *Havdala*, drink from the cup,⁷ and make the *beracha* on the candle *after* drinking.⁸ Even Sephardic women, who generally do not make *berachot* on *mitzvot* that they perform voluntarily, may make the *berachot* of *Havdala* when necessary.⁹

A complication pertaining to a woman hearing *Havdala* from a man (which applies even to a husband and wife) is as follows: If one has fulfilled a *mitzva*, he can perform the *mitzva* again for someone else only if that other person is *obligated* in the *mitzva*. Since a woman may not be obligated, a man who has already fulfilled *Havdala* may make it again only if it is on behalf of another male (even a male child who is rabbinically obligated) who has not yet heard *Havdala*. If such a male is not present, it is preferable for the woman to make *Havdala* herself, which is permitted, according to the *Bach*, even if she is not obligated.¹⁰

6. See *Bi'ur Halacha* ad loc.

7. See *Mishna Berura* 296:35 and *Sha'ar HaTziyun* ad loc. 34.

8. *Shemirat Shabbat K'Hilchata* 61:24.

9. *Ibid.* (69); *Yalkut Yosef* 296:13.

10. *Mishna Berura* op. cit. 36.

c-9: Do Children Have to Accept Shabbat Along With Their Mother?

Question: When a woman lights candles and thereby accepts Shabbat, are her children also bound by that acceptance?

Answer: Let us start with your assumption that a woman accepts Shabbat by lighting the candles, and proceed from there. The primary source for that approach is the Behag,¹ who says that one must light Chanuka candles on Friday before Shabbat candles because if the Shabbat candles were lit first, it would then be forbidden to do *melacha* (actions forbidden on Shabbat), including lighting the Chanuka candles. Several *Rishonim*² disagree and posit that one accepts Shabbat only by *davening* the *Ma'ariv* of Shabbat. However, many accept the Behag's view. The Ran,³ for one, says that the final warning of the *shofar* blasts before Shabbat⁴ instructed people to light the Shabbat candles. He explains that since it is preferably and usually the last *melacha* done before Shabbat and is done in Shabbat's honor, the lighting also serves to usher in Shabbat. The *Shulchan Aruch*⁵ cites both opinions, but the Rama⁶ says that the *minhag* is basically in accordance with the Behag's stringency.

Another well-known *halacha* that emerges from this dispute relates to the procedure of lighting. The Rama⁷ says that one lights prior to making the *beracha* on the candles because one

1. *Halachot Gedolot* 9.

2. See *Beit Yosef, Orach Chayim* 263.

3. *Shabbat* 10b in the pages of the *Rif*.

4. There was a custom, originating in the times of the Temple, to herald Shabbat with the blasts of a *shofar*, not unlike the contemporary Israeli practice of announcing the advent of Shabbat with sirens.

5. *Orach Chayim* 263:10.

6. *Ibid.*

7. *Ibid.* 5.

accepts Shabbat by reciting the *beracha*, and it would therefore be forbidden to light the candles subsequent to the *beracha*.⁸ Rav Ovadya Yosef⁹ says that the *Shulchan Aruch* rejects this approach, and thus rules that a Sephardic woman should make the *beracha* before lighting and that she does not necessarily accept the laws of Shabbat with the lighting. Although he tried to unite the Sephardic communities behind this practice, especially regarding the order of the *beracha* and the lighting, different customs still exist among Sephardim. In contrast, Ashkenazim accept the Rama's ruling and basically do no *melacha* after reciting the *beracha* following the lighting.

Why do we say that the Rama *basically* forbids *melacha* like the Behag? The Behag's terse statement implies that once the Shabbat candles are lit, no more *melacha* can be done at all, and, therefore, there is no choice but to light Chanuka candles first. However, others accept his basic approach that lighting ushers in Shabbat, but not in an absolute form. *Rishonim*¹⁰ cite the Maharam, who says that one can light candles on the condition that the restrictions of Shabbat not take hold immediately, and the Rama accepts this opinion. Others claim that only women who light candles thereby accept Shabbat, whereas men do not accept it when they are the ones to light.¹¹

To answer your question, only the woman who lights accepts Shabbat, and this does not affect the rest of the household.¹² In fact, generally, when one person has accepted Shabbat and others have not, the person who accepted Shabbat can ask the others to do work on his or her behalf and can receive direct benefit from it.¹³

Let us conclude by pointing out that a few issues remain

8. See *Mishna Berura* ad loc. 27.

9. See *Yechaveh Da'at* 11:33.

10. See *Beit Yosef, Orach Chayim* 263.

11. *Mishna Berura* op. cit. 42.

12. Rama op. cit. 10.

13. *Shulchan Aruch* ibid. 17.

in applying the leniencies cited in the previous paragraph. The *Magen Avraham*¹⁴ says that since not all agree that a stipulation not to accept Shabbat via lighting is effective, a woman should use this idea only in a case of need.¹⁵ His proof is interesting: if it were so simple to delay the acceptance of Shabbat, why would we not make the *beracha* before lighting (as the general rule is that *berachot* precede the performance of *mitzvot*)?¹⁶

14. 263:20.

15. What is included in “a case of need” is a matter of significant debate and requires a separate discussion.

16. Another question for a separate discussion is whether or not, when a father/husband accepts Shabbat early in *shul*, the family must also finish doing *melacha*, including lighting candles, by that time.

c-10: Cutting the Writing on Top of a Cake

Question: Is it permitted to cut a cake that has writing or a decoration on it on Shabbat?

Answer: The Rama¹ writes: “One is forbidden to break a cake that has letter-like forms written on it, even though he intends only to eat, because this is erasing.” The *Dagul Merevava*² assumes that, according to the Rama, the same is true for picture-like forms. The prohibition applies also to small items (sprinkles, nuts, etc.) that are arranged to create such figures.³ (Little puffs of icing are not problems, but carefully made “flowers” may be).

There are indications, though, that this stringent ruling is not so simple. The *gemara*⁴ says that if not for concern that they might end up being *chametz* (because of the time required to prepare them), one would be permitted to eat *s’rikin hametzuyarin* (*matzot* made in the shape of animals⁵) on the Seder night. Why, the *Dagul Merevava* challenges the Rama, should it not be forbidden because of erasing?

Most *poskim*⁶ accept the distinction between cases where the writing is done with a separate substance on top of the cake and where the cake itself is formed in the shape of letters or pictures. The latter case is not considered erasing something written and is therefore permitted.

Even in the case where the writing is part of a separate layer, there are certain grounds for leniency. The Torah-level prohibition of erasing applies only when done in order to write on the

1. *Orach Chayim* 340:3.
2. Ad loc.
3. *Shemirat Shabbat K’Hilchata* 11:7.
4. *Pesachim* 37a.
5. *Maggid Mishneh, Chametz U’Matza* 5:15.
6. See *Mishna Berura* 340:15.

erased area (as opposed to our case of cutting in order to eat). Additionally, in our case, one does not intend specifically to cut the letters but to cut the cake. Some authorities permit actions that will necessarily but unintentionally cause a forbidden result (*p'sik reishei*), as long as the action, even when performed intentionally, is prohibited only rabbinically,⁷ as in our case. Even though we are normally strict in such a case, one may nevertheless cut the letters if there is additional leniency. For example, it is permissible to destroy the letters by biting into them and chewing them since it is an unusual manner of “erasure,” as opposed to cutting them with a knife or fork beforehand.⁸ The *Dagul Merevava* permitted even cutting with a knife because it is destructive, is an unusual manner of erasure, and is done without specific intention. Although most *poskim* disagree, the great weight of his rulings should preclude criticizing those who are lenient.

A couple of practical suggestions are in order. It is likely permitted to cut between letters with a knife, even though it breaks up words.⁹ Cutting in such a way that it is only likely, but not certain or intended, that letters will be broken is permissible, even if in the end some are inadvertently cut. One can also slice off the lettering before cutting. The most efficient way to remove the lettering is to put the design on a cookie or cookie sheet, place it attractively on the cake, and remove it before cutting the cake.

7. *Terumat HaDeshen* 64.

8. *Mishna Berura* 340:17.

9. See *Shemirat Shabbat K'Hilchata* 9:48.

C-11: Squeezing Lemons on Shabbat

Question: If extracting juice from fruit is considered threshing (*dash*), does this mean that squeezing a lemon for its juice into tea or onto fish is prohibited on Shabbat?

Answer: The Torah prohibits extracting juice from olives and grapes on Shabbat, as this constitutes *mefarek* (extraction), itself a derivative of *dash*. Just as threshing removes the grain from the chaff, so too the process of extraction removes the juice from the fruit.¹ Regarding other fruits, if it is customary in some places to squeeze them in order to drink the juice, then it is rabbinically forbidden to extract the juice on Shabbat. According to the Rama,² the prohibition applies only in places where it is customary to squeeze this fruit, whereas according to the *Magen Avraham*,³ it depends upon whether the practice of squeezing this fruit would be widespread if it were plentifully available in more places. Many fruits, including grapefruits, oranges, strawberries, pomegranates, pears, tangerines, guavas, and others, thus fall under the rubric of the rabbinic prohibition. Fruits that are not regularly squeezed for their juice anywhere in the world may be squeezed.⁴

Regarding lemons, the *Shulchan Aruch* rules⁵ that they may be squeezed. The *Mishna Berura*,⁶ however, writes that since today it is very common to make lemon juice, it is likely prohibited to squeeze lemons for drinking. Indeed, the Rosh,⁷ upon whom the *Shulchan Aruch*'s ruling is based, explains the leniency for lemons by noting that they are used for squeezing onto food. The ge-

1. *Shulchan Aruch*, *Orach Chayim* 320:1 and *Mishna Berura* ad loc. 1.
2. Ad loc.
3. Ad loc. 2.
4. *Bi'ur Halacha* ad loc.
5. Op. cit. 6.
6. Ibid. 22.
7. *Shut HaRosh* 22:2.

*mara*⁸ says that one can squeeze grapes directly into a pot of food. Rashi explains that when juice is squeezed from a fruit directly onto a solid food, the juice is categorized as a food, not a liquid. Squeezing is considered extraction only when a liquid is removed from the fruit. Removing food from food is more like cutting the fruit into pieces than it is extracting. Most of the juice must be absorbed by the food for this leniency to be valid.⁹

Applying these rules, most *poskim* prohibit squeezing lemon into tea. Apparently, this holds even when the lemon is submerged and the juice is never a separate entity.¹⁰ However, it is permitted to squeeze it onto fish. Most authorities permit squeezing lemon onto sugar, so that the juice is absorbed, and then adding the sugar to water or tea.¹¹ One may also put a lemon slice into a drink or into tea that is not too hot (less than 113° F or in a *kli shlishi*), allowing some flavor to ooze out without squeezing.¹² If the peel appears infested, it should be removed before putting the slice in the drink. (The *Mishna Berura*¹³ reports a *minhag* to squeeze lemons directly into a drink since the juice is used only with other things. While not agreeing with the practice, he does not dismiss it entirely. Rav Ovadya Yosef¹⁴ also upholds the *Shulchan Aruch's* lenient ruling for Sephardim).

8. *Shabbat* 144b.

9. *Shemirat Shabbat K'Hilchata* 5:3.

10. *Ibid.* 5:(9).

11. *Mishna Berura* op. cit.; *Ben Ish Chai*, Year 11, *Yitro*, 5.

12. *Shemirat Shabbat K'Hilchata* 5:2, in a note.

13. Op. cit.

14. *Livyat Chen* 57.

C-12: The Basic Principles of *Techumin* on Shabbat

Question: I want to walk to my synagogue, which is four kilometers away (within city limits), on Shabbat, but I learned that one may not walk beyond 2,000 *amot* (almost a kilometer, assuming an *amma*¹ is 48 centimeters/19 inches). Do I need an *eiruv* or multiple *eiruvim*, and how do I make one?

Answer: First, we should understand that the laws of an *eiruv techumin*, the halachic device that allows one to walk where he otherwise could not, are different from those of an *eiruv chatzeirot* (the latter is the “*eiruv*” of common parlance), which allows one to carry within a city. We will summarize the basics, based primarily on *Shulchan Aruch*, *Orach Chayim* 396, 398, and 408.

The Torah forbids one to “leave his place on the seventh day.”² A person’s place is defined as the area of a city, which, regarding the laws of Shabbat, is derived from the Israelite encampment in the desert, namely, 24,000 *amot* by 24,000 *amot*. In addition, the Rabbis forbade walking more than 2,000 *amot* in any direction from his place of habitation or base.³

Let us investigate what a person’s base is. Every person’s minimum base consists of a radius of four *amot* around him.⁴ However, if a person is in an area that is fully enclosed for the purpose of human habitation (including by an *eiruv chatzeirot*⁵), that whole area is his base; beyond that is the *techum* (the 2000 *amot* boundary zone).⁶ Even if an area is not enclosed, an uninterrupted cluster of human habitation is considered the base for those who

1. Singular of *amot*.
2. *Shemot* 16:29.
3. *Rambam*, *Shabbat* 27:1.
4. See *Mishna Berura* 396:9.
5. *Netivot Shabbat* 42:(1).
6. *Shulchan Aruch*, *Orach Chayim* 398:11.

commence Shabbat within it. They may walk throughout the cluster plus an additional 2,000 *amot* beyond its extremities. From a geometric/halachic perspective, it is difficult to determine whether some region is an uninterrupted area and to map out its boundary. The local rabbi(s) should make these determinations after studying the region's layout.

We will mention some rules after pointing out that conventional halachic wisdom is that within built-up, residential areas of cities, one can *usually* walk to wherever he has occasion, even beyond the four-kilometer distance you mentioned. (Rural areas are much more complicated.) Homes that are within $70\frac{2}{3}$ *amot* of a cluster of habitation count as its extension. If the $70\frac{2}{3}$ *amma* radii around these residential clusters overlap (i.e., the clusters are less than 223 ft. or 68 m. apart at the shortest distance), they are considered a single cluster.⁷ After determining the city's boundary, one encloses it (assuming the boundary is jagged) with a north-south/east-west rectangle.⁸ This usually increases the block's size significantly (and, according to some, connects it to other areas). From that point, an "outer box" is "drawn" 2,000 *amot* around the rectangle. Even if the outer rectangle extends into a new cluster, one may not walk past its boundaries.⁹

An *eiruv techumin* does not increase the distance one is allowed to walk. Rather, it alters a person's base for Shabbat, from which we measure 2,000 *amot* in all directions and within which he may walk. This can be done either by being physically present at the desired base as Shabbat begins or by placing food there before Shabbat and properly proclaiming his intent to make it his base.¹⁰ The latter is the *eiruv techumin*.

The advantage of the *eiruv techumin* is that it allows one to travel further than 2,000 *amot* in one direction. For example, if

7. Ibid. 6, 7.

8. Ibid. 3.

9. Ibid. 400:1.

10. Ibid. 408:1.

he puts the *eiruv techumin* 1,500 *amot* west of his home, he may walk 3,500 *amot* to the west on Shabbat, but only 500 *amot* to the east. One can have only one base during the course of a Shabbat, and therefore multiple *eiruvim* do not work.

If one puts an *eiruv techumin* in a place where he is halachically unable to go according to the rules of *techumin*, it is ineffective.¹¹ However, the laws of clusters of homes can be helpful. If you put an *eiruv techumin* somewhere within a cluster that extends to within 2,000 *amot* of your location on one side and 2,000 *amot* of the synagogue on another, you may walk more than 4,000 *amot*, as the entire central cluster, no matter how large it is, constitutes your base and does not count toward the 2,000 *amot* of the *techum*.¹²

Your local rabbi should be able to tell you whether an *eiruv* is needed and will work in your situation. If it is required, he will show you where and how to place it.

11. Ibid. 4.

12. Regarding the outer clusters, see *Mishna Berura* 408:11.

c-13: A Child Assembling a Train-Track Set on Shabbat

Question: My son has a wooden train-track set. [The querist included a link to the product's website]. Is it forbidden for me to help him put it together on Shabbat?

Answer: The *gemara*¹ reaches the conclusion that the prohibition of *boneh*² does not (generally) apply to *keilim*,³ which we will define as not overly large objects that are not connected to the ground.⁴ However, the *gemara* adds that if one is *tokei'a* (which we will define as firmly inserting one component into another), it constitutes a Torah prohibition. Rashi posits that even in that case, the prohibition is not *boneh* but *makeh b'patish* (the final action in creating a usable object); others say that *boneh* is violated when one builds *keilim* solidly. The *Shulchan Aruch*⁵ indeed rules that one can put together (or at least reassemble) utensils that are made of several components as long as they are flimsily attached.

However, even a moderately solid attachment is (rabbinically) forbidden.⁶ There are different opinions as to where to draw the line between the three categories (permitted, rabbinically forbidden, and biblically forbidden), making it difficult to quantify the prohibition.⁷ There is also a question whether one is allowed to flimsily assemble an object that is usually fastened firmly. The *Shulchan Aruch*⁸ is lenient, whereas the Rama, whose opinion is central to Ashkenazic practice, is stringent.

1. *Shabbat* 122b.
2. Building/constructing.
3. Utensils.
4. See *Beit Yosef, Orach Chayim* 314.
5. *Orach Chayim* 313:6.
6. *Mishna Berura* 313:43.
7. See *Magen Avraham* 313:11 and *Bi'ur Halacha* ad loc.
8. Op. cit.

Upon visiting the website you provided, it appears to us that the interlocking tracks are not strongly connected, though they *may* belong to the rabbinically prohibited middle category. It also seems that the set can be used in two ways, with different halachic implications. One can set up the tracks so that the child will run the train along them without changing the tracks for days. Alternatively, the child may enjoy or the parents may require that the tracks be taken apart and reassembled daily. According to most *poskim*, the latter case is permitted, even if the connection is not flimsy. This is based on the *Magen Avraham*⁹ and *Taz*¹⁰ that things that are constantly disassembled and reassembled are not bound by the usual parameters of building. A rabbinic prohibition may persist despite one's intention to undo the assembly. However, several *poskim* say that in the case of a child's game that is regularly taken apart, it is permitted.¹¹ These distinctions are pertinent, as well, regarding the *machloket* about using interlocking blocks (e.g., Lego) on Shabbat (about which there is a lack of consensus among *poskim* and in practice).

Our case has elements of stringency and leniency compared to Lego. On one hand, not only is forming the track a game in itself, it also functions as a *kli*, serving as a track and even a bridge for the train. Thus, assembling it may be a significant act of "building." On the other hand, the connections appear to be appreciably weaker than Lego's. There is certainly room for leniency, especially for a child. However, if *you* want to be involved in assembling tracks that will last for an extended period of time, then it is both halachically prudent and practically logical to do so on a different day.

Let us briefly and generally address the matter of your son. Has he reached the age when he can be educated in *mitzvot*? In regard to forbidden actions, this is from the time that he

9. *Ibid.* 12.

10. *Ibid.* 7.

11. *Shemirat Shabbat K'Hilchata* 16:(53); see also *Piskei Teshuvot* 313:4.

understands on a reasonable level what it means that something is forbidden for him. One should teach a child at that stage of development not to do that which is clearly forbidden for adults. (By and large, one can be somewhat more lenient regarding a child in cases like this one, where the correct halachic ruling for an adult is unclear). You may not give a child of any age something that is forbidden to eat or to play with. However, when a small child takes a prohibited object on his own, you need not intervene.¹²

12. See *Shulchan Aruch, Orach Chayim* 343:1.

c-14: Cooking Inside a Cooking Bag Within a *Chulent*

Question: Is it permitted to put a “cooking bag” inside the *chulent* pot before Shabbat to cook rice or the like separate from the rest of the *chulent*, or does that constitute *hatmana* (insulating food)?

Answer: Allow us to expand the question to deal with a variety of related cases.

Chazal forbade *hatmana* of food on Shabbat out of concern that while insulating food to retain its heat, one might heat the food in a manner that violates Shabbat.¹ It is forbidden to do *hatmana* even before Shabbat into a medium where heat is being added to the system (*mosif hevel*).² Thus, if placing the cooking bag inside the *chulent* is considered *hatmana*, it is forbidden. However, usually there is either no issue of *hatmana*, or it can be easily avoided.

Firstly, it should be clear that cooking one food directly in another is not *hatmana*. The issue of *hatmana* arises when a food is not being cooked with the rest of the pot but is placed in it to become or remain hot, as a separate unit. Even this is a problem only when it is separated from the rest of the food by a utensil or at least a significant covering.³

Putting cooking bags in a pot of a boiling liquid is considered a manner of cooking, not of *hatmana*, and is therefore permitted.⁴ If one intends to mix the tastes of the different foods by heating them together, even if they were previously cooked (e.g., matzo balls in soup), then this is considered cooking together and permitted. The fact that one or more of the foods is in a bag is not a

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1. *Shabbat* 34a.
 2. *Shulchan Aruch, Orach Chayim* 257:1.
 3. *Shemirat Shabbat K'Hilchata* 1:72.
 4. Based on *Minchat Yitzchak* v 111:17.

problem, especially if that is done to prevent the food from falling apart or diffusing. Using a porous bag or making holes in the bag are indications of the desire to have the foods interact.⁵

Even when none of these criteria are met, we *pasken* that *hatmana* applies only when the food is insulated on all sides.⁶ Therefore, one may warm a securely wrapped *kugel* that was baked separately by placing it in the *chulent* pot before Shabbat if a reasonable portion of the *kugel* protrudes above the surface of the *chulent*.

5. *Shemirat Shabbat K'Hilchata* 42:63 and footnote 242.

6. Rama, *Orach Chayim* 253:1.

C-15: Using a Bird Feeder on Shabbat

Question: May one use a bird feeder on Shabbat?

Answer: The *mishna* in Tractate Shabbat¹ assumes that one may feed animals on Shabbat and discusses which systems are permitted and which are not. The *gemara*² presents opposing sources that indicate that it is forbidden to feed animals in any manner, and then provides two distinctions to resolve the apparent discrepancy. The main difference is that one may feed only those animals whose food is his responsibility. The *gemara* also distinguishes between those animals that are dependent on man for food and those that can find food independently. The *Shulchan Aruch*³ accepts the stringency of both distinctions and says that one is permitted to feed an animal only if he is responsible for it and it needs to be fed. (When the owner may feed, others may do so on his behalf.⁴) Otherwise, it is in the forbidden category of unwarranted toil on matters not related to Shabbat.⁵ Regarding a rabbinic prohibition of this type, it is unusual to make an exception for those who enjoy feeding animals.

The main determining factor of whether one has a responsibility to feed animals is whether he owns/controls them. If he takes them to his home, barn, etc. for his benefit, then he has a serious responsibility to provide for them properly. Apparently, members of the animal kingdom that are not in the human domain are in the Divine domain, and HaShem looks out for their needs. Thus, it is forbidden to fill a bird feeder, which attracts and provides for wild birds, on Shabbat.

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1. 155b.
 2. Ad loc.
 3. *Orach Chayim* 324:11–12.
 4. *Shemirat Shabbat K'Hilchata* 27:21.
 5. See *Mishna Berura* 324:29.

Some *poskim* allow, under certain circumstances, feeding an animal that one does not own. The *Shulchan Aruch*⁶ mentions that one may feed a dog. Whereas some explain that this refers to one's own dog, the *Magen Avraham*⁷ says that it refers to any dog and that it is a special dispensation based on the *gemara*⁸ that mentions HaShem's concern for dogs' difficulty finding food. Some prominent *poskim*⁹ extend this concept to any animal that we *know* is hungry and suffering. The same might apply to birds during the time of the year when one knows they have difficulty finding food, especially if he accustomed them to frequenting the area near his home and the surrounding area does not have sufficient food opportunities. (We cannot offer a zoological opinion, and certainly not about circumstances we have not observed.)

Since the issue of feeding on Shabbat is unwarranted toil, many say that if one needs to shake out his tablecloth for his own purposes, he may do so intentionally in a place where animals will benefit.¹⁰ An interesting, longstanding *machloket* is whether the *minhag* of some people to throw breadcrumbs to birds on *Shabbat Shira* (to recognize the birds' assistance in glorifying the miracle of the manna that fell before Shabbat) is permissible. The *Magen Avraham*¹¹ and *Mishna Berura*¹² object because one is feeding birds that he does not own. The *Aruch HaShulchan*¹³ and others justify the *minhag* by claiming that we throw the crumbs for our sake, not theirs.

On *Yom Tov*, it is permissible to slaughter animals in order to

6. *Orach Chayim* 324:11.

7. Ad loc. 7.

8. Ibid.

9. *Aruch HaShulchan*, *Orach Chayim* 324:2; *Shemirat Shabbat K'Hilchata* 27:23; *Yalkut Yosef*, *Shabbat* 324:4.

10. See *Shemirat Shabbat K'Hilchata* 27:21 and footnote 69 and *Yalkut Yosef* op. cit.

11. Op. cit.

12. 324:31

13. *Orach Chayim* 324:3

eat their meat that day but there are several restrictions, including that one may not trap them on *Yom Tov*. In order to distance us from the possibility of taking animals that we should not, the Rabbis forbade throwing food on *Yom Tov* to animals that are off limits to our use.¹⁴ In such cases, *Yom Tov* is more stringent than Shabbat.

In general, the logical suggestion is to fill the bird feeder before Shabbat (or *Yom Tov*). If he failed to do so, he should not, under normal circumstances, put out food for wild birds on Shabbat; he can assume that the birds' Maker will provide for their welfare.

14. *Shulchan Aruch, Orach Chayim* 497:2 – see *Beitza* 23b and *Tosafot* ad loc.

c-16: Need for an *Eiruv* on an Island

Question: I will be on the island of Maui (Hawaii) on Shabbat. Do I need an *eiruv* in order to carry?

Answer: In order to carry in an area on Shabbat, there need to be walls (physical or halachic, i.e., an *eiruv*) surrounding the area on all sides. Your question is a good one: does the fact that Maui is an island make it considered surrounded by walls? In fact, the *gemara*¹ raises the question that there should be no *reshut harabim*² anywhere because, looking far enough to all sides, the entire world is surrounded by the oceans. We should point out that a body of water is not in and of itself like a wall, but the steep incline that certainly exists underwater is considered a wall, even though it is covered by water.³

The *gemara*, which rejects this possibility, does not expound why and when oceans do not remove the status of *reshut harabim* from the land they surround. *Tosafot*⁴ say that natural walls are less significant than man-made walls and are annulled by the movement of the masses of people within them. The *Ritva*⁵ says that to be considered surrounded by walls, the walls need to be close enough that a person feels contained by them. Either way, in Maui, which has over 100,000 inhabitants and has an area of approximately 2,000 sq. kilometers, the natural topography does not suffice.

There are also several rabbinic laws that would require an *eiruv* for carrying in Maui on Shabbat. In order to constitute a

1. *Eruvin* 22b.

2. Public domain, where it is biblically forbidden to carry on Shabbat.

3. See *Shulchan Aruch, Orach Chayim* 363:29 and *Mishna Berura* ad loc. 18.

4. *Eruvin* 22b.

5. *Eruvin* 22b.

reshut hayachid,⁶ the walls that surround it must not have gaps of more than ten *amot* between and among them. This is hard to ensure regarding an island because the incline of the ocean floor is not usually uniform and probably has such gaps. A *reshut hayachid* must also be enclosed, at least partially, by man-made walls that were built specifically for the purpose of people living within.⁷ The man-made sections of the wall must be close to the rest of the wall (which, in this case, is often well off the coast) that encompasses the area in order to form one unit.⁸ Additionally, there cannot be large tracts of agricultural or uninhabitable land within the encompassed area.⁹ Furthermore, even if the walls are valid, there is still a need for the second part of the *eiruv*, namely, the box of *matzot* that is acquired on behalf of all the Jewish inhabitants.¹⁰ Permission for Jews to carry also depends on nominally renting all of the land from an authorized representative of the non-Jewish inhabitants.¹¹ An experienced rabbi is needed to make the necessary arrangements.

It is worthwhile to check if there is a Jewish community that has a local *eiruv*, or at least other important religious services.

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6. Private domain – an enclosed area in which it is permitted to carry on Shabbat.
 7. See *Shulchan Aruch, Orach Chayim* 358: 1, 2, 6.
 8. *Bi'ur Halacha* ad loc. 6.
 9. *Shulchan Aruch* *ibid.* 11–12.
 10. *Ibid.* 366:1.
 11. *Ibid.* 382:1.

c-17: Giving Presents of Food on Shabbat

Question: I thought it was forbidden to transfer ownership between people on Shabbat. Yet, people regularly bring over food when invited to friends' homes. Is that permitted?

Answer: In explaining the prohibition of making donations to the *Beit HaMikdash* on Shabbat and *Yom Tov*, the *gemara*¹ says that it is included in the prohibition of commerce on these days. Rashi² cites two reasons for the banning of commerce: 1. The *navi* Yeshayahu taught us to stay away from weekday-like activities and speech on Shabbat. 2. Commerce could prompt one to write documents.

Do these concerns apply to giving a present? The *Beit Yosef*³ cites the Mordechai that one can transfer ownership of a *lulav* and *etrog* on Sukkot to his friend because it enables him to fulfill the *mitzva*. This reasoning surprised the *Beit Yosef* because if one gives a present just by handing it to his friend without a formal *kinyan sudar*,⁴ it should be permitted even when there is no *mitzva*. Some commentaries cite support for the *Beit Yosef*'s position.⁵ However, the consensus of *poskim* agrees with the Mordechai that even though giving presents is not overly commercial in nature, it is included in the prohibition of commerce, except for cases of *mitzva*.⁶

What, then, constitutes a *mitzva*? In addition to ritual articles like an *etrog* on Sukkot, one may give and receive presents

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1. *Beitza* 37a.
 2. Ad loc.
 3. *Orach Chayim* 527.
 4. An act in which one party hands over some utensil to his counterpart and thereby acquires rights or ownership of another object.
 5. See *Beit Meir* on *Even HaEzer* 45.
 6. *Magen Avraham* 306:15; *Mishna Berura* 306:33.

that more generally address the needs of the day.⁷ Based on this, people may give presents of food when going over to friends if they feel that they will be used to enhance the Shabbat meal.⁸ It is proper to make a realistic appraisal whether the specific item given is likely to be used on that Shabbat (e.g., presenting dairy food to the hosts of a meat lunch on a Shabbat with a short afternoon would be problematic). *Poskim* discuss giving presents to bar mitzva boys.⁹

Even when one cannot transfer ownership of an object on Shabbat, he may still present it in one of two ways: 1. He may formally transfer ownership to the recipient before Shabbat¹⁰ by buying the object on behalf of the recipient or having someone, preferably outside of the giver's family,¹¹ lift up the object on behalf of the recipient; 2. Either party has in mind not to effect the formal transfer of ownership until after Shabbat.¹²

7. *Shemirat Shabbat K'Hilchata* 29:29.

8. See *Shulchan Aruch HaRav* 306:15, which corroborates.

9. See discussion in *Yechaveh Da'at* 111:21.

10. *Shemirat Shabbat K'Hilchata* op. cit.

11. See details in *Shulchan Aruch, Orach Chayim* 366:10.

12. *Ibid.*

c-18: Transferring Food on Shabbat from a Hot Plate that Shut Off

Question: Last Friday night, my electricity blew. To save my *chulent*, which was on an electric hot plate, I brought it to a neighbor and put it on her *blech*.¹ Was that okay?

Answer: In order to return a pot of food onto a fire on Shabbat (*hachzara*), several requirements must be fulfilled. Among them are that one must have removed the pot from the fire with the intention of putting it back and that it must remain in his hand the whole time.²

The application in your case depends on a simple *chakira* (analytical dilemma): Does one need to make a positive connection between past and future stays on the fire by holding the food and planning to return it? Alternatively, is it permissible to return food to the fire or transfer it to another heat source unless one actively removed the pot from the fire in a manner that precludes this? In your case, when the electricity went out, nothing was done to positively demonstrate that the pot would be placed on your neighbor's *blech*. On the other hand, you never actually removed the pot from the fire; rather, the fire disappeared by itself when the electricity went out.

Explicit discussions of equivalent scenarios are found primarily in the works of recent and contemporary *poskim*. Rav Moshe Feinstein³ and Rav S.Z. Auerbach⁴ support the position that one's intention to keep the pot on the fire persists from the

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1. A sheet of metal that covers a heat source to allow one to keep foods there on Shabbat.
 2. Regarding whether both conditions or only one need to be fulfilled, see the different opinions in *Shulchan Aruch, Orach Chayim* 253:2 and *Bi'ur Halacha* ad loc.
 3. *Igrot Moshe, Orach Chayim* 1v:74:(38).
 4. See *Shemirat Shabbat K'Hilchata* 1:(69).

time when he first put it on unless he *consciously* removes it. The *Shemirat Shabbat K'Hilchata*⁵ recommends that one not rely on this logic without an additional reason for leniency. He suggests that, for the new heat source, one should not put the pot directly on a *blech* but separated from it by an overturned pan or plate. There are other points of leniency and stringency that one should consider. The Rama⁶ says that, if necessary, one may rely on the Ran's minority opinion that if food is removed from a heat source *on Shabbat* even without intention to return it, then he may return it to a heat source that is covered or nonadjustable (such as a *blech* or many hot plates). Another point is that if one acts quickly, he can obviate the problem altogether. This is so because although electricity is the technical cause of the heat, the hot plate's *surface* is the halachic source. Thus, as long as the hot plate is still hot, one is permitted to take the pot into his hands and bring it to a neighbor, just like he may move any pot from one *blech* to another. The fact that the surface will cool off soon does not change that. (Some Sephardic *poskim* never allow moving food from one heat source to another.⁷)

One must make sure that *all* of the items in the *chulent* pot, including beans and bones that might be eaten, are fully cooked before returning them to a *blech* and that the food, if it contains liquid, is still hot (slightly, for Ashkenazim; *yad soledet bo*,⁸ for Sephardim⁹). Otherwise, by returning the pot to the heat source, one would actually be cooking, which is far more problematic than the rabbinic limitations on *hachzara*.¹⁰

5. 1:23.

6. *Orach Chayim* 253:2.

7. See *Yalkut Yosef, Orach Chayim* 253:(10).

8. Hot enough to prompt one to withdraw his hand. Opinions range from 110°–160°F = 43°–71°C.

9. See *Shulchan Aruch, Orach Chayim* 318:4 and Rama, ad loc. 15.

10. *Shulchan Aruch* op. cit. 253:2 and *Mishna Berura* ad loc. 61, 68.

c-19: Use of a Door Knocker on Shabbat

Question: Can one use a manual door knocker on Shabbat? If it is forbidden, what is the nature of the prohibition?

Answer: The matter is related to the rabbinic prohibition of dancing or clapping, which might cause one to fix a musical instrument.¹ The latter constitutes a violation of the biblical prohibition of *makeh b'patish* (the final action in creating a usable object). Let us see how this connects to your question about a nonmusical instrument.

The *gemara*² relates that Ulla scolded someone he heard knocking on a door on Shabbat. Rabbah justified the man who knocked, saying that there is a problem only if one made a “sound of song.” The parameters of the category of song become a little clearer as the *gemara* proceeds. The *gemara* challenges Rabbah based on a *baraita* that allows one to set up an apparatus that drips water to make a sound *only* for the needs of the sick. It assumes, at first, that the sound was a noise to wake someone up, which we see is normally forbidden. It deflects the proof, saying that the dripping water created a calming sound that puts people to sleep. We see from the deflection of the proof that “song” need not be musical as long as it is a pleasant-sounding noise.³ In sum, it seems then that according to Ulla knocking on a door in any manner that one intends to make a noise is forbidden, whereas according to Rabbah it is permitted unless the noise is at least marginally musical.

With regard to *psak*, although the *Yerushalmi* seems to

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1. *Mishna* and *gemara*, *Beitza* 36b.
 2. *Eruvin* 104a.
 3. See Rashi *ad loc.*

concur with Ulla's approach, the Rif⁴ and the Rambam⁵ accept the lenient opinion of Rabbah. The *Beit Yosef* introduces the *Agur's* compromise position: it is forbidden to make even a nonmusical sound with a nonmusical instrument, but only if the instrument is made for the purpose of producing some sort of sound. The *Beit Yosef* is puzzled by this opinion, as it appears too lenient for Ulla and too stringent for Rabbah. He suggests that the *Agur* accepts Rabbah's opinion, but that regarding a noise-making instrument, we need to be concerned that one will use it for music. Note that music in this context apparently includes keeping a beat, as clapping is one of the classic examples of the prohibition.⁶

Although the *Shulchan Aruch*⁷ brings Rabbah's lenient opinion as *halacha* without the *Agur's* limitation, the Rama⁸ *paskens* like the *Agur*. Thus, according to the Rama, although one may bang with his fist on a door with the intention to make noise (as long as it is not to a beat), he may not do so with a doorknocker, which is made for that purpose. Thus, Sephardim may use a doorknocker,⁹ and Ashkenazim may not.¹⁰

Any bell that is somewhat more musical, even if not electrically activated, is more problematic and is forbidden even for Sephardim. However, there is room for leniency in the following case: If one's home has bells that chime whenever the door is opened and he neglected to remove them before Shabbat, the custom is to allow him to enter the home despite the fact that he will thereby produce the problematic sound. This is based on the *Magen Avraham*,¹¹ who says that one may move curtains or clothes with little bells attached to them if his intention is not to

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4. 26a of the Rif's pages on *Eruvin*.
 5. *Shabbat* 23:4; see *Beit Yosef, Orach Chayim* 338.
 6. *Beitza* 36b; see *Shemirat Shabbat K'Hilchata* 28:35.
 7. *Orach Chayim* 338:1.
 8. Ad loc.
 9. See *Yalkut Yosef* ad loc. 12.
 10. *Shemirat Shabbat K'Hilchata* op. cit.
 11. 338:1.

make the noise. The *Mishna Berura*¹² allows following this opinion in a case of need, for example, if it is the only way into his house. In the case of bells that are part of the adornment of a *sefer Torah*, there are additional authorities who are lenient because of the *mitzva* involved,¹³ and each *shul* should follow its *minhag* and the ruling of its rabbi.

Regarding doorknockers that are specially intended for use on Shabbat, the *Mishna Berura*¹⁴ mentions the practice to use them, which the *Shemirat Shabbat K'Hilchata*¹⁵ finds acceptable.

12. 338:6. See also *Bi'ur Halacha* ad loc.

13. See *Mishna Berura* *ibid.*

14. *Ibid.* 7.

15. 23:46.

c-20: Allowing a Vending Machine to Operate on Shabbat

Question: I want to buy vending machines that non-Jews will use. May I allow them to operate on Shabbat? Is there a problem of receiving *s'char Shabbat* (earnings from Shabbat)?

Answer: This topic is too broad to be explained fully in this forum, but we will deal briefly with the major issues and provide a bottom line response. (We dealt with the topic more deeply in our book *BeMareh HaBazak*¹ regarding the related question of maintaining a monetized website on Shabbat.)

Lifnei iver (causing someone to sin): Although you speak of a machine to be used by non-Jews, it is not clear whether you refer to a location where some Jews will probably use the machines on Shabbat or where it is unlikely that any Jew will use them. Even in the more stringent scenario, there is ample room for leniency because of a combination of factors (each of which should not be relied upon independently): 1. It is likely that a Jew would be able to buy the same product from a non-Jew; 2. The main intent is for the non-Jewish majority; 3. Any Jew who would use the machine on Shabbat would do so knowingly and presumably regularly desecrates Shabbat; 4. You perform the actions of placing and filling the machine at a time when a Jew is permitted to use the machine.

Commerce on Shabbat: It is forbidden to buy or sell items, hire workers, etc. on Shabbat (even if the other party is a non-Jew) due to the concern that one involved in commerce may come to write, even if he does no physical action.² Some *poskim* say that one may not even make a transaction before Shabbat that will take

1. V:37.

2. Rambam, *Shabbat* 23:13–14.

effect on Shabbat.³ At first glance, a sale will take effect on your behalf on Shabbat through your machine. However, others say that if the Jew is not involved in any act of commerce on Shabbat, it is permitted,⁴ as is the case here. Furthermore, you are not doing anything to single out Shabbat as the day for the transactions to take effect, as you would presumably be happy if your machine sold out from purchases before or after Shabbat.⁵ Some suggest that you should have in mind that the formal transactions not take place on Shabbat. You can accomplish this by intending that whoever puts money in the machine can take the desired item without formally receiving ownership⁶ or by giving a present before Shabbat to whoever will put in money of the item he will select.⁷ You can intend to take ownership of the coins after Shabbat. These *poskim* add that the machines should not be located in your domain or be publicly known as yours, although it is not clear why that is important in this case.⁸

S'char Shabbat: The primary prohibition of receiving payment for something that occurs on Shabbat is that one should not be paid for work he does then. If he receives money without having done anything on Shabbat, one could argue that it is not problematic. However, the *Shulchan Aruch*⁹ says that a Jew may not receive profits from renting out an object for Shabbat, even if he does nothing on Shabbat. However, in our case, the payment is primarily to buy objects found in the vending machine. The prohibition of *s'char Shabbat* does not forbid receiving the value of an object that one gave to another, even if it was given on

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3. *Shut Rav Akiva Eiger* 1:159.
 4. *Maharam Shick, Orach Chayim* 131.
 5. See *Chelkat Ya'akov, Orach Chayim* 67.
 6. *Ibid.*
 7. *Minchat Yitzchak* 111:34.
 8. See *BeMareh HaBazak* op. cit.
 9. *Orach Chayim* 246:1.

Shabbat.¹⁰ (One has to solve the problem of doing commerce on Shabbat, as we did above). Even if one contends that in addition to the value of the object, one pays for the service of providing a vending machine, that extra payment is considered “swallowed up” in the non-problematic payment (*havla'á*). *Havla'á* of Shabbat pay is permitted.¹¹ (Parameters of that rule are beyond our present scope.)

In the final analysis, there are sufficient grounds to allow you to own a vending machine, at least in a place where most of its use on Shabbat will be by non-Jews.

10. *Noda B'Yehuda* 11, *Orach Chayim* 26, accepted by *Shemirat Shabbat K'Hilchata* 28:51 and *Minchat Yitzchak* III:34.

11. *Shulchan Aruch*, *Orach Chayim* 306:4.

c-21: Is a Car Seat *Muktzeh*?

Question: My family wants to take a taxi to the *Kotel* and walk back. We have a stroller for our baby, and we have a compactible car seat for our son. Is the car seat *muktzeh* (it has no other use)? If so, can I fold it up and put it on the stroller before Shabbat and thereby bring it home?

Answer: We must deal with three questions: To what category of *kli* (utensil) does a car seat belong? If it is *muktzeh*, can you find a use for it that allows you to carry it? If it is forbidden to carry, may you push it along with permitted things (i.e., the baby) in the stroller?

Category – A car seat is a *kli shemelachto l'issur* (a *kli* whose main use is for forbidden activity). It is true that the seat is not directly involved in the forbidden activity (i.e., driving), unlike most cases of *kli shemelachto l'issur*, which are directly involved in a violation (e.g., pen, car, etc.). Yet utensils which serve an otherwise permitted function within the framework of a violation are also *kli shemelachto l'issur*. Examples are phone books and car doors (regardless of activating lights).¹

Possibility of moving such an object – One may move a *kli shemelachto l'issur* only for a permissible function or if it is in the way, but not to protect it.² You wish to protect the car seat from loss, which would be a problem. However, the *Magen Avraham*³ permits one to contrive a use for a *kli shemelachto l'issur* in order to move it, even if his main intention is to protect it. The *Mishna Berura*⁴ accepts the premise of a secondary intention, although

1. See *Shemirat Shabbat K'Hilchata* 20:17.
2. *Shulchan Aruch, Orach Chayim* 308:3.
3. 308:8.
4. 308:16.

perhaps only for an existing need, but the *Machatzit HaShekel*⁵ and *Yalkut Yosef*⁶ permit inventing a need. However, you must have a real plan to use the car seat after coming home, and some *poskim* require that for the use you devise, you must not be able to easily utilize a non-*muktzeh* utensil.⁷ If you can be creative, you may be able to solve the problem.

Carrying with other things – Pushing a stroller with *muktzeh* in it is indirect moving, which is forbidden if done for the *muktzeh* item's protection.⁸ In our case, the stroller's other contents, especially the baby, are more significant than the car seat, and you may push the stroller for their sake.⁹ However, the *gemara*¹⁰ says that if fruit and a stone are in a basket, one must shake out the stone if he can do so without causing damage. So must you remove the car seat or not put it in to start with? Most *poskim* rule that even if only the *muktzeh* will be damaged (or, in this case, lost), one need not shake it out.¹¹ Therefore, you should be able to leave the car seat in the stroller.

Yet, there is still a question if we consider that there are two ways to explain the permission to keep the *muktzeh* item in the basket when there is concern of possible damage. It might be because the act of moving *muktzeh* and non-*muktzeh* together is permissible unless one refuses the easy opportunity to remove the *muktzeh*. Alternatively, it could be considered moving *muktzeh*, though it is permitted because of the need. If the latter is true, then the need may be suspect here. After all, you want to create a situation where the car seat, which you may not move to protect, is in the stroller so that you have an excuse not to shake

5. To *Magen Avraham* op. cit.

6. *Orach Chayim* 308:3:7.

7. *Mishna Berura* 308:12. The *Shemirat Shabbat K'Hilchata* 20:8 is equivocal on the matter.

8. *Shulchan Aruch, Orach Chayim* 311:8.

9. *Ibid.* 309:3.

10. *Shabbat* 142a; see *Shulchan Aruch* op. cit.

11. *Sha'ar HaTziyun* 309:17.

it off. Indeed, *Tosafot* and the *Ritva*¹² say that carrying the basket with the fruit and stone is carrying *muktzeh* and is permitted only because of need. (The *Rambam*¹³ is ambiguous.¹⁴) We have not found a source that discusses purposely creating a “joint basket” of *muktzeh* and non-*muktzeh* before Shabbat, and we are inclined to consider it improper.

There are those who permit moving a *kli shemelachto l'issur* if one puts a non-*muktzeh* object on it.¹⁵ Another possible, but not unanimous, idea for a fold-up car seat is to carry it in a backpack starting before Shabbat. This is because one may continue carrying a *kli shemelachto l'issur* when he started doing so at a time or in a manner that it is permissible.¹⁶

Thus, we cannot rule out the grounds and means for leniency, especially in a case of need. You must consider which of the possible options, or a combination thereof, is most feasible and preferable.

12. *Shabbat* 142a.

13. *Shabbat* 25:16.

14. *Chazon Ish, Orach Chayim* 47:22.

15. *Shulchan Aruch, Orach Chayim* 308:5; see *Mishna Berura* ad loc. 26.

16. See *Mishna Berura* 308:13, *Shemirat Shabbat K'Hilchata* 20:(26) and sources cited there.

c-22: Calling a Non-Jew in a Place Where it Is Still Shabbat

Question: I live in Israel but have a business in America. I speak with some of my managers after work hours. May I call non-Jewish workers on *Motzaei Shabbat*, when it is still Shabbat in America?

Answer: It is correct to ask only about non-Jewish workers, as calling Jewish workers would clearly violate *lifnei iver*.¹ Obviously, your non-Jewish workers would not be sinning by taking your call. However, would you be violating *amira l'nochri*² by, in effect, asking them to take the call?

One might claim that since at the time you want to talk to the non-Jew, it is not Shabbat for you, the laws of Shabbat, including *amira l'nochri*, do not bind you. However, we find that you are forbidden to ask a non-Jew before Shabbat to do work for you on Shabbat, even though your involvement in the matter was not on Shabbat.³

In *BeMareh HaBazak*,⁴ we dealt with this issue by seeing whether any of the three possible reasons for the prohibition of *amira l'nochri* applies in the case at hand. One reason is that it violates the rule that one may not discuss matters that pertain to activities, including *melachot*,⁵ that are inappropriate on Shabbat.⁶ This issue stresses the Jew's involvement and is thus not pertinent here. After all, your call, which you make after Shabbat from your perspective, is appropriate for you.

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1. The prohibition against causing someone to sin.
 2. The rabbinic prohibition against a Jew asking a non-Jew to do work for him on Shabbat.
 3. *Shulchan Aruch, Orach Chayim* 307:2.
 4. V:43.
 5. Activities that the Torah prohibits on Shabbat.
 6. Rashi, *Avoda Zara* 15a.

A second reason is that when a non-Jew does *melacha* at a Jew's behest, it is, on a certain level, as if the Jew is doing it through an agent.⁷ This also should not be a problem, as even if you were to do the *melacha* yourself at the time in question, it would be permitted, as Shabbat is finished for you.

The Rambam⁸ provides another rationale for the prohibition of *amira l'nochri*: "so that Shabbat will not be light in their eyes, and they [the Jews] will come to do it themselves." This also seems not to apply, as one who waits until after Shabbat to ask a non-Jew is not treating Shabbat lightly.

Despite all of this, Rav Zilberstein⁹ entertains the possibility that it is forbidden for a Jew to ask a non-Jew to do *melacha* for him when it is Shabbat only in the non-Jew's location. He tries to prove that a non-Jew's work on Shabbat is considered "breaking Shabbat" (albeit in a permitted manner). His contention is based on the *halacha*¹⁰ that one may not make a *beracha* at *Havdala* on a candle that a non-Jew lit on Shabbat because it is a "light that did not rest." Rav Zilberstein does not fully clarify his reasoning, but one can explain the possible stringency in two ways: One way is based on the rule that the Rabbis forbade asking a non-Jew, even before Shabbat, to do *melacha* on Shabbat. Our case may fit that prohibition's parameters, and it may not make a difference whether or not the prohibition's logic applies. (One of the most complicated issues in *halacha* is if and when a rabbinic injunction that was made under certain circumstances applies to cases where the original logic doesn't apply.) Another explanation may be based on the Rambam that treating Shabbat lightly, by having a non-Jew do work on one's behalf, can lead to real violations. It is possible that as long as it is Shabbat in the non-Jew's place, there is an element of taking lightly.

7. Rashi, *Shabbat* 153a.

8. *Shabbat* 6:1.

9. *Melachim Omnayich* 3:(15).

10. *Shulchan Aruch, Orach Chayim* 298:5.

In the final analysis, there is a consensus amongst recent *poskim* that our case is permitted¹¹ because the logic of the prohibition of *amira l'nochri* does not apply. We offer one proviso, however: If it is publicly known that yours is a Jewish-owned business, then even non-Jewish workers should not do work on the premises when it is Shabbat locally, even if it is not Shabbat for you.¹² This is because work being done at such a business¹³ gives the wrong impression to the public (*marit ayin*) since, for the local populace, it is Shabbat.

11. See *BeMareh HaBazak* op cit.; *Yisrael V'Hazemanim* 1:34:4.

12. *Chelkat Yaakov, Orach Chayim* 87.

13. *Shulchan Aruch, Orach Chayim* 243.

c-23: A Non-Jew Selling for a Jew at a Weekend Fair

Question: I make crafts and would like to sell them at an upcoming fair. However, the fair will take place on Shabbat and Sunday. A non-Jew is willing to sell them on both days on consignment¹ for a percentage of the sales. May she do this for me on Shabbat?

Answer: In a situation where a non-Jew will conduct commercial activity that involves a Jew's property on Shabbat² we have to ask a few questions: 1. Is the non-Jew working on the Jew's behalf or on his own? 2. Does the arrangement have the public appearance of something forbidden on Shabbat (*marit ayin*)? 3. Is the Jew improperly receiving financial benefit from work done on Shabbat?

Work on the Jew's behalf: The main distinction that determines whether a non-Jew's activity with a Jew's property is permitted or forbidden is as follows: If a Jew pays a non-Jew to do work based on time (per month, day, hour, etc.), his work is considered being done on the Jew's behalf and is forbidden. The salary is the impetus for the worker to follow the Jew's explicit or implicit directives. In contrast, if the non-Jew is paid by the job (*katzatz*), then we say that he is working on his own behalf in order to receive financial benefit from his work, and it is permitted.³ In your case, where the seller at the fair works for a percentage of the sales, she benefits directly from the sales. Thus, she would be working on her own behalf, not yours, even if you would benefit more than she.

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1. She will return the unsold items to me.
 2. Since the sales are on consignment, the saleswoman does not become an owner of the merchandise.
 3. *Shulchan Aruch, Orach Chayim* 247:1.

However, a problem remains: The *Shulchan Aruch* and Rama⁴ say, respectively, that one may not give a non-Jew money with which to buy things or merchandise to sell if he tells him to do so on Shabbat, even in a case of *katzatz*.⁵ Is your situation equivalent to telling her to sell on Shabbat? On one hand, you could refrain from telling her to do that. Although both of you would like her to sell on Shabbat, we can still say that she does so for her own gain.

On the other hand, this may be a more severe situation than those of the *Shulchan Aruch* and the Rama. There, it sounds like a set number of items are to be bought or sold. Thus, it is likely that the non-Jew would be able to buy or sell them without doing so on Shabbat; the choice to do so on Shabbat is his. However, if it is unfeasible to sell all of the merchandise without marketing on Shabbat, then it is arguably like telling him to sell on Shabbat. The *Magen Avraham*⁶ addresses a similar circumstance. He says that one may not ask a non-Jew to buy something for him when the market day, which is the only logical time to obtain the object, is exclusively on Shabbat. In your case, it seems that you can obtain the optimal amount of sales only if the seller sells them for two days, including Shabbat.

However, there is a strong halachic indication that even when maximum profits can be achieved only with help from a non-Jew on Shabbat, the Jew can allow the non-Jew to work in a case of *katzatz*. Consider the following: A bathhouse was classically operated by workers who were paid by time. Therefore, due to *marit ayin*, it was forbidden for a Jewish-owned bathhouse to be operated on Shabbat by a non-Jew even for a percentage of the income from admission.⁷ However, in a place where *katzatz* is the norm,

4. *Orach Chayim* 307:4.

5. See *Mishna Berura* ad loc. 14.

6. 307:3.

7. *Shulchan Aruch, Orach Chayim* 243:1.

this practice is permitted.⁸ This case is parallel to yours; in both, Shabbat's income cannot be made up on another day. We see that despite your desire that she sell on Shabbat and your gain from it, it is not considered like telling her to do so as long as you do not require it of her.

Marit Ayin: This is not a problem if either: your product is not publicly traceable to you by its label or a known feature, or it is standard practice that sellers at the fair work for a percentage of the sales.

Profits from Shabbat: As long as the seller gives you the money in a lump sum without singling out money that was made on Shabbat, this is not a problem.⁹

There are other possible ways to deal with these issues. However, we have sufficed to point out that under the normal circumstances we described, having a non-Jew sell the crafts for a percentage of the sales does not require special conditions.

8. Ibid. 2.

9. *Mishna Berura* 245:8.

Section D:
Moadim (Festivals)

D-1: Sleeping on Rosh Hashana

Question: May one sleep on Rosh Hashana afternoon?

Answer: It is difficult to balance the various aspects of Rosh Hashana. It is simultaneously a day of awe and of festivity.¹ The *minhag* to limit sleep on Rosh Hashana stems from the awe of the Day of Judgment, and many take it very seriously. We will review the sources and suggest to the individual to choose his practice based on his custom, his strength, and his circumstances.

The Rama² cites and praises the *minhag* not to sleep on the day of Rosh Hashana. The source given is a *Yerushalmi*³ that states that if one sleeps on Rosh Hashana, then his *mazal* (roughly, his fortune) sleeps, implying that the judgment he receives may not be as favorable as it could have been. Certainly, we have precedent in *Tanach* that it is foolish to sleep when one's fate hangs in the balance.⁴

The *Mishna Berura*⁵ and others quote the Arizal as saying that after *chatzot* (midday), the heavenly situation is such that one may sleep. As few people finish *davening* and eating by *chatzot*, this *minhag* seems to have little impact on most of us. However, not all agree with the Arizal on this matter.⁶ The *Bach*⁷ mentions that the Maharam was totally lenient about sleeping on Rosh Hashana.⁸

It is noteworthy that a careful reading of the above primary

1. *Shulchan Aruch, Orach Chayim* 597:1; see *Nechemia* 8.
2. *Orach Chayim* 583:2.
3. *Acharonim* point out that our editions of the *Yerushalmi* are missing this quote.
4. See *Yona* 1:6.
5. 583:9.
6. Our mentor, Rav Shaul Yisraeli, was lenient on this matter.
7. *Orach Chayim* 597.
8. Possibly because he did not feel that the *minhag* should affect one's ability to enjoy the *Yom Tov* on a physical level.

source may suggest that many ‘miss the boat’ concerning this *min-hag*. The source does not say not to go to sleep during the day of Rosh Hashana but “not to sleep.” According to some, this means that one should wake up before the day begins, which may be as early as *alot hashachar*, more than an hour before sunrise.⁹ (The straightforward implication of the *Aruch HaShulchan*¹⁰ and perhaps the *Chayei Adam*¹¹ goes against that supposition.) Even according to this approach, there is room for leniency to sleep until sunrise,¹² and all the more so if waking up so early will affect one’s concentration during *tefilla*. Nevertheless, there are strong grounds for saying that if one is capable of getting up early, it is counterproductive to sleep longer in order to be able to stay up in the afternoon.¹³

The *Mishna Berura*¹⁴ says that not sleeping is not the goal in and of itself. Rather, one should spend his time on spiritually worthwhile activities such as learning Torah and reciting *Tehillim*.¹⁵ If a little sleep will facilitate learning, then it is a worthwhile tradeoff.¹⁶ The *Mishna Berura* goes on to say that wasting one’s time is equivalent to sleeping.

As the main day of Rosh Hashana and its judgment is the first one, there is additional reason for leniency on the second day.¹⁷

9. *Kaf HaChayim* 583:39; *Ben Ish Chai*, cited *ibid*.

10. *Orach Chayim* 597:2.

11. 139:8.

12. *Piskei Teshuvot* 583:65.

13. *Ben Ish Chai* *op. cit*.

14. 583:9.

15. *Ibid.*; *Chayei Adam* 139:11.

16. *Ibid.*

17. *Piskei Teshuvot* 583:10.

D-2: Toiling to Blow Shofar for Homebound Women

Question: As a *ba'al tokei'a* (shofar blower), I am asked to go to sick people's homes to blow for them. It can be very difficult to make it to everyone. Must I go to everyone, including women, who are not obligated in the *mitzva* of shofar?

Answer: There are points in this matter that are difficult to quantify or to find clear halachic guidelines for. We will try to put the matter in proper halachic perspective.

The *mitzva* to hear the shofar on Rosh Hashana is a personal one, even though it is usually performed publicly. If one is unable to go to *shul*, he is responsible to arrange to hear it elsewhere, assuming he is well enough to do so, and should be willing to spend money to facilitate it.¹

In order to perform a *mitzva* on another's behalf, the one who performs it must be obligated in the *mitzva*. Yet, even if one already fulfilled the *mitzva*, the fact that his friend remains obligated in the *mitzva* makes the former sufficiently obligated to perform the *mitzva* on his friend's behalf.² This is based on the concept of *arvut* (responsibility to help one's counterpart with his halachic obligations).³ The practical parameters of this obligation are unclear. However, conventional halachic wisdom maintains that one need not invest as much in his friend's *mitzva* as his own. This relates to money as well as to time, effort, and curtailment of one's enjoyment and *mitzva* of a festive meal after a long day in *shul*. In theory, a *ba'al tokei'a* can demand monetary compensation

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1. See *Eretz Hemdah* 1:1:7 and *Mo'adim U'Zemanim* 1:3 regarding how much money and effort one is required to expend in order to fulfill a *mitzva*. In the final analysis, it is a somewhat subjective determination.
 2. *Rosh Hashana* 29a.
 3. Rashi ad loc.

for the effort involved in making house calls, even though one should not take money for performing the *mitzva* itself. We suggested the same thing to a *mohel* who was asked to spend Shabbat away from home and under difficult conditions in order to perform a Shabbat *brit*.⁴ *In practice*, we assume that, under normal circumstances, one would agree to blow shofar free of charge on Rosh Hashana, even if it is inconvenient.

Another pertinent factor is that a community is likely to have more than one person who is capable of blowing. If so, this reduces the responsibility on any particular *ba'al tokei'a*, especially if he has already done his share.⁵ Even less proficient *ba'alei tokei'a* can and should share the task of going to hospitals and house-to-house if they can do a valid job.

The Torah indeed exempts women from the *mitzva* of shofar.⁶ Consequently, although we assume that there is *arvut* between men and women in general, there is none when the woman herself is not obligated.⁷ On the other hand, for centuries the *minhag* has been that women make every effort to fulfill the *mitzva* of shofar. There are discussions whether the fact that women regularly practice this *mitzva* obligates them to continue doing so, as a form of *neder* (vow).⁸ If it does and they themselves are unable to blow, then someone who is able should help them fulfill this self-imposed obligation.⁹ However, a woman's possible obligation is less likely in a case where illness makes it difficult to fulfill the *mitzva*. Rav Ovadya Yosef¹⁰ rules that at least if the situation is temporary, a sick woman is exempt during her incapacitation without requiring a special *hatarat nedarim*.¹¹

4. *BeMareh HaBazak* 1:32.

5. See *ibid*.

6. *Shulchan Aruch, Orach Chayim* 589:3.

7. See *Shulchan Aruch* and Rama *ibid*. 6.

8. See *Magen Avraham* 489:1 regarding the counting of the *omer*.

9. Presumably, without a *beracha* – see *Shulchan Aruch* and Rama *op. cit*.

10. *Yabia Omer* 11, *Orach Chayim* 30.

11. Absolution of vows.

In most cases, though, the *ba'al tokei'a* is not practically absolved from helping a sick woman hear shofar blowing. To the contrary, even if she is exempt, she has the right to ask for a *chesed* (kindness) to enable her to continue her lifelong practice. Moreover, if for no other reason, one would have good reason to accommodate her with such a visit because of the *mitzva* of *bikur cholim*.¹²

12. Visiting the sick.

D-3: Precautions For Bowing Down on a Stone Floor

Question: When, how, and why do we have to put something on the floor when performing the special *korim* (prostration) on Rosh Hashana and Yom Kippur?

Answer: The *gemara*¹ relates that when Rav arrived in Babylonia, he refrained from “falling on his face” during *Tachanun* as the locals did. One of the *gemara*’s explanations is that there was stone on the floor in front of Rav, and, therefore, he was forbidden to fall on his face. The prohibition is found in *Vayikra*:² “...you shall not place an *even-maskit* in your land to prostrate on it.” This practice, which was performed by idol worshippers, is forbidden (outside the *Beit HaMikdash*) even when one does so in service of HaShem. Commentaries differ widely on the exact meaning and etymology of *even-maskit*, but it applies to any stone floor.³ The *gemara* explains that Rav alone had a problem because he was the only one in the *shul* to prostrate his body fully during *Tachanun*.

The *Mishna Berura*⁴ summarizes the Rama⁵ and earlier authorities’ opinions as follows: The Torah prohibition applies only when one is fully prostrate (*pishut yadayim v’raglayim*) on a stone floor. The Rabbis instituted prohibitions in situations that are one-step removed from the Torah prohibition. Thus, one may not do *pishut yadayim v’raglayim* on a non-stone floor or *kida* (a kneeling bow in which the head touches the floor) on a stone floor. Each of these rabbinic prohibitions can be obviated by adding another element of leniency. One is to lean on the side when bowing. (Many

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1. *Megilla* 22b.
 2. 26:1.
 3. Rambam, *Avoda Zara* 6:6–7.
 4. 131:40.
 5. *Orach Chayim* 131:8.

explain that this is the origin of our practice of leaning on our arm during *Tachanun*.⁶) Another is to place something in between the body and the floor.

The Rivash⁷ cites Rav Sherira Gaon, who says that we forbid *pishut yadayim v'raglayim* on any floor out of concern that there might be stone underneath. The *Magen Avraham*⁸ leans toward the following claim in this regard: Covering a stone floor with cut grass, as was customary for bowing on Yom Kippur, solves even the Torah-level prohibition. Yet, stone covered by earth is a problem, according to Rav Sherira, because the layer of earth merges with the stone. Thus, there is no halachic separation, and *pishut yadayim v'raglayim* is biblically forbidden. In contrast, loose grass is a separate layer, and *pishut yadayim v'raglayim* is biblically permitted. (According to many, any material that is fastened to the floor, such as a carpet, is not a separation.⁹) However, not all agree that a covering allows one to bow in a way that would otherwise be a Torah prohibition.¹⁰ Note that this concern, which troubled *poskim* such as the *Mishna Berura*, no longer applies in our communities. This is because (in places we know of) we do *kida*, not *pishut yadayim v'raglayim*, even on Yom Kippur. Therefore, a separation suffices for a stone floor and is not needed for a non-stone floor.¹¹

What counts as stone? Bricks are not considered to be like stone.¹² However, the *Shevet HaLevi*¹³ says that marble is like stone. Although it would seem that concrete is more like brick than stone, the *Piskei Teshuvot*¹⁴ cites Rav Elyashiv as saying that it is like stone

6. See *Beit Yosef, Orach Chayim* 131.

7. *Shut HaRivash* 412.

8. 131:22.

9. See *Machatzit HaShekel* 131:22.

10. *Sha'ar HaTziyun* 131:44.

11. See *Magen Avraham* op cit.

12. *Mishna Berura* 131:41.

13. 1:23.

14. 131:27.

because of the small rocks it contains. There seems to be ample room for leniency if one does *kida* on a carpet or on linoleum that is on top of concrete. However, most people use towels or papers anyway. (Who wants to risk violating a prohibition during Yom Kippur *davening*?)

Let us end with some further practical notes. The most crucial part of the body to separate from the floor is the head.¹⁵ If one cannot find something for a separation, he can lean to the side on his arm¹⁶ or spread his *tallit* beneath him.¹⁷ May we spend Yom Kippur in the *Beit HaMikdash*, where one may bow even on stone.

15. Rambam, *Avoda Zara* 6:7; see *Piskei Teshuvot* op cit.

16. *Mishna Berura* 131:40.

17. *Sha'ar HaTziyun* ibid.

D-4: Differences in *Arba'at Haminim* Requirements after the First Day of *Sukkot*

Question: Which of the halachic requirements of the *arba'at haminim*¹ apply after the first day of *Sukkot* and which apply only on the first day?

Answer: The *gemara*² comments on the implication of the *mishna* that each *p'sul* (disqualification) it lists for a *lulav* applies even on “the second day of *Yom Tov*.” It says that a dried out³ *lulav* is a problem on the second day because it lacks *hadar* (Rashi- doing the *mitzva* in a sufficiently aesthetic way). But, asks the *gemara*, why is a stolen *lulav pasul*, given that the Torah's requirement that the *arba'at haminim* be owned by the one performing the *mitzva* applies only on the first day? It responds that stolen *arba'at haminim* are *pasul* because of *mitzva haba'ah b'veira* (a *mitzva* that was facilitated by the violation of a transgression). The apparent deduction from this *gemara* is that lack of *hadar* is a problem throughout *Sukkot*, whereas matters of ownership are not if they do not involve an *aveira* such as stealing.

A later *gemara*⁴ tries to reconcile one *Amora's* ruling with another's action. According to one account, Rav said that an *etrog* that mice nibbled on is *pasul*. Yet, R. Chanina (believe it or not) bit from an *etrog* and then used it for *arba'at haminim*, which should be problematic as an *etrog* that is missing a piece (*chasser*). The *gemara* explains that R. Chanina did so on the second day of *Sukkot*. Regarding the mice, there are two contrary suggestions: One

1. The set of four species that includes the *lulav* and *etrog*.
2. Sukka 29b.
3. There is a major *machloket* as to what constitutes being dried out.
4. Ibid. 36b.

is that Rav said it was *pasul* because it was particularly unseemly and therefore unfit even on the second day. The other is that the nibbled *etrog* is sufficiently *hadar* to be used on the second day. From this *gemara* we see that *chasser* does not make *arba'at haminin* unfit beyond the first day of *Sukkot*.

The Rambam⁵ seems to posit that the latter *gemara* supersedes the former and states broadly that any *p'sul* that is based on a blemish disqualifies *arba'at haminin* only on the first day. The *Magid Mishneh*⁶ comments that problems related to the identification of the species (e.g., a grafted *etrog*, *hadasim* without tripled leaves) or its size remain a problem. The *Shulchan Aruch*,⁷ whose rulings the Sephardic community follows, accepts the Rambam's opinion.

The Rosh⁸ reconciles and incorporates both *gemarot*, saying that the only differences between the first day of *Sukkot* and the rest are borrowed *arba'at haminin* and *chasser*. Lack of *hadar* always renders *arba'at haminin pasul*. He explains that the Rabbis extended the *p'sul* of more crucial flaws of the species' status even to the days when the *mitzva* of *arba'at haminin* is only rabbinic.⁹ The Rama,¹⁰ who reflects Ashkenazic practice, accepts the Rosh's opinion and disqualifies dried out or blighted *arba'at haminin* throughout *Sukkot*. He says that the famous case where the *pitam*¹¹ falls off is an example of *chasser*, and does not remain *pasul*. However, the *Mishna Berura*¹² cites an opinion that a removed *pitam* is a matter of *hadar* and is *pasul* throughout *Sukkot*. He suggests

5. *Lulav* 8:9.

6. Ad loc.

7. *Orach Chayim* 649:5.

8. *Sukka* 3:3.

9. Why *hadar*, which the Torah mentions only in reference to *etrog*, is more crucial than *chasser* for all species is a good question. However, that is what this approach presumes.

10. *Orach Chayim* 649:5.

11. The upper, stem-like tip of the *etrog*.

12. Ad loc. 35.

being stringent except when no other *etrog* is available, in which case one may rely on the combination of the opinions of the Rambam, who permits even non-*hadar*, and the Rama, who says that a fallen *pitam* is only a problem of *chasser*.

Another interesting *machloket* is the status of the second day of *Sukkot outside Israel*. On one hand, the *mitzva* of *arba'at haminim* is only rabbinic that day. On the other hand, in most ways we treat the second day as if it might be the first day (most classically, by treating it like *Yom Tov*). Once again, the Rambam is lenient regarding the *p'sulim* that do not apply on the rest of *Sukkot*, whereas the Rosh gives the second day all of the first day's requirements. The *Shulchan Aruch* and Rama treat it as a case of doubt¹³ and say that if that is all one has, he should use those *arba'at haminim* without a *beracha*.

13. Ibid.

D-5: S'chach That Rests on a Pergola

Question: I usually put my *s'chach* on top of a pergola.¹ Recently, grapevines have taken over almost the entire area where the *sukka* is situated, and they give a lot of shade. Is it sufficient to put the *s'chach* on top of the grapevines, or do I need to trim the grapevines so that most of the shade comes from the *s'chach*?

Answer: Questions of competing shade between *s'chach* and different types of trees (including vines) are complicated. If you have reasonable alternatives, we recommend that you set up your *sukka* in a place where these questions, whose answers can change from year to year, do not arise.² In any case, after presenting some background, we will give you instructions that allow for a kosher *sukka* according to the accepted halachic opinions.

The *mishna*³ says that a *sukka* situated under a tree is invalid.⁴ However, the *gemara* points out that if the tree lets more sunlight through than it gives shade (*chamata meruba mitzilata*), then the *sukka* is valid. The *gemara* then says that since material that is attached to the ground is not valid as *s'chach*,⁵ a *sukka* that has even a minority of its shade resulting from a tree is valid only if “*chavatan*.” Many *Rishonim* explain that *chavatan* means that the branches are lowered until they are intermingled with the *s'chach*. In this way, they are *batel*⁶ and no longer cause a problem. Based on this *gemara*, one could say, at first glance, that in the case that your grapevines are intermingled with kosher *s'chach*, they will not cause a problem.

1. An open structure with a lattice roof upon which vegetation grows.
2. See *Piskei Teshuvot* 626:1.
3. *Sukka* 9b.
4. The *gemara* derives that a *sukka* should be under the sky and not under any covering.
5. See *Rashi* ad loc.
6. Lose their separate identity.

However, this leniency has several caveats to which one must attend. Firstly, the permissibility of combining the vines with the *s'chach* presumes that the *gemara's* first condition is met, that is, the vines must be *chamata meruba mitzilata*.⁷ Also, in order to use *bitul*, there has to be more of the kosher *s'chach* than of the *pasul*.⁸

It is also not clear exactly how inconspicuous the attached branches have to be among the majority of kosher *s'chach*.⁹ The *Shulchan Aruch's* language is that they "are not recognizable," and the *Bi'ur Halacha*¹⁰ says this means that one cannot tell what is attached and what is detached.

What should one do if the above criteria for the vines to be *batel* to the *s'chach* are not met? The first opinion of the *Shulchan Aruch* is that it suffices if the kosher *s'chach* is thick enough to provide more shade than sun without the help of that which is *pasul* as *s'chach* (and that the *pasul s'chach* is *chamata meruba mitzilata*).¹¹ However, he also cites and apparently prefers¹² the *Avi HaEzri's* stringent opinion that the areas that are covered by both kosher *s'chach* and the tree are considered to be covered by invalid *s'chach*. Thus, one has to confirm that after *subtracting* the area that is covered by the tree or vine, there still is a majority of shade from the *s'chach* that remains. This can be difficult to determine and raises serious doubts about any *sukka* that stands in large part under a tree. If there are significant areas that have thick tree cover and other areas where it is sparse, then it is similar to a *sukka* that is partially covered by a balcony and partially exposed. The *halacha* in those cases requires independent study, beyond the scope of this response.

One matter that alleviates the problem significantly is that

7. *Mishna Berura* 626:2.

8. *Shulchan Aruch, Orach Chayim* 626:1.

9. See commentaries on *Shulchan Aruch* *ibid*.

10. *Ad loc*.

11. *Mishna Berura* 626:2

12. See *Bi'ur Halacha* *ad loc*.

the *Avi HaEzri's* stringency may not apply when the kosher *s'chach* lies on the branches.¹³ Thus, if the density of the vines is *chamata meruba mitzilata*, the *s'chach* lies on them, and the *s'chach* is thick enough without the help of the vines to give more shade than sun, then one's bases are covered according to the major accepted opinions.

13. *Rama, Orach Chayim* 626:1; see *Bi'ur Halacha* ad loc.

D-6: Buying *Lulav* and *Eetrog* after *Shemitta*

Question: How does the consumer approach buying a *lulav* and *etrog* this year (the *Sukkot* directly after *Shemitta*)?¹

Answer: Let's start with the easiest point. *Aravot*, which are not food, do not have *kedushat shvi'it* (sanctity of *Shemitta*) and do not have restrictions. It is possible that they were improperly handled during *Shemitta*, but this is not very common and, in any case, according to most *poskim*, this does not make them prohibited *b'dieved* (after the fact).

Classically, only edible produce has *kedushat shvi'it*. However, the *gemara*² says that branches that are used for benefit as (or before) they are destroyed,³ as opposed to wood for burning where the burning precedes the heat, have *kedushat shvi'it*. *Rishonim* have discussed the status of the *lulav* (which, in other periods, was used as a broom) and *hadasim* (which can be used for their fragrance). Practically, the assumption is that *lulav* and *hadasim*, which are used primarily for *mitzvot* (which are not considered worldly benefits), do not have *kedushat shvi'it*.⁴

An *etrog*, as an edible fruit, certainly has *kedushat shvi'it* if it grew during *Shemitta*.⁵ There is significant discussion, from the *Tanna'im* to our day, whether we follow its budding or its harvest to determine if it belongs to the *Shemitta* year. To avoid problems, most of last year's *etrogim* were picked before Rosh Hashana. This year, many will be harvested after it, in which case it will depend on the different opinions.

1. The next time this will occur is *Sukkot* 5676 (Oct. 2015).
2. *Sukka* 40a.
3. *Hana'ato u'biuro shaveh*.
4. See *Minchat Shlomo* 1:51.23.
5. *Sukka* 39a.

The main complication regarding an *etrog* with *kedushat shvi'it* is how to buy it (the additional problem of weighing such fruit does not apply here since *etrogim* are not sold by weight). There are three basic valid approaches that are used. One is to buy the *etrog* with *havla'a*, which means that the price of the *etrog* is included in the price of some other commodity, perhaps one of the other species. In this way, the money does not receive *kedushat shvi'it*, which would cause problems. Those who rely on the *heter mechira*⁶ can do so regarding the *etrog* as well. The *otzar beit din* system, which we encourage all to use during the *Shemitta* year, is fine also for the *etrog*. Under this system, a *beit din*⁷ supervises the handling of the orchard and sets the price of the fruit according to the cost of expenses (including permitted labor), not according to the fruit's value to the consumer. Whenever one buys an *etrog*, he should demand rabbinical approval of the authenticity of the *etrog*. This year, the supervisors have a few more things to verify.⁸

After *Sukkot*, one should either eat the *etrog*, make jam out of it, or wait until it is inedible before disposing of it.

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6. The arrangement by which Jews sell their fields in Israel to non-Jews for the duration of the *Shemitta* year to obviate halachic difficulties of the year.
 7. Rabbinical court.
 8. There is an issue of *shamur v'ne'evad* concerning how the laws of *Shemitta* were kept in regard to the growing of the fruit, but this is beyond the scope of our discussion – see *Yalkut Yosef, Shevi'it* 20:8. See also, *ibid.* 16 regarding taking an *etrog* with *kedushat shvi'it* out of Israel.

D-7: An Israeli Abroad Doing Work Privately on the Second Day of *Yom Tov*

Question: I am a resident of Israel and will be traveling abroad during *Sukkot*. On *Yom Tov*, I will be in a city with a Jewish community but in a different neighborhood. May I do *melacha* (work that is forbidden on *Yom Tov*) publicly outside the Jewish community on the second day (*Yom Tov Sheini*)? (I assume that privately [*b'tzina*], there is no problem.)

Answer: A person who lives in *Eretz Yisrael* may not do *melacha* in *chutz la'aretz* on the second day of *Yom Tov* because *Chazal* feared that such activity could cause strife.¹ This *halacha* is not restricted to *Yom Tov* alone but is an application of the general rule regarding visitors who have different practices from their host community.² We are aware of many people's impression that there is no problem to "violate" *Yom Tov* privately since no one will know, and, therefore, no one will be upset. This is, in fact, the opinion and rationale of the *Taz*.³

The great majority of *Rishonim* and *Acharonim*, however, forbid *melacha* even *b'tzina*.⁴ Sometimes we do allow a person to privately follow his *minhag* that is contrary to the local *minhag*. Nevertheless, we do not extend this leniency to *melacha* on *Yom Tov Sheini* for two possible reasons: 1. It is more difficult to do *melacha* unnoticed.⁵ 2. The prohibition of *melacha* on *Yom Tov Sheini* is a major institution, about which we are very strict.⁶ Therefore, we urge visitors to Jewish communities to follow the

1. *Pesachim* 51b.

2. *Ibid.*

3. *Orach Chayim* 496:2.

4. *Tosafot*, *Pesachim* 52a; *Magen Avraham* 496:4; *Mishna Berura* 496:9, to name a few.

5. *Tosafot* *ibid.*

6. See *Ba'al HaMaor*, *Pesachim* 52a.

majority opinion and not do *melacha* even *b'tzina*. (We know of instances where *bnei Eretz Yisrael* did *melacha* “privately,” the community learned about it, and a conflict ensued.)

In a few cases, leniency is reasonable. Consider a situation where even one who sees what the visitor is doing cannot tell that the action is forbidden for a local Jew. For example, the visitor may cook without an *eiruv tavshilin* because those who see him are unaware that he does not have an *eiruv*.⁷ Also, if there is a *machloket* whether a given action is permitted on *Yom Tov*, then even a *ben Eretz Yisrael* who is strict about it on the first day may do it on *Yom Tov Sheini*. This should not cause a dispute since many locals are lenient anyway. One such example is smoking (which we feel is a *melacha* on *Yom Tov* and strictly forbidden all year, but unfortunately not all agree).

Where does the prohibition of *Yom Tov Sheini* apply? The *Shulchan Aruch*⁸ says that it applies everywhere within the *techum Shabbat*⁹ of the Jewish community. While it is difficult to rule about a city that we do not know firsthand (ask the local rabbi), one can go from place to place within most major cities without leaving the *techum Shabbat*. Presumably, you are within the *techum* of the city where the Jewish community is found on the first day. If so, not only could you not drive out of it, you could not walk out of it either, as this too is a form of *melacha*.

7. The Radvaz, cited in *Mishna Berura* 496:13.

8. *Orach Chayim* 496:3.

9. The confines of the city, where one is permitted to walk on Shabbat.

D-8: Making Aliya During Chol HaMo'ed

Question: We are planning to make *aliya* during *Chol Hamo'ed*. Are there issues related to the official *aliya* process that are problematic on *Chol HaMo'ed*? Also, is it possible to keep two days of *Yom Tov* in the beginning of the *chag* and only one at its conclusion?

Answer: Regarding the *aliya* process, papers will have to be filled out. Writing is permitted on *Chol HaMo'ed* for needs of the *chag* or for a *mitzva*.¹ It is a tremendous *mitzva* to make *aliya*, and the sooner it can be done the better. However, the timing of tending to the official paperwork is not intrinsically a matter of *mitzva*. If one feels that taking care of the paper work immediately will play a role in turning the move into a permanent one, then the process would be a *mitzva* and permitted for that reason. One should make sure not to write in very exact print because that could be a *ma'aseh uman* (the work of an expert), which is usually not permitted for regular needs.² The forms may require clear print, but it need not be pretty.

If a somewhat significant loss of time or money or a bureaucratic headache will be caused by delaying the official *aliya* until after the *chagim*, then the leniency of *davar ha'aveid* (matter of loss) applies. The main limitation of that leniency is that one may not deliberately wait for the *chag*.³ Thus, it applies only if there is a reason why *aliya* before the *chag* is more difficult. You can best judge what your status is in these regards.

Regarding people whose status (of *Eretz Yisrael* or Diaspora Jews) changes during the *chag*, there is much discussion among the *poskim*. One could advance arguments that at least regarding some *halachot*, the entire *chag* is one unit, and one cannot change

1. Rama, *Orach Chayim* 545:1.

2. *Shulchan Aruch*, *Orach Chayim* 541:1.

3. *Shulchan Aruch* *ibid.* 537:16.

his *minhagim* on those matters in the middle. However, the *poskim* raise the issue of keeping one vs. two days of *Yom Tov* only when the change of status occurs on *Yom Tov* itself. This can occur if one arrives by ship or decides on *Yom Tov* to stay permanently where he is. It would seem most logical that one who decides *firmly* on the first day of *Yom Tov* (of either the first or last days) to stay in Israel permanently would not keep the second day. However, once he ushered in the second day, it is far less clear that he can suddenly stop the laws of the sanctity of *Yom Tov*, which restrict his actions on that day.⁴ In your case, you can enjoy your status of “*bnei Eretz Yisrael*”⁵ upon your arrival.

May HaShem grant you much joy and fulfillment from this fortunate and blessed status for many years to come. We pray that you will be joined by all our brethren *bimheira b'yameinu*.

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4. See discussion of the matter in *Yom Tov Sheni K'Hilchato* 4:6.
 5. Residents of Israel.

D-9: How Long to Keep Chanuka Candles Lit

Question: How long should the Chanuka lights last? Can I blow them out before I leave the house?

Answer: Let's start with some background. The *gemara*¹ asks about the significance of the *baraita*'s statement that the Chanuka lights be lit “*ad shetichleh regel min hashuk*” (“until people no longer are walking around in the market”). The *gemara* gives two possible explanations: 1. One must light before that time. 2. One should put in enough oil to last until then.

The Rambam² and Rosh³ determine that the amount of time from the setting of the sun (when the *mitzva* begins) until *tichleh regel min hashuk* is approximately half an hour. The *Shulchan Aruch*⁴ rules that one is allowed to extinguish the flame half an hour after lighting the candles. Certainly one need not put in enough oil to last longer than that minimum time, and the *Mishna Berura*⁵ concludes that there is not even a *hidur mitzva* (religious preference) to do so.

We *pasken* that one who did not light by the classical *tichleh regel min hashuk* can do so significantly later because: 1. Only one explanation in the *gemara*⁶ gives an end point for lighting.⁷ 2. Nowadays, people are out on the streets later. 3. Nowadays, the main *mitzva* is to “publicize the miracle” inside our homes.⁸

The question is why this *halacha* of having the light last for

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1. *Shabbat* 21b.
 2. *Chanuka* 4:5.
 3. *Shabbat* 2:3.
 4. *Orach Chayim* 672:2.
 5. 672:6.
 6. Op cit.
 7. *Tosafot* ad loc.
 8. Ibid.

half an hour does not also change with the times. The *Bach*⁹ points out that there seems to be a *machloket* in the *gemara* whether there is a minimum amount of oil needed and, thus, there may not be a line of demarcation after which it becomes proper to extinguish the flame and/or make use of the light. Following this logic, it would seem that the longer they stay lit, the better. *Mikraei Kodesh*¹⁰ brings such an opinion in the name of Rav Mordechai Eliyahu and others. According to the *Mishna Berura*, we must assume that although *Chazal* instituted the time period of half an hour based on their situation, we have no source to mandate more.

Another issue is how to count the half hour. Some feel that the setting of the sun refers to astronomical sunset. Others say that it begins at *tzeit hakochavim* (when the stars are visible), and many *minhagim* exist. If one does not follow a certain halachic approach unequivocally, then it would be appropriate that the candles remain lit until half an hour after *tzeit hakochavim*.

In summary, half an hour of oil or candle is sufficient. Preferably, it should last until half an hour after *tzeit hakochavim*, and some prefer significantly longer lighting. Although it is permitted to extinguish the flame, it might be better to put in a little less oil on a night that you expect to leave the house.

9. *Orach Chayim* 672.

10. (Harari) 4:7.

D-10: Women Lighting Chanuka Candles¹

Question: As a girl, I was brought up lighting my own Chanuka candles, and I continue to do so as a married woman. Recently I was told that when men are in the house, only they should light. Should my daughters and I stop lighting?

Answer: The basic *mitzva* of *neirot Chanuka* is to have one candle per night per household. A higher level (*mehadrin*) is to light a candle for each person, and an even higher level (*mehadrin min hamehadrin*) is to have the number of lights increase corresponding to the day of Chanuka.² *Rishonim* disagree whether *mehadrin min hamehadrin* replaces the *mehadrin* practice (*Tosafot*³), in which case the number of candles for the entire household equals the number of that day of Chanuka, or whether both apply (Rambam⁴), and the number of candles *per person* equals the number of the day. Ashkenazim follow the Rambam's approach (approximately), whereas Sephardim follow *Tosafot*'s.⁵ Therefore, for Sephardim, the husband/father alone traditionally lights the candles.

A woman is obligated in the *mitzva* of *neirot Chanuka*.⁶ There is even a clear consensus that she may light on behalf of a man.⁷ The question is whether the Ashkenazic practice of *mehadrin min hamehadrin*, where all members of the household light their own *neirot Chanuka*, also applies to women.

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1. We refer generally to candles although they might just as easily be wicks in oil.
 2. *Shabbat* 21b.
 3. Ad loc.
 4. *Chanuka* 4:1.
 5. *Shulchan Aruch* and Rama, *Orach Chayim* 671:2.
 6. *Shabbat* 23a.
 7. *Magen Avraham* 675:4; see *Yechaveh Da'at* 111:51.

The Rambam⁸ writes that the number of candles, which depends upon the number of people of the house, is based on the number of both men and women. This makes perfect sense, as women are obligated like men. (We should note that the Rambam implies that even within the practice of *mehadrin min hamehadrin*, only one person lights; it is just that the quantity is adjusted by the number of people. However, Ashkenazic practice is that each person lights for himself.) As time went on, though, it appears that different *minhagim* surfaced, which differ from what one might have expected. The Maharshal⁹ and *Eliyah Rabba*¹⁰ say that a wife does not light separately from her husband because, as the latter explains, a wife forms one unit with her husband (*ishto k'gufo*). This concept, a reflection of marital unity, has implications in various areas of *halacha*. This implies that daughters should and probably did light.

Later *poskim* noted that, in their times and places, girls did not actually light, and several explanations were given for the phenomenon (often a sign that each is tenuous). The most famous reason was offered by the *Chatam Sofer*,¹¹ who says that since the procedure was to light outdoors and it was not considered modest for women to congregate among men from other families, the practice that everyone lights was not extended to them. The *Mishna Berura*¹² cites the *Olat Shmuel*, who says that although women are not required to light separately and are included in the men's lighting, they may light if they want, even with a *beracha*. Rav S.Z. Auerbach¹³ explains that opinion as follows: If one naturally fulfills his requirement by means of someone else's action and for no good reason intends not to be included but to do it himself, there may be an issue of an unnecessary *beracha*. How-

8. *Chanuka* 4:1.

9. *Shut* 85.

10. 671:3

11. *Shabbat* 21b.

12. 675:9.

13. *Minchat Shlomo* 11:58:(3).

ever, since here there is a reason (even though not an obligation) for a woman to want to do *mehadrin min hamehadrin* by lighting her own Chanuka candles, the *beracha* is not considered unnecessary. These *poskim* do not say that a girl *should not* light; they explain how a *minhag* for them not to could have developed.

Many girls and women, including married women, have the *minhag* to light within the family setting.¹⁴ There is, however, logic to distinguish between girls and wives. A girl can be proud (without belittling those with a different *minhag*) to perform the *mitzva* according to the simple Ashkenazic approach to *mehadrin min hamehadrin*. Regarding a wife, however, there are classical sources¹⁵ and a clear explanation why not to light individually. Thus, she may be content to represent the household weekly when lighting the Shabbat candles and let her husband have the privilege with the Chanuka candles. If she does light, it may be wise to avoid possible unnecessary *berachot* by using her husband's *beracha* to cover her lighting as well. There are other halachically plausible compromise possibilities, but we refer to the main practices with which we are familiar.

14. See *Nefesh HaRav* p. 226, which cites Rav Soloveitchik's opinion that this is proper.

15. See also *Terumat HaDeshen* 101.

D-11: Lighting Chanuka Candles Before Dismissal From School

Question: At the Jewish school where I teach, we plan to end the school days of Chanuka as follows: We will *daven* a late *Mincha* in a classroom, followed by a *d'var Torah*. Then we will light Chanuka candles with the *berachot*, and finally we will dismiss the class. May we blow out the candles for safety reasons?

Answer: Regarding your question, even the Chanuka candles that are lit in a *shul* should preferably remain lit for a half hour.¹ However, it is probably not responsible to leave the candles unattended in a school building. Therefore, we suggest that you extinguish the lights before leaving, which most *poskim* allow under such circumstances.²

Allow us, however, to raise issues related to your assumption that you should light the candles with *berachot*. The *gemara* does not mention lighting Chanuka candles in a *shul*, but by the *Rishonim*'s time, it was an accepted *minhag*. The *Beit Yosef*³ cites the *Kol Bo* that it is intended for those who do not light at home and to increase the level of *pirsumei nisa* (publicizing the miracle), which is at the heart of the *mitzva*. The Rivash⁴ develops the latter reason beautifully. Originally, everyone lit the candles in front of his house. Because fear of non-Jews forced the lighting inside the home, the *minhag* developed to 'spread the light' at least in *shul*. Additionally, the Rivash explains that we recite a *beracha*, as we do for certain other *minhagim*, and this is the broadly accepted

1. *Mishna Berura* 675:6.

2. See *Mikraei Kodesh* (Harari), which cites Rav M. Eliyahu as saying that in such cases one should stipulate before lighting that he plans to extinguish them.

3. *Orach Chayim* 671.

4. 111.

practice.⁵ Others explain that since a *shul* corresponds to the *Beit HaMikdash*, where the original miracle occurred, it is appropriate to also perform the commemoration there.⁶

Acharonim debate whether it is proper to light Chanuka candles with a *beracha* at public gatherings not in a *shul*. Some claim that since the *minhag* is so novel, we may not extend it further.⁷ Others counter that the important matter is publicizing the miracle, wherever the opportunity to do so may occur. If there are people present who have not yet fulfilled their *mitzva*,⁸ or there will be a *minyán* for *Ma'ariv*,⁹ there are stronger grounds to extend the *minhag*.

In any case, it appears that the classroom you mention can be considered a *shul*, certainly if there is a regular *minyán* there. However, the timing is problematic. The *minhag* is to light the candles in a *shul* between *Mincha* and *Ma'ariv*,¹⁰ even when this is earlier than one would light at home.¹¹ This facilitates proper *pir-sumei nisa* until after *Ma'ariv*, after which people usually disperse quickly.¹² Therefore, it is questionable whether your classroom is like a *shul* in this regard, since you are not *davening Ma'ariv*, which is within the time of lighting. One might consider lighting the candles before the *d'var Torah*, so the children will see them during the subsequent several minutes. If the *d'var Torah* is to begin before sunset and finish after it, it probably pays to light after sunset.¹³ There is also a question whether one needs a *minyán* of

5. *Shulchan Aruch, Orach Chayim* 671:7.

6. See *Piskei Teshuvot* 671:(43).

7. *Minchat Yitzchak* v1:65.

8. See *Piskei Teshuvot* 671:15.

9. *Torat HaMo'adim* (D. Yosef), *Chanuka* 7:16.

10. Rama, *Orach Chayim* 671:7.

11. *Mishna Berura* 671:46.

12. *Shev Yaakov* 22.

13. See *Torat HaMo'adim* op cit. (4).

adults¹⁴ in order to light in *shul*.¹⁵ Depending on the details, there are likely halachic reasons to prefer lighting the candles without a *beracha*,¹⁶ which also makes blowing them out simpler. However, you may decide that the educational factors tip the scale in favor of doing a regular lighting. For example, one major consideration is whether any of the children come from homes where candles will not be lit

Your e-mail address indicates that you are a rabbi, which should make you particularly suited to decide the halachic elements. In your role as a teacher who “lives” the children’s education, you should also factor in the educational elements of the experience. Whatever you decide about the *berachot*, you may extinguish the candles for security reasons.

14. We do not know the children’s ages.

15. See *Mikraei Kodesh* 10:6.

16. Or, if the children are under bar mitzva, have one of them light and make the *beracha* – see *ibid*.

D-12: Non-Jews Delivering *Mishlo'ach Manot*

Question: Where I live, a lot of people have non-Jewish household help. They often deliver the *mishlo'ach manot*. Is that a halachic problem?

Answer: In theory, there are four positions one can take regarding the delivering of *mishlo'ach manot*: 1. The person who wants to fulfill the *mitzva* must do it. 2. A valid *shaliach* (agent) of the sender can do it as well. 3. Someone other than the sender must do it. 4. Anyone can do it on the sender's behalf.

Megillat Esther describes the act of fulfilling the *mitzva* as “*mishlo'ach*” (sending), not “*matan*” (giving). The *Binyan Tziyon*¹ suggests that this could possibly imply that one should have to send the *manot* with someone else and not give them himself. If this were the case, then one might ask if the deliverer must have the status of a *shaliach* (agent), which excludes non-Jews as well as children.

However, the *Chatam Sofer*² makes the following important point: The laws of agents apply only when a person has to do something himself and he desires to replace his actual involvement with that of his *personal* representative.³ In such a case, we have halachic rules that govern who can act *in lieu of him*. When the *halacha* is to send (in other words, he is not expected to do it himself), as is the case with *mishlo'ach manot*, then anyone (including a monkey or a robot) can do so.

Some people, based on the logic of the *Binyan Tziyon*, look for others to deliver instead of themselves. It is interesting that

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1. *Siman* 44, quoted by the *Mishna Berura* 695:18.
 2. *Gittin* 22b.
 3. The Talmudic phrase that describes the concept of agency is “a person's agent is like him.”

the *Binyan Tziyon* himself says that he never saw a *posek* who mentioned such a thing. He claims that the reason is that the *Megillat Esther* stresses *sending* to teach us that it is more important for one to send than for the recipient to accept. Thus, even if the intended recipient does not accept the package, the sender fulfills his *mitzva*.⁴ It was not written to imply one cannot make the delivery himself.

In summary, there are no limitations on who can deliver *mishlo'ach manot*.

4. As the Rama, *Orach Chayim* 695:4 rules.

D-13: *Purim Meshulash* – Rules and Rationale

Question: Could you please review some of the rules and the rationale of *Purim Meshulash* (Triple Purim) in Yerushalayim?

Answer: In cities that were walled at the time of Yehoshua (notably, including Yerushalayim), Purim is celebrated on the fifteenth of Adar instead of the standard fourteenth. If the fifteenth falls on Shabbat, when some of the *mitzvot* of Purim are inappropriate, the various *mitzvot* of the day are spread over three days, which we call *Purim Meshulash*. We will start by explaining the concepts and then review the day-by-day activities. By the way, the fourteenth of Adar never falls on Shabbat.

Even in a *Purim Meshulash*, conceptually, the main day of Yerushalayim's Purim is still the fifteenth of Adar, even though it is the least "eventful" of the days. Therefore, matters connected directly to *tefilla* and not problematic on Shabbat, are done on Shabbat. This includes reading the story of the battle of Amalek¹ as *maftir*, a special *haftara*, and saying *Al HaNissim* in *Shemoneh Esrei* and *Birkat HaMazon*.

Megillat Esther is not read on Shabbat for one of two reasons:² Rabbah says that it is out of concern that someone will carry the *megilla* in the public domain and thus desecrate Shabbat. Rav Yosef says it is because poor people look forward to receiving charity, which cannot be distributed on Shabbat, at the time of the *megilla* reading. As the rule is that *Megillat Esther* is never read after the fifteenth of Adar,³ the reading is pushed up to Friday, the fourteenth of Adar. One should be extra careful to hear

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1. The last 9 *psukim* of *Beshalach*.
 2. *Megilla* 4b.
 3. Based on the words (*Esther* 9:28) "and they shall not pass." See *Megilla* 2a.

the *megilla* with a *minyan* in such a year,⁴ since when the *megilla* is read early, it requires a *minyan*.

*Matanot la'evyonim*⁵ follows suit, and the donations are given on the fourteenth of Adar.⁶ After all, according to Rav Yosef, that was the whole reason to read the *megilla* early, and even Rabbah must accept some level of linkage between the *megilla* reading and *matanot la'evyonim*.⁷

According to most authorities, the *se'uda*⁸ takes place on Sunday, the sixteenth of Adar.⁹ The *Yerushalmi*¹⁰ maintains that it is not held on Shabbat because it must be a *se'uda* whose obligation can be attributed only to *Chazal's* decision at the time of Mordechai and Esther. On Shabbat, of course, there is a *mitzva* to have a festive meal irrespective of Purim, and so the Purim *se'uda* would remain indistinct. There are opinions that one can/should have a Purim meal on Shabbat and so some make an effort to have more food and wine than usual at the Shabbat-day meal.¹¹ At the Sunday meal, *Al HaNissim* is not recited, at least not in the body of *Birkat HaMazon*.¹²

The *mitzva* of *mishlo'ach manot*¹³ is apparently linked to the Purim *se'uda*, and thus is performed on Sunday.¹⁴ Those who want to have a Purim *se'uda* on Shabbat can attempt to fulfill *mishlo'ach manot* as well by giving food to a neighbor or having a guest at the meal.

Visitors to Yerushalayim over Shabbat (even if they celebrated

4. *Mishna Berura* 690:61.

5. The *mitzva* on Purim of giving a donation to the poor.

6. *Shulchan Aruch, Orach Chayim* 688:6.

7. See *Megilla* 4b.

8. Festive meal.

9. *Shulchan Aruch* op cit.

10. *Megilla* 1:4.

11. *Purim Meshulash* (Diblitzi) 5:11.

12. See *Mikraei Kodesh* (Harari), *Purim* 15:(34) in the name of Rav Shaul Yisraeli.

13. Sending foods to a friend on Purim.

14. *Mishna Berura* 688:18.

Purim fully on Friday) are obligated (according to most authorities¹⁵) to do the *mitzvot* of both Shabbat and Sunday (wherever they are on Sunday) even if they leave Yerushalayim soon after Shabbat. This is because the obligations of Sunday are *tashlumin* (make-ups) for what ideally should have been done on Shabbat.¹⁶ (One should give the *mishlo'ach manot* to someone who is obligated in the *mitzvot* of Sunday). Based on the same logic, one who comes to Yerushalayim after Shabbat is *not* obligated.¹⁷

Let us summarize by day: Friday- reading of the *megilla* and *matanot la'evyonim*; Shabbat – *Al HaNissim* and special *maftir/haftara*; Sunday – *se'uda* and *mishlo'ach manot*.

15. See *Mikraei Kodesh* 15:30.

16. *Purim Meshulash* 8:15.

17. *Ibid.*

D-14: Cleaning the House before Going Away for Pesach

Question: We plan to spend all of Pesach with family. Do we still need to clean for Pesach and do *bedikat chametz*¹ at our home or at our hosts'?

Answer: This response assumes you will not be going home during Pesach and that you realize it is not a detailed account of your Pesach preparations. Please do not make inferences from what we omit.

People are accustomed to using the procedure of *mechirat chametz*² for the *chametz* itself, including the area of the home where the *chametz* is located, but not for entire homes. In truth, however, those who will be away may 'sell' their homes, rendering a full cleaning and *bedika* unnecessary. Just as one does not have to destroy *chametz* that he has sold and no longer owns, so too, he need not check a house that is no longer under his control. Some people have the *minhag* not to rely upon *mechirat chametz* for full-fledged *chametz*. The rationale includes the problems inherent in *mechirat chametz*.³ Furthermore, *mechirat chametz* was devised for people who will incur *significant* financial loss if they have to destroy their *chametz*, which is not the case for everyone.⁴

In some ways our issue is more lenient and in some ways more strict.⁵ Generally, we can say that the desire to avoid many hours of back-breaking work⁶ is reason enough for many to want to use a legitimate halachic device. There are, however, a few problems unique to this type of sale. First of all, whereas most people can seriously sell

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1. Checking the house for *chametz*.
 2. Sale of *chametz*.
 3. One of which is that it may appear fictitious.
 4. See a survey of the issues in *Piskei Teshuvot* 448:10.
 5. This forum does not allow for a full discourse.
 6. Some of which might be halachically unnecessary in any case.

\$100 worth of *chametz* and accept the possibility that the non-Jew will not sell it back, who would sell his house just to avoid checking it thoroughly for *chametz*? Consequently, selling the house raises questions about the seriousness of the transaction. In Israel, there is the additional problem of selling land to non-Jews. Therefore, it seems preferable to rent the house out for Pesach, rather than sell it.

Another issue is that according to significant opinions, one should not circumvent the obligation of *bedikat chametz*.⁷ However, the Chatam Sofer⁸ says that if one checks part of the house, he fulfills the obligation of *bedikat chametz* of the night of the fourteenth of Nisan. In addition, there is the matter of timing. It is necessary to sell *chametz* before it becomes forbidden, which is late morning of *Erev Pesach*. In contrast, the obligation to check the house begins on the previous night, before *mechirat chametz* takes place. There is a dispute whether the *intention* to sell one's *chametz* the next day is sufficient to exempt him from *bedika* that night.⁹ (Remember, one's dealings with the rabbi are not to sell him the *chametz* but to appoint him as an agent to sell.) Therefore, it is preferable to find a rabbi who does an early sale or rental for this purpose (before the night of *bedika*; some call this a *mechirat yud gimmel*). The rabbi, aware that this is not the standard type of sale, should be able to guide you about other issues regarding your situation, which is difficult to do in this forum. Even if one does not want to rely on the concept of a sale, he should realize that cleaning for *chametz* in a place where he will not be eating does not require removing insignificant crumbs or scrubbing surfaces.¹⁰

Since *bedika* is the homeowner's responsibility, you need not join your hosts for it. The situation of one who moves into a hotel before the fourteenth of Nisan warrants a separate discussion.

7. The *Shulchan Aruch* (*Orach Chayim* 436:3) is stringent on the matter (of special concern for Sephardim), whereas the Rama (ad loc.) is lenient.

8. *Shut Chatam Sofer*, *Orach Chayim* 131.

9. See *Mishna Berura* 436:32.

10. See *Pesachim* 6b.

D-15: Eating *Matza* for Those with a Wheat Allergy

Question: I have developed an allergy to wheat. What am I to do about eating *matza* at the Seder?

Answer: The *gemara*¹ talks about five grains that can be used for making *matzot*, two of which are in the wheat family and three in the barley family. The important point is not really their botanical name. Rather, it is necessary that they leaven in the way that wheat and barley do.² However, we do not make assumptions about which grains are included in the list without precedent in classical sources. If there are grains to which you are not allergic, we will try to research whether they can be used for *matza*. Some are already being marketed (and, of course, should have proper rabbinical supervision).

Those who have trouble with *matza* due to its consistency may fulfill the *mitzva* by eating it broken into fine pieces³ or soaked in water if it has not dissolved.⁴ (This will probably not help for an allergy, but it can be useful for other issues). Furthermore, many of us tend to be particularly stringent on the amount of *matza* we eat on seder night. It may be that the absolute minimum *shiur* of a *k'zayit*,⁵ according to the letter of the law, will not affect you adversely.⁶

What happens if none of these ideas solves the problem?

1. *Pesachim* 35a.

2. *Ibid.*

3. *Bi'ur Halacha* to 461:1.

4. *Shulchan Aruch, Orach Chayim* 461:4.

5. The amount of eating that has full halachic significance in this and several other contexts – approximately 1 fl. oz.

6. We leave out how to measure this in our public discussion, as not to raise unnecessary issues for those who are, *baruch HaShem*, healthy and can eat the customary amounts.

Certainly if there is even a faint possibility of a violent, dangerous reaction or of exacerbating a situation that could become dangerous over time, one should not take chances. However, if the reaction is less severe, the matter is more complex. The overwhelming majority of *poskim* agree that one does not need to make himself sick in order to perform a *mitzva*, even if it is not dangerous.⁷ Some derive this decision from the fact that one need not spend more than a fifth of his property (and perhaps less) to fulfill a *mitzva*.⁸ Most of these sources imply that if only an unpleasant reaction will occur, not actual sickness, which is usually described as being bedridden,⁹ one would remain obligated. To put this in perspective, one would not expend a substantial sum of money in order to prevent a mild headache. We find that one is supposed to push himself to drink wine¹⁰ at the Seder even if it affects him adversely.¹¹ The extent of the effect of the wine and the question whether the drinking of wine is unique are discussed in the halachic literature.¹² The question of how likely it is a reaction will occur is pertinent as well.¹³

In summary, one should not be reckless and need not be a hero in fulfilling the *mitzva* of *matza* if significantly adverse reactions are expected. However, one should look for alternatives¹⁴ and be willing to bear a fair measure of discomfort to fulfill a *mitzva*.

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7. See *Mikraei Kodesh* (Frank), Pesach 11:32; *Tzitz Eliezer* XIV:27; *Chazon Ovadya* 1:33.
 8. *Igrot Moshe, Orach Chayim* 1:172.
 9. See *Shulchan Orach* op. cit. 328:1 and *Mishna Berura* ad loc.
 10. Grape juice was not available in early spring until vacuum packing and refrigeration were developed.
 11. *Shulchan Aruch, Orach Chayim* 472:10.
 12. See *Mikraei Kodesh* and *Chazon Ovadya* op cit.
 13. *Ibid.*
 14. Which have become increasingly common for many conditions since the original response was written.

D-16: A Doctor's Use and Sale of Chametz Medication Samples

Question: As a physician who keeps medication samples containing *chametz*, I presume that the non-Jew purchases them along with other *chametz*. May I still dispense these samples during *Chol HaMo'ed* as I no longer own them, or is that deriving benefit from patient good will? Can I even sell them at all if state law does not allow a doctor to sell medications?

Answer: First of all, although some forms for selling *chametz* contain clauses like "I sell all items that possibly contain *chametz*, wherever they are," it is proper to list and/or set aside the items that are being sold. How serious can a sale be if neither buyer nor seller can figure out which items have been sold? One should gather up any questionable items and put them in clearly demarcated and closed locations.

Dispensing samples is considered deriving benefit, as you surmised. However, it is forbidden for a more basic reason. Assuming the sale was valid, the medicine now belongs to the non-Jewish purchaser. You have no right to give away someone else's property. A clear intention to dispense the samples on Pesach could raise questions about the possibility of *chametz she'avar alav haPesach*¹ and about the authenticity of the sale.² On the other hand, many drugs that one is not permitted to take on Pesach under normal circumstances likely need not be sold; many of them are only *kitniyot*, which need not be sold,³ and even drugs containing grain derivatives may be only *chametz nuksheh* (par-

1. The prohibition after Pesach of receiving benefit from *chametz* which was in a Jew's possession during Pesach.
2. See *Halachos of Pesach* (Eider), p. 128.
3. *Rama, Orach Chayim* 453:1.

tially leavened or not fully edible), of which one is allowed to keep mixtures.⁴

While we are not experts on the law of the land regarding dispensing prescription drugs, we imagine that there is no objection to *mechirat chametz*. Specifically, the doctor's intention is not to make money (nor does he actually receive any) but to remove the items from his ownership during Pesach. If the government does not mind, it is legally and halachically legitimate.

Allow us to wonder aloud whether a doctor actually owns the samples he possesses or whether pharmaceutical companies give him their drugs to dispense on their behalf. Can a company demand that the drugs be returned or complain about how he dispenses them? We assume that the doctor does own them. If not, it would create interesting questions such as whether the sale works and whether it is even necessary.

4. *Mishna Berura* 442:2.

D-17: The Timing of the Sale of *Chametz* When Pesach Falls after Shabbat

Question: When do we burn or otherwise get rid of *chametz* before Pesach when *Erev Pesach* falls on Shabbat? How does this situation affect *mechirat chametz*?¹

Answer: The *Shulchan Aruch*² writes: “It is good to eliminate [*chametz*] on *Erev Shabbat* before midday [apparently, an hour before midday]³ so that people do not err in other years and eliminate the *chametz* after midday.” Despite this, one may leave the amount of *chametz* that he plans to eat through the (early) Shabbat morning meal.⁴ This halachic suggestion is not an absolute *halacha* and should not create a situation whereby, due to haste, one might miss some *chametz* and end up never disposing of it.

The question of *mechirat chametz* is more complicated, and there are different possibilities and practices. The individual should follow the system the local rabbinate is using. However, it is worthwhile to be aware of the issues, not only for the sake of understanding Torah but also to act appropriately in accordance with the particulars of the local practice.

Acharonim discuss whether the desire to follow the schedule of regular years applies to *mechirat chametz* as well. Is selling the *chametz* an accepted method of eliminating it, in which case it should be done by Friday morning, or is it a way of using the *chametz*,⁵ which one may continue until the deadline on Shabbat morning?⁶ According to the stringent approach, the rabbi should carry out the sale to a non-Jew on behalf of his congrega-

1. Sale of *chametz*.
2. *Orach Chayim* 444:2.
3. *Mishna Berura* 444:9.
4. *Shulchan Aruch* op cit. 1.
5. In theory, one can sell the *chametz* in order to turn a profit.
6. See *Maharam Shick, Orach Chayim* 205.

tion during the latter part of Friday morning. However, stringency sometimes causes more halachic problems than it solves. Those who continue to deal with their *chametz* during the afternoon (e.g., storeowners) and those who add *chametz* that they previously had not expected to sell to that which was sold will unknowingly have missed the sale for those items. Therefore, most *rabbanim* will not rely on only an early sale, and if they want to be *machmir* to perform *mechirat chametz* at the earlier time, will perform an additional, later sale to cover last minute issues that the first one did not include.

There is a further question as to how late one may execute the sale. Some say that when doing the sale on Friday, the *rav* can stipulate with the seller, orally and in the document, that the sale will take effect soon before the time that it becomes forbidden to benefit from *chametz – on Shabbat*. This can conceivably be done in one of two ways: The effective time of the sale can be delayed to Shabbat morning, or, alternatively, the sale can possibly take effect at the time of the transaction on *Erev Shabbat*, but with the items to be included retroactively determined by what remains in the seller's possession on Shabbat. Either way, one cannot include *chametz* that he did not own when the acts of transaction took place. However, having the sale take effect on Shabbat is controversial, even if one is inactive on Shabbat. Rav Akiva Eiger⁷ and others say it is a violation of the prohibition of commerce on Shabbat.

Rabbanim who do not want the sale to be completed on Shabbat can have it take effect shortly before Shabbat. This can also be done in one of two ways: It can be done on a time delay, in which case the rabbi can pick a time that is very close to Shabbat and delay the effective time of the sale to then. Alternatively, if he is concerned that a time delay might not be appropriate for this type of sale, he can actually do the transaction as close as possible to Shabbat. In these cases, the owner of the *chametz* must be aware of the time that the transaction will take place, and

7. *Shut Rav Akiva Eiger* 1:159.

LIVING THE HALACHIC PROCESS

decide by then what to keep for Shabbat and what to include in the sale; once the sale takes effect, he cannot include any other leftover *chametz* therein.

Let us reiterate that the local rabbinate will choose, based on halachic and/or practical considerations, which system to use. The individual should make sure he understands how he is expected to comply with it.

D-18: Counting *Sefirat Ha'Omer* When One Is Unsure of the Count

Question: If I am unsure what day of *sefirat ha'omer* it is, may I count both possible days in order to cover my bases?

Answer: Nowadays, wherever one is, he can usually contact someone to find out what the count is, and this is what should be done when feasible. However, we will deal with the question, which still arises and touches on important concepts.

The topic begins with the question of the Ba'al HaMa'or and the Ran.¹ They ask why, in *chutz la'aretz*, one does not make two different counts each night of *sefirat ha'omer* in order to take into account the possibility that our calendar was off by a day, similar to the idea of keeping a second day of *Yom Tov*. In other words, when it is day five in Israel, for example, those abroad should be marking both day five and day four. They answer that if one were to do this throughout the *sefira* period, he would have to count day forty-nine on Shavuot. Therefore, they did not institute a 'double count out of doubt' because this could cause people not to take the first (real) day of Shavuot seriously. The clear implication of these important *Rishonim* is that, in theory, it is possible to make a double count out of doubt when additional factors do not preclude it.

On the other hand, there are *Acharonim*² who give a more fundamental answer to the Ba'al Hama'or's question. They claim that reciting contradictory numbers without knowing which is correct is not considered counting. The *mitzva* of *sefirat ha'omer*, they reason, is not about reciting a text, which would allow one to recite multiple texts out of doubt; rather, it is about giving verbal expression to one's knowledge of the correct day in the series.

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1. On the *Rif* at the very end of *Pesachim*.
 2. See *Yabia Omer* VIII, *Orach Chayim* 45, who cites several.

The *Avnei Nezer*³ seems to object mainly to reciting contradictory numbers. Some go further, saying that even if one who is in doubt guesses correctly and counts only the right day, he does not fulfill the *mitzva*, because he guessed rather than knew.

Despite the appeal of the *Acharonim*'s logic, the prominence of the *Rishonim*'s opinion seems to outweigh theirs.⁴ Therefore, if a person remains in doubt, he can perform a double count and resume the normal count with a *beracha* upon finding out the correct number on a subsequent night.⁵ (Remember that it is a *machloket* whether one who did not count or counted incorrectly one night can continue the count on subsequent nights with a *beracha*).

The remaining question is whether one can make a *beracha* on the double count while he is in doubt. There are two hesitations. Firstly, as we saw, some *poskim* question the validity of such counting, and we avoid making *berachot* when there is an uncertainty whether the *mitzva* will be done properly (*safek berachot l'hakel*). Secondly, if the first number recited turns out to be wrong, it might be considered a *hefsek*⁶ between the *beracha* and the correct number. This may depend on the understanding of the *halacha* of *hefsek* and whether something that is done to try to fulfill a *mitzva* but turns out to be improper creates a *hefsek*.⁷ (Rav Kook⁸ has a suggestion to obviate the problem, which could work in at least some cases, but it is beyond our present scope.) Although (or because) it is hard to decide on the matter, we suggest that one refrain from a *beracha* if and when he is forced to make such a double count.⁹ (The absence of a *beracha* in no way disqualifies the *mitzva*.)

3. *Yoreh De'ah* 248.

4. See *D'var Avraham* 1:34.

5. *Yabia Omer* op. cit.

6. A problematic interruption.

7. See *Mikraei Kodesh* (Frank), *Pesach* 11: 67.

8. *Orach Mishpat* 126.

9. See *Yabia Omer* and *D'var Avraham* op. cit.

When carrying out such a count, it is better to try to decide which number one thinks is more likely to be correct and recite it first, with as much conviction as he can muster. If one is not making a *beracha* anyway, it is proper to pause for several seconds between the first count and the second. If the counts are separated, it is possible that the *Avnei Nezer* and others would not consider it a self-contradictory count.

D-19: *Sefirat Ha'Omer* for Intercontinental Travelers

Question: I will be flying to Australia from the west coast of the US during the sefira period. I will depart Tuesday night and will arrive in Sydney early Thursday morning. Wednesday disappears. We follow the rule that we observe matters, such as Shabbat, in Australia according to the local day (while it is Friday in the US). How do I count *omer*? I really do not have any Wednesday. Can I count on Thursday day in place of Wednesday evening, as if I had forgotten to count, and proceed from there?

Answer: India accepts Shabbat and all other new days before Israel; Chicago accepts the days after Israel. At what point do we draw the line and say that to the east is Wednesday (in your case) and to the west is Thursday? There are different opinions regarding the halachic International Date Line.¹ All agree that in all of Australia, days begin earlier than in Israel and much earlier than in Los Angeles.

You actually have a Wednesday: Tuesday night, when you leave, is halachically *yom reviv'e*,² and you should count before, or soon after, takeoff. As you approach Sydney, you will lose much of Wednesday day and all of Wednesday night. Thus you will be unable to count *omer* with a *beracha* that day. You should indeed count Thursday morning (without a *beracha*) as you will have missed the night before.³ On subsequent nights, you may count with a *beracha*.⁴ If you arrive over the Australian continent be-

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1. One of the important sources on the issue is *Chazon Ish, Orach Chayim* 64. The details of this fascinating halachic issue are beyond our present scope.
 2. The fourth day of the week.
 3. See *B'er Moshe* 7:90.
 4. *Shulchan Aruch, Orach Chayim* 489:7-8.

fore *alot hashachar*⁵ of Thursday morning local time, count then with a *beracha*.

There is a minority opinion that the halachic International Date Line is 180° longitude from Jerusalem. If you cross that line before *alot hashachar* of Thursday morning, count without a *beracha* at that time (in order to do the *mitzva* on the night of *yom chamishi*⁶ according to those opinions) and then again, in Australia, when you arrive (according to the opinions that it had still been *yom revi'ee* over the Western Pacific).

There are *poskim* who discuss losing a full day and what impact this would have on *sefira* and Shavuot.⁷ Although the International Date Line could cause a day to be extremely short, the possibility of losing a full day is statistically insignificant. In any case, it does not seem logical that one needs 49 sunsets to have 49 days of *sefira*. Since *halacha* has no choice but to set a halachic International Date Line, there is no reason one cannot jump into a new day without a new sunset upon crossing the line.

5. The halachic break of dawn, which begins the daytime.

6. The fifth day of the week.

7. See *Ohala Shel Torah, Orach Chayim* 72.

D-20: Morning *Berachot* After Staying Up All Night (e.g., on Shavuot)

Question: After staying up all night on Shavout, we have someone who slept say the morning *berachot* on everyone's behalf. Why is this necessary? What happens if we cannot find anyone?

Answer: We must address different categories of *berachot*, for which there are different reasons and details.

Netilat yadayim and Asher Yatzar – There are three possible reasons for washing our hands with a *beracha* upon waking in the morning, before *davening*: 1. Our hands probably got dirty as we slept.¹ 2. Since in the morning we are like new beings, we set out on a process of purification and of blessing HaShem.² 3. We are affected by a *ru'ach ra'ah* (evil spirit), which is remedied by *netilat yadayim*.³

Reason 1 does not apply if one did not sleep and kept his hands clean. It is not fully clear whether reasons 2 and 3 apply if one did not sleep. The Rama⁴ says that although one should wash his hands as usual in this case, he should not make the *beracha*, out of doubt. When one who slept recites the *beracha* on behalf of those who did not, they are able to take part in the *beracha*. One who did not sleep but went to the bathroom, and in so doing touched covered parts of his body, also says a *beracha*.⁵ Reason 1 certainly applies to such a person and the others are likely to apply, as the night has passed by the time of *alot hashachar*.⁶

Asher Yatzar is said whenever one recently went to the bath-

1. Rosh, *Berachot* 9:23.
2. *Shut HaRashba* 1:191; see *Mishna Berura* 4:1
3. See *Beit Yosef, Orach Chayim* 4.
4. *Orach Chayim* 4:13; see different opinions in *Mishna Berura* 4:30
5. *Ibid.*
6. Break of dawn, 72 minutes before sunrise. See *Artzot HaChayim* (Malbim) to *Shulchan Aruch* op. cit.

room, and there is no need to have someone recite it publicly for those who were up all night.⁷

Birkot hashachar – Most of the *berachot* in this series, thanking HaShem for different elements of our lives, were originally recited as one received the corresponding benefit (e.g., putting on shoes, clothes, straightening the body).⁸ Nevertheless, our practice is to make these *berachot* together, regardless of whether we recently received the benefit.⁹ Therefore, even one who did not sleep and/or did not renew these benefits can recite the *berachot* because the appropriate praise of HaShem is valid in regard to other people. The main issue is with the *berachot* of *HaMa'avir Sheina* and *Elokai Neshama*, both of which focus specifically on awaking from sleep and are recited, at least partially, in the first person. The *Mishna Berura*¹⁰ rules that one should hear these *berachot* from one who slept. On the other hand, one who recites these *berachot* despite not sleeping has whom to rely upon,¹¹ especially if no one who slept is available.

Birkot haTorah (before the study of Torah) – It is unclear whether the reason one is obligated to make *birkot haTorah* every morning is the fact that it is a new day or that his sleep ended the efficacy of the old *beracha*. Due to this doubt, the *Mishna Berura*¹² rules that one who was up all night does not make *birkot haTorah* at daybreak but hears them from someone who slept. (Rav Ovadya Yosef¹³ disagrees.) However, the *Mishna Berura* accepts the following idea of Rav Akiva Eiger: If one took a reasonably long nap during the previous day, he says *birkot haTorah* the next morning despite having stayed up all night, assuming he has not

7. On the other hand, it is often simpler to recite the *berachot* sequentially from a *siddur*, and this does not raise a problem.

8. *Berachot* 6ob.

9. Rama 46:8; see *Yalkut Yosef* regarding Sephardic practice.

10. 46:24

11. See *Ishei Yisrael* 5:(40) and *Piskei Teshuvot* 494:7.

12. 47:28.

13. *Yechaveh Da'at* 111:33.

said them since he awoke. This is because he is obligated according to both approaches; he has slept, and a day has passed since he last said *birkot haTorah*. It is better to hear *birkot haTorah* from such people (who are common on Shavuot) than from one who put his head down for a few minutes at night. Be aware that one who sleeps at night makes *birkot haTorah* before resuming learning. Thus, he is available to recite them on others' behalf only if he came to *shul* when they are ready to hear the *birkot haTorah* or if he did not recite them when he arose. (Note: everyone recites the Torah texts starting with “*Yevarechecha*” and ending with “*k'neged kulam*” that are found in our *siddurim* after the *birkot haTorah*).

Tzitzit – It is unclear if we are obligated in *tzitzit* at night and thus whether we need a *beracha* in the morning. One should hear someone else's *beracha* or be *yotzei* with the *beracha* on his or another's *tallit*.¹⁴

In general, what is considered significant sleep may depend on where (bed or chair) and/or how long (opinions range from a minute to a half hour and beyond) he sleeps. The *halacha* may differ for the various topics addressed above.

14. *Mishna Berura* 8:42.

D-21: Continuing a Fast after Mistakenly Breaking It

Question: If one is supposed to fast on a certain day and mistakenly eats, does he need to continue his fast or does it not pay since anyway he is not in the midst of a full fast?

Answer: To answer your question, we should first understand the conceptual basis of fast days and explore distinctions between different fast days.

One element of fasting, which you highlighted in your question, is the *mitzva* of refraining from eating for a day. When this is the only element of a fast day, we indeed say that once one has eaten, there is nothing more to lose.¹ If one who made a vow to fast but did not set a date for it began to fast and then ate, there is no purpose to continue, as this day will not count toward fulfilling his vow in any case.² Some use this concept to explain why a firstborn who partakes in the celebration of a *siyum*³ on *Erev Pesach* may eat the whole day, not just at the celebratory meal. Assuming that the *ta'anit bechorot*⁴ was accepted with only the dimension of having a full-day fast, once it is broken one may continue eating.⁵

A second element of some fast days is the prohibition to eat on that day. On Yom Kippur, there is almost certainly a prohibition

1. Please note that eating, in this context, means eating a *k'zayit* within the time of *k'dei achilat pras* (roughly, one sitting) or the respective amount of drinking, which is a full violation of the fast. Although it is forbidden to eat any amount on a fast day, one who eats just a small amount and/or remembers in time to spit out the food before swallowing has not fully broken the fast and must continue (*Mishna Berura* 568:5).
2. *Shulchan Aruch, Orach Chayim* 568:1; see *Mishna Berura* ad loc. 8.
3. The celebration upon completion of a major section of the Talmud.
4. The Fast of the Firstborn on the day before Pesach.
5. *Eretz HaTzvi*, cited in *Minchat Yitzchak* vIII:45.

to eat, above and beyond the *mitzva* to fast.⁶ Thus, just as one who violates Shabbat may not continue doing so, one who ate on Yom Kippur may not continue eating.⁷ The *Shulchan Aruch*⁸ rules that whenever the day one fasts has a specific significance, one who eats cannot decide to switch the date after failing to fast the whole day. He applies this logic to the four principal rabbinic fast days, to one who fasts on a *yahrzeit*, and to one who specifies even an arbitrary day in his vow to fast. The same logic applies when one takes part in the fast of *Behab*,⁹ *Yom Kippur Katan*,¹⁰ or any, even optional, public fast that is set for a given day.

The question of when one is required to fast on another day to make up for not fasting successfully on the appointed day is somewhat complicated and is beyond the scope of this response.¹¹

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6. *Pesachim* 36a provides one of many applications of this idea.
 7. There is some discussion as to the veracity of our claim – see *Binyan Tzion* 34 and *Mikraei Kodesh, Yamim Noraim* 39. However, this is the mainstream view – see *Tosafot, Kritot* 18b.
 8. Op. cit. See *Mishna Berura* ad loc. 2.
 9. The Monday, Thursday, and following Monday after Pesach and Sukkot.
 10. The day before *Rosh Chodesh*.
 11. You can start your research with the Rama, *Orach Chayim* 568:1 and the *Bi'ur Halacha* ad loc.

D-22: Bar Mitzva during the Nine Days¹

Question: Is it permitted to celebrate a *bar mitzva* during the Nine Days (before *Tisha B'Av*)?

Answer: The meal held in honor of a *bar mitzva* is considered a *se'udat mitzva*.² The main talmudic source is *Kiddushin* 31a, in reference to a statement by the blind sage, Rav Yosef. He said that if he would be convinced that the blind are obligated in *mitzvot*, he would make a celebration for his colleagues because one who is commanded in *mitzvot* receives more reward for his fulfillment than one who is exempt. If a celebration is in place just for finding out that one has always been obligated, all the more so is it appropriate when the obligations begin, when one becomes a *bar mitzva*. This is certainly so when the party is held on the Jewish birthday itself, the day that the boy becomes obligated.³ The *Magen Avraham*⁴ rules that even a *bar mitzva* meal that is not on the birthday can be considered a *se'udat mitzva* if the *bar mitzva* boy publicly says *divrei Torah*. The apparent logic is that those present are reminded that this boy is indeed involved in the study of Torah, as he is now commanded to be, and they appreciate the cause for the celebration.

It is permitted to partake of meat and wine at a *se'udat mitzva* even during the week of *Tisha B'Av*,⁵ and this ruling should apply to a *bar mitzva* as well.⁶ Some want to conclude from the *Shulchan Aruch's* silence on the matter that he does not allow meat at

1. This response is based on *BeMareh HaBazak* III:61.
2. *Yam Shel Shlomo, Bava Kama* 7:37. A *se'udat mitzva* is a meal in which it is a *mitzva* to partake.
3. Assuming the boy is sufficiently physically developed, which we are not required to check.
4. 225:4.
5. Rama, *Orach Chayim* 551:10.
6. *Yad Ephraim* ad loc.

a *se'udat mitzva* during the week of *Tisha B'Av*.⁷ However, most *poskim* are lenient in the matter, even for Sephardim. Although a delayed *bar mitzva* party with *divrei Torah* may take place during the Nine Days, it should not be delayed for that purpose.⁸

During the first part of the Nine Days, one may invite to the *se'uda* whomever he normally would, but people who just happen to be around may not partake of the meat and wine. During the week of *Tisha B'Av*, one should invite only reasonably close relatives and a small group of friends.⁹ Some suggest serving fish and thereby removing the complication this situation raises. Others are lenient with the guest list even on the week of *Tisha B'Av*,¹⁰ and there is room to rely upon those opinions.

Participants at permitted *bar mitzva* celebrations at this time may sing, but neither live nor recorded music should be played.

Receiving an *aliya* to the Torah and the accompanying ceremonies in *shul* on Shabbat are not problematic.¹¹

7. See *Kaf HaChayim, Orach Chayim* 551:33.

8. *Yad Ephraim* op. cit.; *Kaf HaChayim* op. cit. 158; *Mishna Berura* 551:77.

9. *Rama* op. cit.; *Taz* ad loc. 12.

10. Maharam, quoted in *Taz* ibid.; *Yalkut Yosef, Tisha B'Av* 24 (p. 568).

11. See *Igrot Moshe, Orach Chayim* IV:112(1).

D-23: Renovation Work during the Three Weeks

Question: I took down a wall between my living room and dining room and moved it to extend the dining room. Am I allowed to continue construction during the Three Weeks? Also, am I allowed to pick out wallpaper and carpeting but not have them installed until after the three weeks?

Answer: The prohibition of purchasing and building applies during the Nine Days, not all of the Three Weeks.¹ Some *Acharonim* extend the prohibition to the entire Three Weeks, and we try to conform to that practice.² However, if it would cause a significant inconvenience or a loss to delay the purchase or building, then one can certainly be lenient.³

Regarding what type of building is prohibited, the *gemara*⁴ distinguishes between “building of happiness,” like preparing a home for a wedding, which is forbidden, and preventing a wall from falling, which is permitted. There is a *machloket* amongst the *Rishonim* about cases in between these extremes.

The *Mishna Berura*⁵ distinguishes between the needs of a home and beautification or extra, unnecessary improvements. Thus, one should not plan to expand his dining room or paint during the Three Weeks. However, if one started before the Three Weeks and the work dragged on, then he can finish the job if it is difficult to stop in the middle.⁶

It is certainly less of a problem to buy wallpaper than to have

1. *Shulchan Aruch, Orach Chayim* 551:2.
2. *Bi'ur Halacha* ad loc.
3. The *Mishna Berura* 551:11 and *Igrot Moshe, Orach Chayim* 111:80 say that in such cases there is room for leniency even during the Nine Days.
4. *Megilla* 5b.
5. 551:12.
6. See *Piskei Teshuvot* 551:8.

it installed because it is the installation that brings happiness.⁷ Installation may even require a *beracha* of *Shehecheyanu* (there are many customs on the matter), which is forbidden during the Three Weeks.⁸

7. See *Igrot Moshe, Orach Chayim* 111:82.

8. *Shulchan Aruch, Orach Chayim* 551:17.

D-24: The Transition from Shabbat into *Tisha B'Av*

Question: Could you please explain how to handle the transition from Shabbat into *Tisha B'Av* (when it falls on *Motzaei Shabbat*) regarding *se'uda shlishit*, *Havdala*, and changing clothes?

Answer: *Seuda shlishit*: A *baraita*, quoted in *Ta'anit* 29b, says that one may eat as extravagant a meal as he wants on Shabbat, even if the ninth day of Av falls on that day or the next. The *Tur*¹ cites customs that one is allowed and would do best to curtail the Shabbat meal in this case. This is especially so at *se'uda shlishit*, which in effect is the *se'uda hamafseket*.² However, these considerations are countered by the requirement to avoid displaying mourning on Shabbat. Therefore, there are no real restrictions, even at *se'uda shlishit*.³ However, the mood should somewhat reflect the coming of *Tisha B'Av*, as long as it does not bring on clearly noticeable changes.⁴ One important halachic requirement is that one must finish eating before sunset.⁵

Havdala: One says the standard preliminary *Havdala* in *Shemoneh Esrei*. The main *Havdala* over a cup of wine is made on Sunday night, after *Tisha B'Av*.⁶ Nevertheless, if one forgot to mention *Havdala* in *Shemoneh Esrei*, he does not repeat *Shemoneh Esrei*. Rather, saying *HaMavdil*, which enables one to do actions that are forbidden on Shabbat, suffices.⁷ Unlike *Havdala* during the Nine Days, when we try to have a child, rather than an adult,

1. *Orach Chayim* 552.
2. The last meal before *Tisha B'Av*, which usually incorporates special elements of mourning.
3. *Shulchan Aruch*, *Orach Chayim* 552:10.
4. *Mishna Berura* 552:23.
5. Rama, *Orach Chayim* 552:10.
6. *Shulchan Aruch* *ibid.* 556:1.
7. *Mishna Berura* 556:2

drink the wine,⁸ after *Tisha B'Av* an adult can drink it freely.⁹ The *beracha* on *besamim*¹⁰ is not recited this week because it is said only on *Motzaei Shabbat*, and on *Tisha B'Av* it is not appropriate because it is supposed to serve as a pleasure that revives the soul.

The *beracha* on the fire is also specific to *Motzaei Shabbat*, but it is not connected to a pleasure and does not require a cup of wine. Therefore, the *minhag* is to recite it in *shul* toward the end of *davening*, before the reading of *Eicha*.¹¹ There are those who say that a woman should, in general, avoid making *Havdala*. This is because of the doubt whether a woman is obligated in the *beracha* on the fire, which is not directly related to Shabbat, and thus is a regular time-related *mitzva*, from which women are exempt.¹² Therefore, if one's wife will not be in *shul* at the time of the *beracha*, it is better for the husband not to fulfill the *mitzva* at that time, but to make the *beracha* on the fire at a time that his wife can hear it.¹³

Taking off shoes: As we mentioned, one may not do a noticeable act of mourning before Shabbat is over. Whereas finishing eating before sunset or refraining from washing need not be noticeable, taking off shoes is. There are two *minhagim* concerning when to take them off: 1) One waits until after Shabbat is over, says *HaMavdil*, and then changes clothes and goes to *shul*. One may do so a little earlier than the regular time listed for the end of Shabbat, which is usually delayed a little bit beyond nightfall to allow for an extension of Shabbat at its conclusion. The exact amount of time is not clear and depends on the latitude of one's location. It is advisable to delay *Ma'ariv* to allow those who take this approach ample time to make it to *shul*.¹⁴ (If the rabbi has

8. Rama, op. cit. 551:10.

9. *Mishna Berura* 556:3.

10. Fragrant herbs.

11. *Ibid.* 1

12. *Bi'ur Halacha* 296:8.

13. *Shemirat Shabbat K'Hilchata* 62:(98).

14. *Ibid.* 40; *Torat HaMo'adim* 9:1.

ruled that everyone should keep the following *minhag*, all should conform, and there is no need for such a delay.) 2) One takes off his shoes after *Barchu* of *Ma'ariv*. One who takes the second approach should bring non-leather footwear and *Eichal/Kinot* books to *shul* before Shabbat to avoid the problem of *hachana*.¹⁵ However, if one makes even minimal use of these *sefarim* in *shul* before Shabbat is over, he may bring them with him on Shabbat.¹⁶

15. Preparations on Shabbat for after Shabbat.

16. *Shemirat Shabbat K'Hilchata* op. cit. 41.

Section E: **Kashrut**

E-1: Waiting Between Eating Milk and Meat

Question: We wait six hours between eating meat and milk. Some people wait less. Where does this come from? Why can't we eat meat and milk freely as long as they are not cooked together, as the Torah says?

Answer: You are correct that the Torah prohibition refers only to meat and milk that were cooked together in a way that their tastes intermingled.¹ However, the Rabbis extended the prohibition to not eating meat and milk together even if they were prepared separately, and gave guidelines as to what is considered eating together. Following the eating of milk products, one needs to take steps to ensure that his hands and mouth are free of dairy remnants before eating meat.² Following eating meat products, one needs to wait before eating milk products. Two reasons are given: 1. Pieces of meat are likely to remain between the teeth, and the situation resembles eating meat and milk together.³ 2. The taste of the meat remains in the digestive system a significant amount of time.⁴ There are several halachic differences between these two reasons, with practical ramifications.

The *gemara*⁵ tells of *Amora'im* who, after eating meat at a meal, would not eat milk products until the next meal. Since the reason for waiting has to do with actual physical conditions, the *Rishonim* understood that “the next meal” must refer to a set amount of time between the last eating of meat at one meal and the eating of dairy at the next one. Several opinions and customs

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1. *Chulin* 108a.
 2. See details in *Shulchan Aruch, Yoreh De'ah* 89:2.
 3. Rambam, *Ma'achalot Asurot* 9:28.
 4. *Tur, Yoreh De'ah* 89.
 5. *Chulin* 105a.

arose in applying the concept. The most prevalent ones relate to the Rambam's⁶ statement that it is "*like six hours*," which gave rise to opinions of a full six hours, just over five and a half hours, or a bit more than five hours. A minority view gives a minimal break of one hour between meals (Dutch Jews follow this custom today),⁷ while a third approach compromises with three hours (German Jews). All should follow their family *minhag*.

Whereas some require waiting only after eating actual meat (not meat gravy alone), most wait six hours after eating a food cooked with meat.⁸ However, after *pareve* food that was cooked in a *fleishig* pot, one need not wait at all,⁹ even if there may have been a bit of residual gravy in the pot.¹⁰

6. Ibid.

7. The Rama (*Yoreh De'ah* 89:1) mentions this as the prevalent *minhag* in his time and place.

8. Rama, *Yoreh De'ah* 89:3.

9. Ibid.

10. *Shach* ad loc. 19.

E-2: Prohibition of Eating Fish and Meat Together

Question: Why are we prohibited from eating fish and meat together if fish is *pareve*?

Answer: The prohibition of eating fish and meat together is based on a concern of danger, not on directly religious considerations. The *gemara*¹ writes that it is forbidden to eat fish that is roasted with meat because it is harmful, in that it can cause *tzara'at* (roughly, leprosy). The consensus of *poskim* is that it applies to fowl as well as meat.²

This statement in the above *gemara* assumes there is a halachically significant transfer of matter from one food to another when roasted together.³ Since we do not normally subscribe to that assumption, some authorities say that the problem exists only when the meat and fish are cooked together, not when roasted.⁴ There is also a question if gravy of one fell into a pot full of sixty times more volume of the other, whether one can employ the halachic rule of *bitul b'shishim* (nullification of the minority substance). The *gemara*⁵ seems to imply that fish may be cooked in a *fleishig* pot, although some reject this inference.⁶ It would seem that one can be lenient in these and other related questions because several major *poskim* point out that the danger *Chazal* referred to is no longer prevalent.⁷ It is perhaps for this reason that the Rambam does not mention the prohibition of mixing fish and meat. While

1. *Pesachim* 76b.

2. *Pitchei Teshuva*, *Yoreh De'ah* 116:2.

3. See Rashi, *Pesachim* 76b.

4. *Taz*, *Yoreh De'ah* 116:2.

5. *Chulin* 111b.

6. See *Taz* op. cit. 95:3.

7. See Magen Avraham, *Orach Chayim* 173:1; *Pitchei Teshuva*, *Yoreh De'ah* 116:3 in the name of the Chatam Sofer; *Aruch HaShulchan*, *Yoreh De'ah* 116:10.

we will not ignore the prohibition, this can explain our tendency toward leniency.⁸

The prohibition applies not only when meat and fish are cooked together but also to eating them together when they were prepared separately.⁹ According to the *Shulchan Aruch*, we are required to wash our hands and mouth in between the two.¹⁰ However, the Rama¹¹ rules that it is sufficient to eat and drink something between the fish and meat, and we need not wash our hands or mouth. We also change or clean the cutlery and plates in between, although it is debatable whether the letter of the law requires this.

8. See *Chatam Sofer* op. cit.

9. *Shulchan Aruch, Yoreh De'ah* 116:2.

10. *Ibid.* 3.

11. *Ad loc.*

E-3: Eating the Products of *Kilayim*

Question: Why do we eat fruits that are products of *kilayim*?¹ Shouldn't we boycott them?

Answer: The Rabbis derive the prohibition against creating new fruit varieties by grafting branches of one type onto the tree of another type from the comparison of *kilayim* of animals to that of plants.² Whereas the Torah instructs man to harness the world for his needs,³ there are limitations on meddling with the natural order of creation, which lie at the heart of the laws of *kilayim*.⁴ *Halacha* teaches us which actions are forbidden and which are permitted. It also teaches us the repercussions of forbidden actions, including grafting. We are not required to boycott when the Torah and the Rabbis did not take the prohibition that far.

There are two main halachic elements that relate to distancing oneself even from someone else's *aveirot*.⁵ In some cases, we may not eat a food that was produced or processed in a forbidden manner (e.g., food that was cooked on Shabbat), at least to a certain extent.⁶ Sometimes it is forbidden even to benefit from the food (e.g., milk and meat that were cooked together or a vineyard that was involved in *kilayim*).⁷ The *gemara*⁸ derives from *p'sukim* that neither eating nor deriving benefit is an issue for *kilayim* that do not involve grapes. Indeed, the same Torah that forbids grafting permits eating or selling the resulting fruit.

Another element in staying away from the *aveirot* of others

1. Mixed species – regarding fruit from trees, by grafting.
2. *Kiddushin* 39a, based on *Vayikra* 19:19.
3. *Bereishit* 1:28.
4. See Ramban to *Vayikra* 19:19.
5. Violations of prohibitions.
6. *Ketubot* 34a.
7. *Chulin* 115a.
8. *Ibid.*

is prospective; it is forbidden to proactively facilitate (*lifnei iver* – forbidden from the Torah) or even aid in (*m'sayei'a* – from the Rabbis) *aveirot*. However, these laws do not create prohibitions *post facto*. We do not find, in this regard, prohibitions that are motivated by a concern for retroactively justifying the *aveira* or allowing the sinner to profit.

The feeling of disapproval about the existence of fruit that should not have been produced is discussed regarding the *beracha* of *Shehecheyanu*. Reciting that *beracha* may imply that we are happy the fruit exists.⁹

Now that we are confident that a halachic prohibition to eat the grafted fruit does not apply, let us investigate the question of trying to limit these *aveirot* by means of a boycott. This is pertinent on a public scale in Israel, where the religious community makes up a sizable share of the market. Might a boycott affect how much grafting will occur in the future? While we cannot give a thorough answer to this question, let us point out that it is unclear how many farmers from whom we buy fruit are sinning. We will introduce some factors, but we will not rule when a given farmer can actually rely upon them. (You have asked us to address consumers, who do not really have a halachic problem.)

Kilayim is not one of the seven Noahide laws. Yet, the Rambam¹⁰ says that a Jew may not let a non-Jew graft onto his trees. Commentaries¹¹ disagree as to whether this is because there is a lower level prohibition for a non-Jew to graft or because a Jew may not ask a non-Jew to do something that is forbidden for Jews. In any case, if a non-Jew does the original grafting, there is more room for leniency. Regarding more severe forms of *kilayim*, one may not sustain the *kilayim* as it grows. Although it is less clear whether grafting is in that category, we rule stringently.¹² Yet, the

9. See *Yabia Omer* v, *Orach Chayim* 19.

10. *Kilayim* 1:6.

11. Ad loc.

12. *Shulchan Aruch*, *Yoreh De'ah* 295:7.

*Chatam Sofer*¹³ says that once the grafted branches are no longer recognizable as such, these *halachot* cease to apply. The Rambam¹⁴ and *Shulchan Aruch*¹⁵ agree that one may cut off a shoot from a grafted tree and plant it as a new tree. Furthermore, *poskim* point out that since grafting is forbidden only between two species, it is not always obvious which of our modern applications involve halachically distinct species. A summary of the practices that rabbis permitted to religious farmers in *Eretz Yisrael* can be found in Rav Yisraeli's work *Eretz Hemdah*.¹⁶

In conclusion, a consumer may eat grafted fruit. In fact, most farmers who grow the fruit have grounds for leniency due to a combination of factors.

13. *Shut Chatam Sofer* VI:25.

14. *Op. cit.* 7.

15. *Op. cit.*

16. II:5:14.

E-4: Accepting a Stringency Regarding Milk and Meat

Question: Is one who is within six hours after eating *flesihig* required, if he wants to eat *pareve* with people who are eating *milchig*, to place some sort of separation or reminder on the table? I don't remember seeing this done, but a friend told me he heard it explicitly from a *talmid chacham* and that we have no right to ignore his ruling. I don't know how my parents would take to my adopting this practice.

Answer: The *mishna* and *gemara*¹ give instructions to avoid the accidental eating of milk and meat together. One directive is that one who is eating cheese should not bring meat, including poultry, to the table. The *gemara* is bothered: if, as we rule, poultry with milk is forbidden only rabbinically, this is a *gezeira l'gezeira* (an injunction on an injunction). In other words, the mistake that the Rabbis' legislation is intended to avoid is itself only a rabbinic prohibition. As a rule, this is an improper injunction. The *gemara*, after pointing out that there is a Torah prohibition only when the milk and meat have been *cooked* together, concludes that the concern that justifies the *gezeira* is that one might mix the two in a steaming hot pot on the table.

Several *Acharonim* cite the *Beit Yaakov*, who extends the aforementioned *gezeira* to one who is not eating meat now but has eaten meat within the past six hours and thus may not yet eat milk products. Most of those who cite this opinion reject it.² The most prominent rejecter of this stringency (*chumra*) is the *Pri Megadim*,³ who cryptically makes two points that hit the nail

1. *Chulin* 103b–104b.

2. See a summary of the opinions in *Darchei Teshuva*, *Yoreh De'ah* 88:16 and *Badei HaShulchan*, *Bi'urim* to *Yoreh De'ah* 88:1.

3. *Yoreh De'ah* 88, *Mishbetzot Zahav* 2.

on the head for us. One is that the *gemara* was concerned that the *gezeira* regulating people eating milk and meat at one table at the same time was overextended. It finally constructed a case wherein one might violate a Torah law if some meat at the table ended up in a hot pot of milk. However, in the case at hand, meat is not present. Rather, *Chazal* extended the prohibition of eating meat and milk that were cooked together to requiring one to wait six hours⁴ after eating meat before having dairy. We have no right to extend the *gezeira* even further than the *gemara* and *Shulchan Aruch* spell out.

The *Pri Megadim* and others make a second point, which is a crucial general one you should internalize and share with other *halacha*-observant people. He writes, “I have not seen people being careful about this.” Why should what ordinary people do concern the *Pri Megadim* when he is weighing his scholarly opinion against that of the *Beit Yaakov*? The answer is that the great majority of halachic authorities have taken the *minhag ha’olam* (widespread common practice) very seriously when determining *halacha*. We have been in many observant homes without seeing this *chumra* implemented, and few have even heard of it. Admittedly, if a consensus of sources indicates that a *minhag ha’olam* appears to violate a Torah law, it is a serious matter, requiring rabbinic guidance. In this case, however, most *poskim* reject the *chumra*, and the worst-case scenario involves an extension of a rabbinic prohibition. In our opinion, the *talmid chacham* erred in his ruling. Perhaps he said it in the context of a group of people who believe in adopting practically every *chumra* they can find.⁵ However, our understanding is that you want to follow *halacha* in a serious but mainstream manner. It is complex enough⁶ to deal with situations where one learns that his parents are clearly acting incorrectly. We certainly consider it counterproductive to adopt

4. According to the most stringent opinion.

5. See Introduction to *Living the Halachic Process*, vol. 1, pp. 34–35.

6. And is a matter that requires its own discussion.

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off-the-beaten-track *chumrot* without there being a special justification. It is especially wrong if your parents see this behavior as a repudiation of the system of *halacha* they taught you or begin to view your approach to *halacha* as erratic rather than careful.

E-5: Pareve Bread Knife

Question: Many people have a special, *pareve* bread knife. Is that halachically required?

Answer: The application of the *halacha* in this matter has developed over time. After seeing relevant halachic sources, we can discuss the phenomenon of which this practice is a component.

A knife creates special *kashrut* concerns for two reasons: 1. The action of cutting involves friction, which aids in the transfer of taste between foods and utensils.¹ 2. Knives often have a greasy residue that is hard to detect and clean.² One or both factors are responsible for the requirement that a butcher use three knives³ and for the following passage in the *Shulchan Aruch*:⁴ "...it is forbidden to cut cheese, even if cold, with a knife that is usually used to cut meat. Furthermore, you should not cut even bread that is eaten with cheese with a knife used for cutting meat." The Rama adds: "...however, by plunging [the knife] into hard earth it is permitted, but all of Israel already has the practice to have two knives and to mark one of them..."

What is halachically important is that one not cut bread with a knife of the opposite type from that of the meal he is eating. One may cut bread for a dairy meal with a dairy knife and vice versa. (It is generally forbidden to bake *milchig* or *fleishig* bread.⁵ However, in addition to several exceptions mentioned ad loc., there is generally no requirement that bread remain *pareve* until eaten.) However, more recent *Acharonim*, starting with the 17th Century *Pri Chadash*⁶ and picking up steam since, cite and praise the

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1. *Chulin* 8b.
 2. *Avoda Zara* 76b and Rashi, *Chulin* 112a.
 3. *Chulin* 8b.
 4. *Yoreh De'ah* 89:4.
 5. *Ibid.* 97:1.
 6. *Yoreh De'ah* 89:24.

practice of “those who are careful” to have three knives, including a *pareve* one to cut bread. Few sources discuss the exact reason, but let us mention a sampling among several practical advantages: One does not have to remember what knife he used to cut the bread; it reduces the concern that after cutting off half a loaf at a dairy meal, he may eat the soiled other half at a meat meal.

The exact reason can affect our application of the practice of using a *pareve* knife. Although it makes some sense to try to answer specific questions like whether one needs to use the *pareve* knife if he plans to finish the loaf in one sitting,⁷ it almost misses the point, as we will explain.

Rabbis throughout the ages have tried to create *halachot* to reduce chances that people will sin wantonly or accidentally. Their binding *gezeirot*⁸ take on many forms. Yet, there are areas of potential pitfalls regarding which, for various reasons, they decided not to legislate prohibitions. On the other hand, punctilious individuals or groups may develop practices and arrangements to avoid certain situations as a matter of policy, not *halacha*. This is the case with the *pareve* knife. At this point in history, in our communities, it is rabbinically encouraged but not mandated. In fact, it is possible that the practice developed from wise housewives rather than *poskim*. In general, the concept of *pareve* utensils is rarely mentioned in classical halachic literature. It developed as a logical *kashrut* convenience and precaution, aided by changing socio-economic factors. A similar thing can be said about the widespread practice of switching all utensils for Pesach, rather than *kashering*. In kitchens that have every imaginable convenience, does it not make sense to have *pareve* knives to make careful compliance to the laws of *kashrut* easier?

The practical difference of viewing the issue of a *pareve* knife as policy rather than *halacha* is that it is up to the individual, who hopefully will use common sense to fit his situation. For example,

7. See *Badei HaShulchan* to 89:4.

8. Injunctions.

it would be counterproductive to be “*machmir*”⁹ to keep a “*pareve*” knife in the middle of a *fleishig* table to avoid cutting bread with a *flesihig* knife when children with *fleishig* grime on their fingers will soil the knife (which might also be used at *milchig* meals). More importantly, one should not look askance at someone who does not have or use a *pareve* bread knife. Apparently, the Rama did not use one either.

9. Stringent.

E-6: Pat Akum

Question: What is *pat akum*?

Answer: *Pat akum*, which translates as “bread baked by a non-Jew,” is included in the list¹ of things that one is prohibited to eat but is permitted to benefit from. The origin of this prohibition is the “Eighteen *Gezeirot*” (rabbinic injunctions), which were enacted after the great debate between Shammai and Hillel.² The intent of the *gezeira* was to limit the type of relationships between Jews and non-Jews that might lead to intermarriage (what *Chazal* called “because of their daughters”).

Although mentioned in the *Mishna* together with *bishul akum* (food cooked by a non-Jew), the *halacha* is more lenient regarding bread from a non-Jewish bakery, for one or more of the following reasons:

1. This *gezeira* was not totally accepted throughout the entire Jewish world.
2. A special dispensation may have been made to allow easier access to a staple such as bread, especially since Jewish bakeries are not always available.³
3. Buying bread that was made in mass quantities to be sold is less likely to encourage dangerous levels of socializing.⁴

Some permit bread baked by a non-Jew only where there is no local alternative of *pat Yisrael*,⁵ whereas others permit buying from non-Jewish bakeries in any case.⁶ However, the bread baked

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1. *Mishna, Avoda Zara* 2:6.
 2. *Shabbat* 17b.
 3. See *Avoda Zara* 35b.
 4. See Rashi ad loc.
 5. *Shulchan Aruch, Yoreh De'ah* 112:2.
 6. Rama, *ibid*.

by a non-Jew for private consumption is certainly forbidden. Even those who permit *pat akum* only when *pat Yisrael* is not available might permit a type of bread that is only obtainable, or is significantly tastier, from a non-Jewish bakery.⁷ A major issue is the determination of which foods have the relative leniency of *pat akum* and which (like many cakes) fall under the broader, more stringent category of *bishul akum*.⁸ Regarding *pat akum*, any involvement of a Jew in any stage of the baking process, including lighting the oven, permits the bread, even for Sephardim, who are stringent on the matter regarding *bishul akum*.⁹

7. *Shulchan Aruch*, *ibid.*, 5; see *Igrot Moshe* 11, *Yoreh De'ah* 33 regarding bagels.

8. See *Shulchan Aruch* *op. cit.* 6.

9. *Ibid.* 9.

E-7: The Status of Onions Chopped in a Dairy Food Processor

Question: May I use a dairy food processor to chop onions and then put the onions into a *fleishig* food?

Answer: First we must determine what you mean by a dairy food processor. There are a few ways in which a food processor can become dairy. One is if hot dairy food was put in it. Another is if a dairy residue was washed from it using hot water without a significant concentration of soap. A third way is if a dairy liquid remained in it for twenty-four hours.¹

If your food processor is indeed dairy, then you have a problem because an onion is a classic example of a *davar charif* (a sharp food). The status of *davar charif* makes the interaction between different foods more halachically significant because it negates the following three reasons for leniency (some totally and some partially) that might otherwise apply:

1. Usually taste is transferred (between two or more foods and between foods and utensils) and absorbed only when there is heat present. However, if a knife cuts even a cold *davar charif*, there is a presumed transfer. Thus, it must be assumed that the onion will absorb a dairy taste² from the processor's blades.³
2. Usually, when kosher taste (e.g., milk or meat) that is absorbed in a utensil comes out into a food, its status is sig-

1. See another possible scenario in footnote 3.
2. *Shulchan Aruch, Yoreh De'ah* 96:1.
3. There is an important *machloket* whether the special power of *davar charif* enables taste to penetrate from the food to a utensil (see *Magen Avraham* 451:31 and *Even HaOzer to Yoreh De'ah* 96:3). If one assumes that it does, then if an onion was cut with a dairy knife and then was cut further in the food processor, the food processor would become dairy.

nificantly reduced⁴ because it is “*noten ta'am bar noten ta'am*” (doubly removed taste). However, a *davar charif* causes even such an otherwise weak taste to maintain enough strength that the leniency associated with the doubly removed taste does not apply.⁵

3. Usually, taste that had been absorbed into the walls of a utensil, if left for 24 consecutive hours, deteriorates and somewhat worsens the flavor of foods into which it is expelled. In most cases, if foods were cooked in such a utensil, the expelled taste does not change the status of the foods *b'dieved* (after the fact). If, however, the absorbing food is a *davar charif*, most *poskim* rule that it is assumed to receive a positive infusion of taste from that which was absorbed in the utensil, and may take on its status.⁶

For a combination of these reasons, onions cut in a halachically dairy food processor should be considered dairy and not be put into *fleishig* foods. [Permutations of circumstances can create various rulings in similar cases. The above is but a general background.]

4. See details, *Shulchan Aruch* op. cit. 95.

5. *Ibid* 96:1.

6. See *ibid.* and *Shach* ad loc. 6.

E-8: Attending a Non-Kosher Culinary School

Question: I wish to attend a prestigious culinary school. I would be dealing with non-kosher items on a daily basis. Am I allowed to taste a small amount of them? Also, I will need to cook milk and meat together. Is this permissible, or is non-monetary benefit (the grade) also forbidden?

Answer: *Tasting a small amount:* Although the full penalty for eating forbidden foods requires a minimum quantity (usually, the size of an olive), the Torah prohibits eating any amount.¹ Tasting forbidden foods (without swallowing) is prohibited rabbinically.²

Possibility of eating: Although not a simple matter, a person may, in a case of need, cook non-kosher food for non-Jews, and he need not be concerned that he may inadvertently eat from it.³

Cooking: The primary problem with cooking the milk and meat in your case is not the *hana'á* (benefit) but the cooking itself. The prohibition of milk and meat is written in the Torah in terms of cooking and is stated three times to teach us that the cooking itself and, subsequently, eating or benefiting from the cooked mixture are all forbidden. Again, even cooking without eating or benefiting afterwards is forbidden. However, there are two pertinent areas of potential leniency:

1. Regarding fowl, which is considered meat only rabbinically,

1. Following R. Yochanan's opinion in *Yoma* 74a – Rambam, *Shvitat Asor* 2:3.
2. *Pitchei Teshuva*, *Yoreh De'ah* 98:1.
3. *Yabia Omer*, IV, *Yoreh De'ah* 6.

cooking with milk and benefiting therefrom are permitted, although eating is not.⁴

2. The prohibitions of cooking and benefit apply only when the meat and the milk are from kosher animals.⁵ Thus, it is permitted to cook pork and milk even if you receive benefit. However, if the meat of a kosher species is forbidden because it was not slaughtered according to halacha, then it may *not* be cooked in milk from a kosher animal.⁶

There are complicating factors here as well. The Rama⁷ says that it is forbidden to cook pork in milk because of *marit ayin* (people will not realize that it is pork). However, one who is in great need can rely on the *Shulchan Aruch*⁸ and the *Shach*,⁹ who permit it. In a context where people will not suspect him of eating the meat and milk, it is simpler to allow the cooking.¹⁰ A Sephardic Jew could certainly be lenient.

According to many *poskim*, one may not even cook milk in a *fleishig* pot (or vice versa) that has been used within the past twenty-four hours.¹¹ Here, too, there is some room for leniency in a case of significant need. If you could somehow provide your own pots and utensils and had different categories (ideally: kosher meat, kosher dairy, pork and chicken, non-kosher meat, non-kosher dairy), it would be much preferred.

Whether or not you will be able to keep the guidelines is something you must establish before committing yourself.

4. *Shulchan Aruch*, *Yoreh De'ah* 87:3.

5. *Chulin* 113a.

6. Rambam, *Ma'achalot Asurot* 9:6; *Pitchei Teshuva*, *Yoreh De'ah* 87:6.

7. *Yoreh De'ah* 87:4.

8. *Ibid.* 3.

9. *Ad loc.* 7.

10. *Ibid.*

11. See *Yabia Omer* op. cit.

E-9: Kashrut of Tequila With a Worm

Question: In the case of tequila with a worm in the bottle, is the worm *batel b'shishim* (nullified by the presence of sixty times more permitted material than forbidden)? Does the fact that a worm is repulsive to eat make a difference, as appears in *Yoreh De'ah* 104:3?

Answer: An article that appeared on the OU website, “Hard Truths about Hard Liquor,” explains that tequila requires a *hechsher*¹ irrespective of the worm that some brands include. If there is a *hechsher*, there will not be a worm. However, whether your question is one of halachic curiosity, you are following a different *p'sak* than the OU's, or you are dealing with different circumstances, we will answer your question. It happens to raise interesting issues in the rules of a *ta'arovet*,² some of which we will discuss.

We will distinguish between two situations. Let us first deal with the case that the worm was removed and the question is about taste that might have been absorbed by the drink. There is a rule that *kavush k'mevushal* – when a solid soaks in a liquid for twenty-four hours (in some instances, less), they exchange tastes.³ However, this is not a problem here because the volume of the tequila is certainly sixty times the volume of the worm and, therefore, the prohibited taste is *batel*. There is a concept of *berya*, that a whole organism, dead or alive, is not *batel b'shishim*.⁴ However, this rule applies only to the organism, which has a special importance because it is a whole unit, not to the taste it emits.⁵

We now move to another issue. One may not set up a situ-

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1. Rabbinic supervision.
 2. Mixture of permitted and forbidden materials.
 3. *Shulchan Aruch*, *Yoreh De'ah* 105:1.
 4. *Ibid.* 100:1.
 5. *Ibid.* 2.

ation where *bitul* is needed to render the food kosher, and if he does so on purpose, it is forbidden for him and for certain other interested parties to eat.⁶ Here, from the halachic point of view, the worm should not have been put in. However, assuming that non-Jews, who are not obligated in the laws of *kashrut*, set up the situation without Jewish encouragement, this is not a problem.⁷ Therefore, if the worm was removed, the fact that it had been there would not cause us to deem the tequila non-kosher.

We now move to the case where the worm remains. If it is a complete worm, there is the aforementioned issue of *berya*. Addressing your final point, there are three fundamental reasons why we cannot accept your suggestion that *bitul* occurs because of a worm's repulsiveness. The *Shulchan Aruch*⁸ you refer to reads as follows:

Unseemly things that a person is repulsed by, such as ants, flies, and mosquitoes, which everyone stays away from because they are unseemly, even if they are mixed into a stew and their body dissolves into it, if the permitted food is more than the forbidden food, it is permitted. However, if one can check and pass [the food] through a strainer, he should check and strain.

Firstly, the leniency of repulsiveness does not apply when the object remains a *berya*.⁹ Secondly, an object's status as being repulsive depends on the context and the medium in which it is mixed. Although we find a worm repulsive in an alcoholic beverage, there are apparently people who do not. (There are halachic discussions about the status of a worm, the medium of alcoholic drinks, and

6. Ibid. 99:5.

7. Rama, *Yoreh De'ah* 122:6.

8. *Yoreh De'ah* 104:3

9. See *Beit Yosef*, *Yoreh De'ah* 104.

the issue of something that is repulsive to some and not others, but we will not address them here.)

The most fundamental point is that when one can discern the forbidden object within its medium, there is no *ta'arovet* at all. After all, the reason behind the laws of *bitul* is that the Torah did not require us to discard a large amount of permitted food just because a little forbidden food infested it. However, in the event that one can remove the forbidden food, the rationale for *bitul* is missing. This concept is almost certainly Torah law and is at least a rabbinic requirement for *ta'arovet*.¹⁰ That is why the *Shulchan Aruch*¹¹ required straining the food to remove flies. This is even clearer here since one can easily identify and remove the worm. Therefore, no matter how repulsive a worm might be, just as one cannot eat it by itself, one may not drink the bottle of tequila if the worm might also be ingested.

10. See *Taz, Orach Chayim* 632:3 and *S'dei Chemed*, vol. 1, p. 443.

11. *Op. cit.*

E-10: Food Cooked by a Non-Jew

Question: We hired a Filipino caregiver to live with my mother, who is barely mobile. Until now, others have cooked most of her food. Can the caregiver now cook or at least reheat food for her?

Answer: We hope that the caregiver will give your mother the help she needs. Most Filipino caregivers are kind and cooperative about following the home's rules, including *kashrut*. Where possible, it is best for all concerned to avoid rules that create tension, as good relationships are crucial for the welfare of an infirm dear one. On the other hand, *halacha* requires taking precautions and not relying on subjective impressions. Sometimes rules that are restrictive but simple to follow work better than rules that are lenient but produce complex situations. These in turn can cause mistakes and generate stress that accompanies scrutiny and perceived recrimination. While we hope to find a golden mean for your situation, there is room for adjustments and further allowances if the situation warrants them.

The basic rules of *bishul akum* (cooking done by a non-Jew) can be formulated in a sentence. A non-Jew may not cook food that is not eaten raw, turning it into first-class food, without a Jew's involvement in the process. We will deal with each component very briefly:

Cooking: While most methods of preparing food by means of heat are forbidden, the smoking process is permitted.¹ *Poskim* discuss whether the prohibition extends to a microwave oven.² Although few permit it, it can be a mitigating factor.

Not eaten raw: If a non-Jew cooks food that is sometimes eaten raw, even if it is usually cooked, the food is permitted.³ Not

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1. *Shulchan Aruch, Yoreh De'ah* 113:13.
 2. See *Shevet HaLevi* VIII:185.
 3. *Shulchan Aruch* op. cit. 1.

only are boiled milk and water permitted for this reason, but coffee and tea, whose principle ingredient is water, also are.⁴ Cooked carrots are another classic example. A non-Jew may reheat food that a Jew already rendered edible.

First-class food: Only food that nobility would serve is included in the prohibition.⁵ This subjective criterion likely rules out cooked breakfast cereals like farina and oatmeal, French fries, and more. This category is society based; many cases are borderline or depend on *machlokot*.⁶ Thus, we give few details and warn about overuse.

The next category enables developing a reliable plan:

Involvement of a Jew: Regarding the related prohibition of bread baked by a non-Jew, the *gemara*⁷ says that it is sufficient that a Jew light the oven. The *Shulchan Aruch*⁸ and Sephardic practice, regarding the more stringent laws of *bishul akum*, require a Jew to put the food on the fire (or light the fire after the food is in position) or stir the food as it cooks. The Rama⁹ and Ashkenazic practice permit the food if a Jew lit the fire, even at the beginning of the day and even if the non-Jew does all of the actual cooking. Furthermore, the Rama suggests that even if a Jew just lit the flame that a non-Jew used to light the stove, it suffices. This leniency extends to ovens with pilot lights and also to having a Jew light a 'yahrtzeit candle' that a non-Jew uses to light (the match that lights) a gas stove. The *Aruch HaShulchan*¹⁰ says that one should rely on this last opinion only in the event of acute need and in the home of a Jew, but both factors are present here. The significance of it being in a Jewish house is two-fold: Firstly, it is likely that a

4. *Yechaveh Da'at* 1v: 42.

5. *Shulchan Aruch* op. cit.

6. See *Living the Halachic Process*, vol. 1, E-11.

7. *Avoda Zara* 38b.

8. Op. cit. 7.

9. Ad loc.

10. *Yoreh De'ah* 113:44.

Jew will do some stirring;¹¹ also, there is an opinion¹² that *bishul akum* applies only to cooking in a non-Jew's house. Although we do not accept that opinion independently, *poskim* sometimes use it as a mitigating factor, especially if the cook is a hired worker.¹³ (The *Yechaveh Da'at*¹⁴ uses this reasoning to justify Sephardim who rely on a Jew to light the fire in a Jewish-owned restaurant). A Jew would have to turn on electrical appliances.

Due to a few *kashrut* considerations, it is best that the caregiver brings home only kosher food. However, if the caregiver demands the freedom to cook for herself, she should have her own clearly marked utensils, which she should clean separately. Regarding cooking for your mother, there are two preferable systems: If your mother can be in or around the kitchen, she can supervise its proper use (especially milk-meat) and light the fire. If she rarely gets out of bed, it is best if a Jew cooks the food or one is available to light the flame. If this is not possible, then the specific laws should be examined more carefully and a rabbi should address the specific needs and circumstances to arrive at a correct approach for your mother's halachic and general well-being.

11. Rama, op. cit. 4.

12. *Tosafot*, *Avoda Zara* 38a.

13. See *Shach*, *Yoreh De'ah* 113:7.

14. V:54.

E-11: Using a Non-Toveled Utensil One Time

Question: I have been told that one can use a utensil once before *toveling* it (immersing it in a *mikveh*). May I rely on that opinion?

Answer: It is a pleasure to deal with an area of *halacha* that was all but forgotten in the previous generation. Indeed, there is an undisputed requirement to *tovel* certain utensils obtained from non-Jews, even if they are new.¹ This is based on *p'sukim*² describing the process of preparing the spoils from the battle against Midian for Jewish use. There is significant disagreement whether the derivation indicates that the requirement to *tovel* is a Torah law or whether it is a rabbinic law.

It is also accepted *halacha* that at least the owners of the utensils may not use them before the *tevilla*.³ However, the majority opinion is that the prohibition to use utensils prior to *tevilla* is only rabbinic.⁴ Thus, there could be additional leeway for leniency regarding the use of utensils before *tevilla* in cases of doubt. However, to the best of our knowledge, there is *no recognized halachic opinion* or clear logic that distinguishes between using it once and using it many times in this regard.⁵

We must admit that the position you presented is widely known. There are, in general, several plausible explanations for the phenomenon of a familiar, but undocumented, position. It is possible that someone of stature offered an oral or obscurely published opinion. Other times, because of pressing circumstances

1. *Avoda Zara* 75b.
2. *Bamidbar* 31:22–23.
3. Rambam, *Ma'achalot Asurot* 17:3; Rama, *Yoreh De'ah* 120:8.
4. See, for example, the *Bi'ur Halacha* to *Orach Chayim* 323:7.
5. See *Tevillat Keilim* (Cohen) 4:(3).

(or, on the contrary, the tendency toward *chumra* in a certain time, place, or issue) an obscure minority opinion gained popularity. Or, as is apparently the case here, laymen misunderstood and misapplied a *halacha* to the extent that the mistake took on a life of its own. Let us trace the mistake.

The Torah lists substances that require *tevilla* but does not state explicitly the form they need to be in for the obligation to exist. The *gemara*⁶ says that only *klei seuda* (utensils of the meal) need *tevilla*. While there is much discussion as to what makes a utensil sufficiently connected to a meal to necessitate *tevilla*, we should take note of the primary requirement that it be a *kli* (utensil). The *halachot* regarding what constitutes a *kli* are very complicated. Most of the applications are in the laws of purity and impurity, which apply, for the most part, only marginally in a time when there is no *Beit HaMikdash*. One of the characteristics of a *kli*, in the context of impurity and other *halachot*, is that it was produced to be used many times. This is an important fact, in our age of affluence, when disposable utensils are commonplace. There is a consensus among recent *poskim* that disposable utensils are not *kelim*, even if one happens to reuse them, and thus do not require *tevilla*. (The issue of a utensil that is designed to be used only a few times is beyond our present scope.)

It appears that many people mistakenly inferred from this ruling that *tevilla* becomes necessary only *after* repeated use. In fact, a utensil made for repeated use is a *kli* from the time it was made and thus requires *tevilla*. Although an unused *kli* sitting in a cupboard (or in a store, awaiting sale) does not have to be *toveled*, its imminent use triggers the obligation. Thus, one may not trigger the obligation of *tevilla* by using a utensil without first fulfilling that obligation.⁷ Every use, whether one or many, creates an obligation that must be fulfilled by the time of the use, at least under normal circumstances.

6. Op. cit.

7. See *Tevillat Kelim* op. cit. (2) in the name of Rav S.Z. Auerbach.

LIVING THE HALACHIC PROCESS

While many related interesting and practical questions remain, we hope that we were able to clear up this common misconception in an area of *halacha* that, *baruch HaShem*, has been rediscovered.

E-12: Validity of *Tevillat Keilim* with a *Chatzitza*¹ on a Handle

Question: I did *tevillat keilim* on a metal pot with plastic handles. I later noticed a sticker on its handle. Do I have to *tovel* the pot again?

Answer: The relevant rule of *chatzitza* is that something that people normally would remove constitutes a *chatzitza* that disqualifies the *tevilla* rabbinically, even if it covers only a minority of the object.² In all likelihood, the sticker in question fits into that category. However, your question is more complicated, as we will partially explain.

There are two reasons to suggest that the handle does not need to be *tovelled*. First, a plastic *kli* does not require *tevilla*. Additionally, the handle does not come in contact with the food, and only a *kli se'uda*³ requires *tevilla*. On the latter point, the *Shulchan Aruch*⁴ rules that handles need to be immersed. However, there are different possible ways to explain this *halacha*, and these can impact on the conclusion regarding your question.

One possible explanation is that a *kli*'s handle is a distinct, albeit connected, *kli* that needs *tevilla* if made from metal or glass. Although it does not come in contact with food, it is attached to and complements a *kli* that touches food and thus is considered a *kli se'uda*. If this is the reason, then your handle, being plastic, does not require *tevilla*, and the *chatzitza* is not a problem.

Another possibility is that a handle is a secondary part of the *kli*. Just as one must *tovel* in its entirety a *kli* that is part metal

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1. An obstruction between the object or person being immersed and the *mikveh*'s water.
 2. *Nidda* 67b.
 3. A utensil used in connection with a meal – see *Avoda Zara* 75b.
 4. *Yoreh De'ah* 120:12.

and part plastic, so must he *tovel* the *kli*'s handle. Therefore, a *chatzitza* would be as much a problem on the handle as anywhere else on the *kli*.

A third possibility is based on the assumption that the handle itself is an entity that does not require *tevilla*, but nevertheless, if it was not immersed in the *mikveh*, we would say that the *kli* itself was not totally surrounded by water, which is a basic requirement of any *tevilla*.⁵ In contrast, if the handle was immersed, even with a *chatzitza*, the entire *kli* was encompassed by water. According to this approach, the sticker would not raise a problem. Realize that the main part of the *kli*, which requires *tevilla*, is unaffected by the *chatzitza*; all of it touches the *mikveh*'s water except the place where the handle is connected to it.

On this third point, there may be a *machloket* among recent *poskim*. Consider an appliance that holds and heats up food, where the heating element is housed separately from but connected to the part that holds the food. Rav Moshe Feinstein⁶ rules that one need immerse only the whole part of the appliance (probably upside down) that hold the food, leaving the electrical section protruding from the water. The *Minchat Yitzchak*⁷ argues, saying that this is not considered immersing the *kli*.

Rav Feinstein's ruling is apparently incompatible with the third possibility above, which assumes that a handle is a separate, albeit connected, appendage. If he did, then according to his approach that appendages do not have to be submerged when the main part of the *kli* is immersed in the *mikveh*, the *Shulchan Aruch* would not have required handles to be immersed.⁸ The *Minchat Yitzchak*, however, can accept the third approach.⁹

5. See Rambam, *Mikva'ot* 1:2.

6. *Igrot Moshe*, *Yoreh De'ah* 1:57.

7. II:72.

8. In fact, Rav Feinstein (*Igrot Moshe*, op. cit. 58) writes that a handle is a part of the *kli*.

9. Whether or not he does is beyond our present scope.

The *Darchei Teshuva*¹⁰ addresses your case explicitly and requires removing the *chatzitza* before *tevilla*. Several contemporary works accept this opinion,¹¹ and we found no one who argues. This is apparently in line with the second approach, namely, that the handle is like any other part of the *kli*. In truth, the *Beit Yosef*'s¹² explanation for the need to *tovel* handles seems to concur. Although he does not discuss the case of a plastic-equivalent handle, it is likely that he would agree with the *Darchei Teshuva*. Thus, although one could make the argument that a *chatzitza* on a plastic handle is not a problem, the consensus is that another *tevilla* is needed after removing the sticker.

10. 120:96.

11. *Chelkat Binyamin* 120:109; *Hechsher Keilim* (Edre'i) 7:2; *Tevillat Keilim* (Cohen) 5:5.

12. *Yoreh De'ah* 120.

Section F:
**Tzedaka (Charity)
and Ribbit (Usury)**

F-1: Which Donations Do Not Count Toward *Ma'aser Kesafim*?

Question: When I give *tzedaka* for miscellaneous purposes (e.g., *kaparot*, before Shabbat, *matanot la'evyonim*, etc.), is that included in the requirement of *ma'aser kesafim* (the recommended practice of giving one-tenth of one's earnings to charity)? I ask because I heard that one should not give more than 10% of his net income to *tzedaka*.

Answer: The rule is that one is not allowed to kill two birds with one stone with *tzedaka*. In other words, one cannot use *tzedaka* money to fulfill *mitzvot* that he is obligated to do independent of the *mitzva* of *tzedaka* (e.g., buy a *lulav* and *etrog*, support his wife).¹³ One may, however, receive indirect benefit (honor, debt of gratitude) from his donation.

Matanot la'evyonim is an independent obligation, halachically distinct from *tzedaka* (even though there is a strong philosophical connection) and thus, should not be counted toward giving *ma'aser*. Since it is sufficient to give to two poor people, once that has been done, one has no further obligation. If he wants to give more, he can deduct the additional money from *ma'aser*.¹⁴ By doing so, he would not be fulfilling (with the additional *ma'aser* money) the special *mitzva* of *matanot la'evyonim* but, rather, regular *tzedaka* that happens to be given on Purim, an auspicious time for *tzedaka* as well.

Regarding *kaparot*, *Sefer Tzedaka U'Mishpat*¹⁵ rules that since it has been accepted as an obligation, *ma'aser* money should not be used. As far as *tzedaka* before Shabbat is concerned, it seems that those who have this practice did not accept it as a new

13. Based on *Chagiga* 8a.

14. *Mishna Berura* 694:3; see also *Yechaveh Da'at* 1, 87.

15. 6:(37).

obligation, but simply as an auspicious time to allocate *tzedaka*. It is probably best that one who resolves to start this practice have in mind that he will take the funds from *ma'aser* (if that is what he wants). However, even without such a stipulation, the money given to *tzedaka* before Shabbat can be counted toward *ma'aser*. There are several good new books on the topic of *ma'aser kesafim* that discuss, among other things, whether certain payments are independent obligations or can be taken from *ma'aser*.

Regarding your assumption about the maximum amount of *tzedaka*, one is, in fact, allowed to give more than 10%. The limit is 20%,¹⁶ while 10% is considered a positive, average rate of charity. What you may have heard is that it is proper to make an accurate calculation of 10%, as opposed to giving more without calculating.¹⁷ However, if you calculate and put the money aside, and then decide to give more as regular *tzedaka* (or don't count certain donations toward *ma'aser*, which comes to the same thing), that is wonderful.

May you always have the desire and resources to fulfill the beautiful *mitzva* of *tzedaka* in its various forms.

16. *Ketubot* 50a.

17. *Ahavat Chesed* 19:3 in note.

F-2: Questions from a *Gabbai Tzedaka*

Question: As a *gabbai* who deals with various *tzedaka* collections, a few questions have arisen regarding changes in the recipients:

1. May one who intended to give to a certain institution but put the money in the wrong box take out the money and give it to the intended recipient?
2. Money was collected for a certain cause (e.g., pre-Pesach food baskets [*Maot Chittim*] for Russian Jews) but was not distributed on time. Can it be used for other needs, or does one have to find a way to return it to the donors?
3. What happens if an institution put out a *tzedaka* box but never came to pick it up?

Answer: Indeed, a *gabbai tzedaka* deserves much credit even for all the complications that arise. We will deal with each question separately, although there are some unifying concepts.

1. There are two elements that make a donation binding: One involves the explicit or implicit *neder* (oath) to give *tzedaka*. The other involves the acquisition (*kinyan*) of the donation by or on behalf of the recipient(s). Each element has rules as to when it is binding and when a mistake renders the donation void. The *Shulchan Aruch*¹ rules that one may not back out of a donation, even with *she'ila*,² once it reaches the hands of the *gabbai*. There is a critical question as to whether and when a *tzedaka* box is considered like the hands

1. *Yoreh De'ah* 258:6.

2. The *tzedaka* equivalent of *hatarat nedarim*, in which one professes regret about having made the oath and thereby uproots it with the help of an assembled court.

of the *gabbai*.³ However, if the money was placed in the box because of a full-fledged mistake, the rules of *kinyan b'ta'ut* (acquisition based on a mistake) apply, and the money may be removed and put in the intended place without problem.⁴ *Tzedaka* is not like *hekdesh*,⁵ and the money does not have intrinsic *kedusha*.⁶ Therefore, it does not matter if one takes the same coins or bills he put in or different ones.

2. Assuming that we are talking about the same group of needy people or that the group was never clearly defined, there is no problem giving the money for similar needs. Although we find that money collected for a Purim *seuda* should not be switched to other purposes,⁷ this *halacha* is interpreted by most *poskim* as an exception, not the rule. Certainly, when the money will be used by the same pool of poor people under similar circumstances, the *gabbai* may make the changes *as needed*.⁸ If the need totally disappears, the money should be given to other recipients, preferably with comparable needs.⁹
3. When receiving *tzedaka* boxes from people and institutions, it is best to stipulate that you are planning to give the proceeds to them exclusively only if they return within a set amount of time. Even if you did not make such a stipulation, if you cannot track down the recipient, you, as *gabbai*, are not required to watch the money indefinitely and may transfer it to other charities of that type. If you had put in your own money without a stipulation, you should preferably do *she'ila*.¹⁰

3. See discussion in *Tzedaka U'Mishpat* 8:(25).

4. *Ibid*.

5. Property consecrated to the Holy Temple and its service.

6. Rama, *Yoreh De'ah* 259:1.

7. *Shulchan Aruch, Orach Chayim* 694:2.

8. See *Nikdash B'Tzedaka* 342.

9. See *Tzedaka U'Mishpat* op. cit.; *Tzitz Eliezer* xvi:29.

10. *Ibid*.

F-3: Guidelines for Distributing *Tzedaka*

Question: When disbursing the funds I give as *ma'aser kesafim*,¹ is it better to give smaller amounts to all who request or to give larger donations to fewer institutions?

Answer: Different classical sources advance different arguments that relate to the serious question you raise. One can apply the values found in those sources to our present-day situation and, with some common sense, arrive at a reasonably balanced strategy.

The *gemara*² strongly criticizes one who gives all of the donations that he is required to present to *kohanim* to just a single *kohen*. The *Shulchan Aruch*³ extends this rule to *tzedaka*, saying that one should not give it all to only one poor person. Several other sources follow this direction, but there seem to be two different reasons provided for dispersing *tzedaka* among several recipients. The *Bach*,⁴ in explaining why we must give *matanot la'evyonim* to at least two people, says that it is important to bring sustenance to as many people as possible. The Rambam, commenting on the *mishna* in *Pirkei Avot*⁵ that says that “it all follows the amount of action,” says that one’s attribute of generosity is developed better by performing more smaller acts of giving than by giving larger sums fewer times. Thus, while both sources encourage giving to multiple recipients, the former is concerned with the recipients’ physical welfare, whereas the latter focuses on the donor’s spiritual wellbeing.

On the other hand, there are sources that stress the importance of giving to fewer recipients in the hope of helping a person

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1. The recommended practice of giving one-tenth of one’s earnings to charity.
 2. *Eruvin* 63a.
 3. *Yoreh De'ah* 257:9.
 4. *Orach Chayim* 695.
 5. 3:15.

or organization reach the position of “*dei machsoro*” (enough to fill his needs).⁶ That logic is stronger when the alternative is giving to so many people that no one gets a donation that significantly changes his predicament.⁷ However, when one can help more people reach at least their most basic needs as opposed to helping fewer people attain less critical provisions, then the basic level of the many supersedes our desire to fulfill the preferred *mitzva* of *dei machsoro*. (The *Chatam Sofer*⁸ says that one gives to his city’s poor before others only when they are in an equivalent situation to those of other cities; one does not make one set of paupers a few levels better off than another.) There is another modern consideration that makes it preferable to give larger sums to fewer institutions. Each donation costs money for a recipient organization (and the donor’s *tzedaka* account, if he has one), including banking fees, mailings, and secretarial work. If one mails an organization a \$5 check, he has likely brought no net gain. (In contrast, giving a \$5 cash donation to a door-to-door collector is an outright net gain for someone who already paid the expenses that brought him to the door).

We should also consider that most significant donations are given to organizations that assist many individuals. This has a few advantages. One check reaches a large number of recipients, fulfilling the *Bach*’s concern. That a donation may not change any individual’s situation is not so pertinent, as the nature of organizational *tzedaka* campaigns is to obtain many contributions so that, at the end, they can help many people significantly. On the other hand, to give all of one’s money to one source, even one that distributes to many needy people, seems to be undesirable from the *Rambam*’s perspective. What does it do to one’s *neshama* when he receives fifty requests from worthy causes, representing different

6. See *Tzedaka U’Mishpat* 3:(16).

7. See *BeMareh HaBazak* 1v:89.

8. *Shut Chatam Sofer, Yoreh De’ah* 264

populations and needs, and throws forty-nine into the garbage?⁹ It is also possible that the organization with the most attractive campaign gets a disproportionate amount, and one who gives only to it misses out on entire groups in dire straits. It is thus healthy to “connect” with several causes and institutions, while trying to ensure that the amounts given are large enough to be helpful. As usual, balance is paramount.

9. We cannot presently address the question of ignoring a plea for *tzedaka* altogether; see *Tzedaka U'Mishpat* 1:(3).

F-4: Making Change From a *Tzedaka* Box

Question: Often one who wants to give *tzedaka* to collectors but lacks sufficient small cash “makes change” from the synagogue’s *tzedaka* box. Many people are careful not to take the full amount so that the remainder becomes a donation in the box. Is this required?

Answer: The *gemara*¹ says: “[If one declares]: ‘This coin shall go to *tzedaka*’ – before it reaches the *gabbai*’s² hand, it is permitted to modify it; once it reaches the *gabbai*’s hand, it is forbidden to modify it.” The *gemara*³ challenges this from the story of Rabbi Yannai, who borrowed *tzedaka* money after it had reached the *gabbai*. It answers that he did so in order to indicate to others that there were no liquid funds, so that people would be encouraged to give more. Thus, his borrowing helped the poor. *Rishonim* argue about the meaning of “modifying” money. Rashi and *Tosafot*⁴ explain that the donor could lend the money to himself or to others before he gave the assigned money to the *gabbai*. The Rambam⁵ seems to relate the *gemara* to switching the coins to different denominations but with the same cumulative value. The *Beit Yosef*⁶ has difficulty fitting the Rambam’s explanation into the *gemara* and incorporates only Rashi’s view into his halachic work.⁷

There is much discussion among *Acharonim* about the question whether the status of a *tzedaka* box is like that of a *gabbai*. Without delving deeply into this question, we mention that most

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1. *Arachin* 6a.
 2. The one in charge of the *tzedaka*.
 3. *Ibid.* 6b.
 4. *Ad loc.*
 5. *Matnot Aniyim* 8:4.
 6. *Yoreh De’ah* 259.
 7. *Shulchan Aruch, Yoreh De’ah* 259:1.

treat it like a *gabbai*.⁸ Therefore, it might seem that our question depends on the differing approaches to the aforementioned *gemara*. According to the Rambam, one may not even switch the coins in a *tzedaka* box. According to Rashi, which the *Shulchan Aruch* accepts as *halacha*, whereas apparently one may not borrow the money, he is permitted to simply make change. After all, *tzedaka* money does not have intrinsic holiness that would make it religiously forbidden to use.⁹ On the other hand, it is likely that Rashi disagrees with the Rambam only regarding the interpretation of the *gemara*, not the *halacha*.¹⁰ Therefore, after the *gabbai* receives the money, making change from *tzedaka* funds is like doing so with a friend's money to which one has access, without his permission.

So then, is one permitted to use money that someone entrusted to him? The *Shulchan Aruch*¹¹ states that whether or not he can borrow the money depends on whether the watchman is one who deals in coins regularly and on whether the owner hinted about his feelings on the matter. However, as a rule, he may not borrow it. He does not explicitly address the question of exchanging coins, which *Acharonim* dispute.¹² Therefore, regarding our case, it is unclear whether one may use the cash in a *tzedaka* box to make change even when we know of no specific reason to suspect that the intended recipients will thereby lose. This justifies the stringent practice you cited. When leaving even a small donation, the act is considered giving *tzedaka* rather than taking change, and it is permitted.

Besides the fact that not all agree to the stated reasons for stringency, additional factors play a role. Concerning a general *tzedaka* box that the *shul's gabbai* administers at his discretion,

8. See *Tzitz Eliezer* xv1:29 and *Tzedaka U'Mishpat* 8:(25).

9. Rama, *Yoreh De'ah* 259:1.

10. *Aruch HaShulchan*, *Yoreh De'ah* 259: 1–2.

11. *Choshen Mishpat* 292:7.

12. See *Pitchei Choshen*, *Pikadon* 5:(67).

there may be an understanding that the money can be used for such things as getting change.¹³ This may depend on the local practice. We should also recall the *gemara*'s idea that if the poor can gain from the money's use, it is permitted. The question is whether by using the *tzedaka* box to get several coins in change, of which some will be distributed to the poor, one will, overall, give more *tzedaka*. One must also factor in whether enough coins remain to enable the next person to give a donation that requires change.

In summary, we have seen both the logic behind the stringent practice you reported and possible grounds for leniency, especially under certain circumstances.

13. See similar cases in *Netivot HaMishpat* 301:9, *Tzedaka U'Mishpat* 8:8.

F-5: Returning More of a Borrowed Commodity than One Took

Question: I lent a neighbor a few eggs, and she returned bigger eggs than I gave her. Isn't that *ribbit* (usury)? What do I do now?

Answer: Let us begin with what to do when asked to lend eggs and proceed to what to do after the fact.

The *mishna*¹ states that one may not lend articles in a way that obligates the borrower to return articles of the same type and amount. This rabbinic form of *ribbit*, known as *se'ah b'se'ah*, is forbidden out of concern that the article's price will increase and the borrower will have to return more value than he received. The problem, which begins at the time of the loan, exists even if the article's price did not end up changing. Thus, it is not clear that one can lend eggs and receive eggs even of the same size.

Several permitted methods and cases of leniency are found in the *gemara* and *poskim*, but some are too complex to present in this forum. One example, which works well with things such as eggs (at least in Israel), is the concept of *yatza hash'a'ar*.² It permits the loan of a commodity with a stable price, which either is set by the government or is otherwise fixed for at least days at a time (e.g., if there is a manufacturer's recommended price, even if some retailers give reductions).³ This *heter* applies only if the commodity is readily available⁴ and if the lender can repay the loan as early as he wants.⁵ In such a case, it does not matter if the price goes up before payment is made.

The most practical *heter* applies to cases of healthy, neighborly

1. *Bava Metzia* 75a.
2. *Shulchan Aruch, Yoreh De'ah* 162:3.
3. See *Torat Ribbit* 7:14.
4. *Ibid.*
5. *Rama, Yoreh De'ah* 162:3.

relationships. The *gemara*⁶ rules that one may lend loaves of bread to a friend without stipulations. The Rama⁷ rules like those who explain that possible small changes in the value of small quantities of a product are not considered purposeful interest. Rather, it merely represents a loose manner of accounting between friends. Although it seems that the *Shulchan Aruch* rejects this position,⁸ causing problems for Sephardic Jews, it appears from the *Beit Yosef*⁹ that if a set of neighbors has a clear, preferably long-standing policy of not caring exactly how much is returned, then even Sephardim may be lenient.

Both of these *heterim* are problematic when the borrower returns a *clearly* larger quantity than he borrowed.¹⁰ However, if the owner states *honestly* when he “lends” the commodity that, from his perspective, he is giving a present and not a loan, then it is irrelevant if he receives more.¹¹

Even if you should not have taken the larger eggs (which we cannot determine from your question), it was a case of no more than rabbinic-level *ribbit* because the additional payment was voluntary. Such *ribbit* need not be refunded.¹²

6. *Bava Metzia* 75a.

7. *Yoreh De'ah* 162:1.

8. Gra, ad loc. 5.

9. *Yoreh De'ah* 162.

10. *Torat Ribbit* 7:(7); *Brit Yehuda* 17:(6).

11. See Rama, *Orach Chayim* 170:13.

12. *Shulchan Aruch*, *Yoreh De'ah* 161:2; see Rama, ad loc.

Section G:
Holy Articles

G-1: Folding the Page of a Sefer in Place of a Bookmark

Question: Is it permitted to fold the page of a *sefer* to make it easier to find a certain page, in place of a bookmark?

Answer: We have not found a discussion of this particular question, but various sources and ideas on the topic of treating *sefarim* respectfully should shed light on the matter. The general laws of respect for *sifrei Torah* are discussed in several places, including the *Shulchan Aruch* in *Orach Chayim* 154 and *Yoreh De'ah* 282. It is accepted that many of the laws of the sanctity of *sifrei Torah* apply to a variety of printed Torah books,¹ although the latter are on a lower level of *kedusha* than that of an actual Torah scroll.

The basic question is whether a *sefer* may be used for a Torah-related purpose, when a non-holy object could be used to do the same.² For example, the *Taz*³ forbids using one *sefer* to prop up another to make it easier to study because “wood or stone” works just as well. One can claim that folding a *sefer*'s page as a bookmark is less objectionable because the *sefer* is being used to serve itself, not a different object. Nevertheless, the *Taz*'s position seems to be applicable here.

However, there are strong grounds to permit the practice of folding a *sefer*'s pages. The *Magen Avraham*⁴ disagrees with the *Taz* and allows one to bring over a *sefer* in order to prop up another *sefer*. His main source is the *gemara*⁵ that one may move a *bima* to a place where its presence will prevent *tumah* (impurity) from entering a *beit k'nesset*. One can interpret the *Magen Avraham* in

1. See *Shulchan Aruch*, *Yoreh De'ah* 282:5; *Pitchei Teshuva*, *Yoreh De'ah* 282:8; *Mishna Berura* 154:31.
2. See also *Living the Halachic Process*, vol. 1, G-6.
3. *Yoreh De'ah* 282:13.
4. 154:14.
5. *Megilla* 26b.

a limiting manner that allows the use of a holy object only when it is not clear why one is bringing it over. However, the context and language of the *Chayei Adam*⁶ and *Mishna Berura*⁷ indicate that they understand the *Magen Avraham* in a broad manner that applies to our case and that they agree with him. They also do not mention that it is permissible only when no other alternative is available. In other words, if the use is not in and of itself degrading to the *sefer* and it is being used to aid in a *mitzva*-oriented activity, it is permitted.

If one does the folding carefully, he can all but eliminate the question. There is a *machloket* among *poskim* whether the margins of *sefarim* are holy. Although the margins of a *sefer Torah* are holy,⁸ the *Masat Binyamin*⁹ says that this pertains only to holy parchments, which have a halachic requirement of a margin, but not to printed materials. Even according to those who dispute this, the margins may have only the sanctity of a *tashmish kedusha*, something whose purpose is to serve a holy object, in this case, the book's words.¹⁰ If so, it is logical that folding the margin so that it helps one find the place in the holy text is an appropriate use of the margin. Thus, even the *Taz* should allow folding the margin alone. (It should not make a difference if some of the text is thereby covered.)

The remaining question is whether the bending of the page, which leaves a dog-eared crease, is considered a *bizayon* (disgrace) to the *sefer*. Everyone agrees that a *sefer* should be cherished and preserved. For many, that means that one should be very careful that it not be marked or overly worn. Others feel that a *sefer* that looks worn is a thing of beauty, in that it shows that it has been used, and is not disgraceful. The fact is that many *talmidei*

6. 31:48.

7. 154:31.

8. See *Magen Avraham* 334:24.

9. 100.

10. *Tzedaka U'Mishpat* 16:29.

chachamim fold the pages of their *sefarim* and many do not, and we have no authority or interest to create new prohibitions that do not emerge clearly from classical sources. That being said, our orientation, nevertheless, is that bookmarks are preferable to folding pages.

G-2: Writing in Holy Texts

Question: Is it permissible to write in the margins of holy texts for educational purposes? May one correct mistakes, underline, or highlight the text?

Answer: Many of the commentaries that now surround the text of the Talmud and other classics began as the marginalia of great scholars. Of course, one should nevertheless show respect to the texts by making an effort to avoid messy scribble and ensuring that the page does not look unseemly.

There are even times when it is mandated to make notations. The *gemara*¹ says that one should not leave holy texts without correction for an extended period of time, apparently out of concern that they will be used improperly or that those who learn from them will be misled. The *poskim* say that this applies to any *sefer* from which one learns.² The Rama, however, cites a ban on making corrections based on one's own logic, limiting these corrections to cases where there is clear proof of an error. The *Pitchei Teshuva*³ suggests that one leave the printed text as is and write the tentative correction in the margin; this maximizes the benefits of corrections while minimizing its risks. Writing corrections and emendations in pencil is not only a sign of humility, but also can spare one embarrassment if his ideas turn out to be flawed.

The Torah prohibits erasing any of the Divine Names,⁴ and there is a rabbinic prohibition against erasing or otherwise disgracing any Torah texts unless necessary.⁵ One may not trace over the Name of HaShem with one color ink in a way that covers the

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1. *Ketubot* 19b.
 2. See Rama, *Yoreh De'ah* 279:1 and *Bi'ur HaGra* ad loc.
 3. Ad loc. 3.
 4. See *Shulchan Aruch*, *Yoreh De'ah* 276:9.
 5. See Rama, *ibid* 279:1 and 276:10; *Mishna Berura* 154:7.

Name that was written in another color.⁶ However, most *poskim* allow one to cover the Name with ink of the same color, as this is not considered erasing the bottom script.⁷ Highlighting should be even better than this because the original writing remains fully legible. In fact, its purpose is to emphasize the highlighted text, not to erase or even cover it, and thus there is no disgrace involved. Nevertheless, regarding the Names of HaShem, as opposed to other parts of Torah text, one might prefer to underline rather than highlight.

6. See *Gittin* 19a.

7. See *Pitchei Teshuva*, *Yoreh De'ah* 276:6; *Mishna Berura* 32:128.

G-3: How to Pronounce HaShem's Names in Semi-Formal Contexts

Question: May one pronounce HaShem's Names in Hebrew without modification when learning texts or singing *zemirot*?

Answer: The Rambam¹ rules that one who utters HaShem's Name in a *sh'vuat shav*² or a *beracha l'vatala*³ violates the Torah prohibition of using His Name in vain. One who utters His Name without a purpose transgresses the lower level Torah commandment to fear His Name.⁴ In the latter case, the Rambam instructs one to rectify an improper utterance of the Name by adding words of praise to HaShem.

The *gemara*⁵ discusses which sacred texts a *ba'al kerī*⁶ may recite. One opinion allows him to engage in normal talmudic study as long as he does not utter HaShem's Names in the process. Rav Yaakov Emden⁷ proves from here that people other than a *ba'al kerī* may pronounce the Names normally, at least when reciting *p'sukim* that contain a Name. He related that his father⁸ scolded teachers who refrained from the real pronunciation of the Names during learning. (We are referring to the standard reading of A-D-O...for HaShem's four letter Name, not a literal reading of its letters.)

There are several attempts to deflect Rav Yaakov Emden's

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1. *Sh'vuot* 12:9.
 2. Meaningless oath.
 3. Unwarranted blessing.
 4. *Ibid.* 11.
 5. *Berachot* 22a.
 6. A man who became impure from a seminal discharge, who was classically withheld from making many holy utterances. We are now lenient regarding this matter.
 7. *Sh'eilat Ya'avetz* 1:81.
 8. Rav Tzvi Ashkenazi, author of *Chacham Tzvi*.

proof, but they are not convincing.⁹ The *Mishna Berura*¹⁰ thus rules that one may pronounce, in the normal manner, the Names found in the *p'sukim* one reads from the *gemara*. However, the *Igrot Moshe*¹¹ points out that although one *may* pronounce the Names, there is little indication that he *must* do so. He argues that the only reason to mandate proper pronunciation is that it is improper to end a quote of a *pasuk* in the middle, and effectively omitting a Name from a *pasuk* by altering it may be the equivalent. (We are unable to develop that topic in our present context). However, if one is not reciting an entire *pasuk* anyway, as is common when learning, he may replace the main Name with “HaShem” (which means “the Name”) and change other Names.¹²

The *Shulchan Aruch*¹³ says that children may recite the exact *berachot* they are learning, even while just practicing. The *Magen Avraham*¹⁴ infers that when an adult learns a text that contains a *beracha*, which is more problematic than a *pasuk*, he may not mention the Names. What about *tefillot* that are not in the form of a formal blessing? The Rama¹⁵ says that if one omitted *Ya'aleh V'Yavo* in *Birkat HaMazon* on *Rosh Chodesh*, the correct procedure is to not recite it later because it contains HaShem's Names. The *Magen Avraham*¹⁶ disagrees, pointing out that we use His Name in personal prayers even when not obligated. The *Bi'ur Halacha*¹⁷ reconciles the apparently contradictory practices. One may, on his own, invoke HaShem's Name in prayer when he does so voluntarily; one may not recite an established, obligatory *tefilla* like *Ya'aleh V'Yavo* when it is unwarranted.

9. See *Yabia Omer* III, *Orach Chayim* 14.

10. 215:14.

11. *Orach Chayim* 11:56.

12. For example, to “*Elokeinu*.”

13. *Orach Chayim* 215:3.

14. Ad loc. 5.

15. *Orach Chayim* 188:7.

16. Ad loc. 11.

17. Ad loc.

As alluded to in the aforementioned Rambam, it is likewise permissible to use HaShem's Name in praising Him, including in Shabbat *zemirot* and other liturgy. Indeed, some *talmidei chachamim* pronounce the Names in the normal manner.¹⁸ The rhyme scheme of some *zemirot* indicates that the liturgist also did so. However, many have the custom to alter the pronunciation.¹⁹ The explanation for this custom is apparently that we are concerned that we will not have the proper frame of mind,²⁰ we may stop in the middle of a phrase,²¹ or we may otherwise disgrace the Name.

In practice, one can choose either the normal or the modified pronunciation of HaShem's Names when reading Torah texts, saying informal prayers, or singing *zemirot*. However, when studying *berachot*, one should use the modified form, and when reading a whole *pasuk*, it is proper to pronounce the Names accurately.

18. We have reliable accounts that Rav S.Z. Auerbach was among them.

19. Nefesh HaRav, p. 160, reports that Rav Soloveitchik did not utter the Names in *zemirot*.

20. *B'Tzel HaChochma* 1v:52.

21. See *Igrot Moshe, Orach Chayim* 11: 56.

G-4: Wearing Jewelry Containing Torah Content

Question: It has become popular to buy necklaces containing a passage from the Torah that holds special significance for the wearer. Does this cause problems, and, if so, how does one solve them?

Answer: The Rambam¹ was asked about a *tallit* with *p'sukim* embroidered on it. He forbade it, as did the *Shulchan Aruch*.² His major issue is that we need to be concerned that one will enter a bathroom with the *tallit*, thus disgracing the *p'sukim*.³ One could use this source to prohibit the jewelry in question outright. Although there are *poskim* who permit one to adorn himself with scrolls,⁴ we note that most of those *poskim* discussed cases where the *p'sukim* were worn for the specific purpose of Divine protection, which is unusual these days. Furthermore, we have questioned several people who wear this kind of jewelry, and most have admitted that they sometimes enter the bathroom without taking the necessary precautions (see below). Thus, this jewelry appears to be against the spirit of the rulings of the Rambam and *poskim*, if not the letter of the law.

How should one who does wear such jewelry conduct himself? Under normal circumstances, the *Mishna Berura*⁵ allows taking *tefillin* into a bathroom only if they have two coverings, one of which is not routinely used for them. However, the *Magen Avraham*⁶ permits bringing Torah scrolls with a lower status than that of a *sefer Torah* into a bathroom with only one covering. The

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1. *Shut HaRambam* 268.
 2. *Yoreh De'ah* 283:4.
 3. See *Shach*, *Yoreh De'ah* 283:6.
 4. See sources cited in *Tzitz Eliezer* xvi:30.
 5. 43:24.
 6. 43:14.

Radvaz⁷ shares this view, although he recommends relying on one covering only when the article was written in a script other than *K'tav Ashurit* (block Hebrew characters used in a *sefer Torah*). The *Shulchan Aruch*⁸ also says that one may bring an amulet, which includes words of the Torah and/or Names of HaShem, into a bathroom in a leather covering. Most *poskim* assume that amulets and leather coverings are just common examples of a general rule.⁹ The *Mishna Berura*¹⁰ cites the *Magen Avraham* but mentions that there are those who require two coverings.

All writings on Torah topics have *kedusha* and therefore may not be discarded disrespectfully¹¹ or brought exposed into a bathroom. Moreover, those that contain one of HaShem's Names have an even higher level of sanctity. To illustrate, teachers may write and erase *divrei Torah* and *p'sukim* on blackboards, which they could not do if HaShem's Names appeared.¹² We also write *divrei Torah* using a shorthand abbreviation for HaShem's Name, out of concern for how they might be treated. Thus, leniency in the aforementioned issues is easier when His Name does not appear.

It is difficult to claim that these issues apply only to a full *pasuk*. Various laws of respect for Torah texts apply even to a phrase of three or four words.¹³ If the words express a coherent Torah thought, they are no less holy than *divrei Torah* that are not *p'sukim*. There is one exception, which may be relevant in some of the cases at hand. If the words are borrowed from the Torah to be used as a catch phrase to describe something such as a friendship

7. *Shut HaRadvaz* 111:513.

8. *Yoreh De'ah* 282:6.

9. See *Tzitz Eliezer* x1:5.

10. 43:25.

11. *Shulchan Aruch, Yoreh De'ah* 282:5.

12. *Minchat Yitzchak* 1:18, citing the Tashbetz.

13. See *Shulchan Aruch, Yoreh De'ah* 283:3 and 284:2.

(e.g., “*ani ldodi v’dodi li*”¹⁴), there may be no restrictions.¹⁵ However, usually the phrase is intended to draw attention to its Torah content (e.g., “*im eshkachech...*”¹⁶).

We are of the persuasion that it is often worthwhile to attempt to justify customs even when their correctness is questionable. However, not every practice is a custom, and the rabbinic reaction to a practice helps determine whether it becomes a custom. It is nice to see how popular Torah has become. However, our ‘vote’ is that it is more appropriate for *p’sukim* to appear in *sefarim* than on jewelry or t-shirts. This fashion causes halachic difficulties for all and is forbidden for one who is not careful. If, despite that, one will have them made anyway, he should at least be vigilant that HaShem’s Names not be spelled out, and it is better if Torah scroll letters are not used. If one does wear this jewelry, he may bring it into a bathroom covered by clothes or something else (two covers are preferable but not necessary).

14. “I am to my beloved and my beloved is to me” – *Shir HaShirim* 6:3.

15. Based on *Shulchan Aruch, Yoreh De’ah* 284:2; some argue – see *Shach* ad loc. 2.

16. “If I forget you (Jerusalem, may my right hand forget its cunning)” – *Tehillim* 137:5.

G-5: Wearing Tallit or Tzitzit in Bathroom

Question: Is one supposed to remove his *tallit gadol*¹ when he goes into the bathroom? If so, does he also have to remove the *tallit katan* (*tzitzit*)?

Answer: The *Shulchan Aruch*² rules that one need not remove *tzitzit* when entering a bathroom. In the *Beit Yosef*, he brings a proof from *Menachot* 43a. The *gemara* relates that Rav Yehuda would make a *beracha* every time he put on *tzitzit* but needed to do so only in the morning because he did not take them off all day. Presumably, he entered the bathroom and used the facilities during the course of the day, and thus the clear implication is that he did not take them off at all. Even though one must avoid *bizuy mitzva* (disgracing a *mitzva*), normal daily activity, such as using the facilities, does not fall into that category.³

However, one should remove a *tallit* before entering a bathroom.⁴ This is due primarily to the extra respect given to an object that is used exclusively in *tefilla*. The *Mishna Berura*⁵ allows urinating with a *tallit* on, and so one can be lenient upon entering an area that has only urinals.⁶

It is important to note that the requirement to remove the *tallit* is a matter of propriety and not an outright requirement; this fact has a common application. When one enters a bathroom, one is *required* to remove *tefillin*, which have a level of *kedusha* that *tzitzit* lacks. Since this causes a mandatory interruption in the performance of the *mitzva* of *tefillin*, one must make a *bera-*

1. The large *tallit* used for *davening*.
2. *Orach Chayim* 21:3.
3. *Aruch HaShulchan*, *Orach Chayim* 21:3.
4. *Taz*, *Orach Chayim* 21:3; *Mishna Berura* 21:14.
5. *Ibid.*
6. See also question G-8.

cha when he puts them back on.⁷ However, the rule to remove a *tallit* is a lower level of requirement, and the interruption is not mandatory. Therefore, if one removes the *tallit* with the intention to put it back on after leaving the bathroom, he does not make a new *beracha* at that time.⁸

7. *Mishna Berura* 25:47; see *Bi'ur Halacha* ad loc. The practical application in a variety of situations is beyond the scope of this response.

8. *Mishna Berura* 8:37.

G-6: Disposal of Packaging of Holy Books

Question: Do cartons that were used to store *sifrei kodesh*¹ require *geniza*?² Most people seem to just throw them out.

Answer: Regarding the reuse and disposal of articles used for religious purposes, we have a few basic categories. The *gemara*³ distinguishes between objects that are used for regular *mitzvot*, which do not require *geniza*, and *tashmishei kedusha*, things that serve holiness, which do require *geniza*. The holiness referred to is of sacred texts, including *sefarim* other than Torah scrolls,⁴ and the list of *tashmishei kedusha* includes bags in which Torah scrolls or *tefillin* are kept. A *tashmish d'tashmish*, something that serves an object that serves the *kedusha*, does not have any *kedusha*, as it is twice removed from the *kedusha*. These *halachot* are codified in the *Shulchan Aruch*.⁵

We will mention a few reasons to justify throwing a cardboard, paper, or plastic covering of *sefarim* in the garbage under normal circumstances. We will also provide several practical techniques for their disposal, because some of these suggestions are not agreed upon unanimously and because there are analogous cases where not all the factors apply.

The *Birkei Yosef*⁶ says that nowadays, when the pages of *sefarim* are covered in some way, the boxes that store them are considered *tashmish d'tashmish*. (In the times of the *Chazal* and beyond, scrolls were put directly into boxes or leather bags.) The *Mishna Berura*⁷ seems to accept this opinion without question, al-

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1. Holy books.
 2. Burial of holy articles.
 3. *Megilla* 26b.
 4. *Mishna Berura* 154:7.
 5. *Orach Chayim* 154:3.
 6. *Orach Chayim* 154, in *Shiyurei Beracha* 1.
 7. 154:9.

though some recent *poskim* are less convinced. (Rav Kook⁸ seems to ignore this possibility; *Tzitz Eliezer*⁹ considers it possible, but not certain, grounds for leniency.) We should note that an *aron kodesh* is a *tashmish kedusha* even though the *sifrei Torah* are usually covered because it *honors* the *sifrei Torah*. In contrast, a box is used only to *protect* the books, and it is thus considered a *tashmish d'tashmish*.¹⁰

Another factor that rules out most packaging from being *tashmishei kedusha* is that they are intended to be used only temporarily, that is, until the *sefer* reaches its intended destination on the purchaser's bookshelf.¹¹ Part of the *Shulchan Aruch's*¹² definition of a *tashmish kedusha* is that it was used on a permanent basis. In most cases, that does not apply to boxes that are discarded at the earliest convenience. It does, however, apply to slipcases that are designed for permanent or extended use. Although one can make a *t'nai* (stipulation) that a slipcase not become a *tashmish kedusha*,¹³ he still may not use it in a demeaning manner.¹⁴ Throwing something directly in the garbage is demeaning, but putting it in a recycling bin or covering it in a plastic bag before discarding, while not a substitute for *geniza*, is probably sufficient in this case.¹⁵

A technique that may work to remove the status of *tashmishei kedusha* is to sell the object for a nominal price (10 agorot or a nickel is enough) and use the money for *sefarim*. The classical application of that concept is where the *community* has property set aside for a *mitzva* (e.g., a *shul*) and its leaders¹⁶ sell it and use

8. *Orach Mishpat* 34.

9. VII:7.

10. *Birkei Yosef* *ibid*.

11. *Piskei Teshuvot* 154:7.

12. *Orach Chayim* 42:3.

13. *Ibid.* 154:8.

14. *Mishna Berura* 154:34.

15. See question G-7 and *Mishneh Halachot* VII:24.

16. *Zayin tuvei ha'ir*.

the proceeds for at least as holy a purpose.¹⁷ Although it is not clear that this system works for an *individual* to remove the status of *tashmischei kedusha*, some *poskim* suggest doing so along with other factors of leniency.¹⁸

In summary, the standard practice to discard the packaging of *sifrei kodesh* is halachically sound. Only in regard to slipcases may there be reason not to throw them directly in the garbage, and we have suggested systems which one may (but is not necessarily required to) use.

17. *Shulchan Aruch*, *Orach Chayim* 153:9.

18. *Orach Mishpat* op. cit.; *Tzitz Eliezer* op. cit.

G-7: Disposing of Torah Publications

Question: Do *divrei Torah* found in *parasha* sheets and newspapers require *geniza* (proper burial of sacred texts)?

Answer: The topic is much too broad to give a complete treatment in this forum. If you read ‘halachic Hebrew,’ we suggest that you look at the overview found in *Techumin*.¹ We will give a little background and the bottom line as we see it.

There are two concerns in dealing with sacred texts:

1. There is a Torah prohibition to destroy HaShem’s non-erasable Names.² It is a matter of some debate whether destroying other sacred articles, such as a *Tanach* or even *divrei Torah* in which HaShem’s Names are not spelled out, is a Torah prohibition or a rabbinic one.³ Another *machloket* arises in regard to indirect erasure of a Name. The *gemara*⁴ allows one who had a Name written on his body to enter a bath where the water may dissolve the ink over time, as this is an indirect action (*gerama*). However, there is reason to believe that this leniency applies only when a variety of mitigating circumstances coincide.⁵
2. One may not disgrace sacred texts and is even required to take steps to save them from disgrace.⁶ Similarly, one should avoid writing something sacred that is likely to be disgraced later.⁷ The critical need to teach Torah has permitted significant leniency in writing down *divrei Torah* in a manner that

1. Vol. 111, pp. 307–323.

2. Derived from *Devarim* 12: 3–4.

3. See *Techumin* op. cit.

4. *Shabbat* 120b.

5. See *Igrot Moshe, Orach Chayim* 1:4–6.

6. See *Shabbat* 115a–116b.

7. *Rosh Hashana* 18b.

was once forbidden. However, one should take care not to unnecessarily write *p'sukim* or Names in places where their prospects for proper treatment are poor.⁸

Comparing the two concerns, several important *poskim* rule that disgrace is a bigger issue than indirect, respectful destruction of the text, at least when HaShem's Name is not present. Therefore, under certain circumstances, some allowed the burning of *divrei Torah* in a case where they otherwise could not or would not be buried and would certainly have been desecrated.⁹ Much of the discussion dealt with the less severe case of proofs from the printing process, where the texts were never fit for use. The modern alternative to disposal by incineration is putting the texts in recycling bins, which is free of the disrespect of placing the texts in the garbage (even inside a bag). Also, the destruction is indirect, at least from the perspective of the text's owner. There is room to discuss leniency when Names aren't involved.¹⁰

There are discussions regarding material printed by machine with no level or a low level of intention for *kedusha* and a variety of other questions that raise the possibility that *geniza* is not always necessary. However, the most accepted halachic approach, to which we subscribe, is that Torah texts of all sorts should normally be put aside for *geniza*.

8. See *Igrot Moshe, Yoreh De'ah* 11:134–135.

9. See *Shevut Yaakov* 111:10; *Meishiv Davar* 11:80; *Melamed Leho'il, Yoreh De'ah* 89.

10. See *Asei Lecha Rav* 111:28; *Techumin* op. cit.

G-8: How to Dispose of Old *Tzitzit*

Question: What does one do with a *tallit* and *tzitzit* when he no longer wants them? Do they require *geniza*?¹

Answer: Let us proceed through the timeline of sources on this topic, where practice has become increasingly stringent. We will use the halachic terms for the components of the involved articles: *tzitzit* are the special strings on the fringe of the four-cornered garment; a *tallit gadol* is the shawl-like *tallit* worn during *davening*; a *tallit katan* is the four-cornered garment worn all day. When there is no distinction, we will use the term *tallit* generically.

The *gemara*² says that *tashmishei mitzva* (accessories to the performance of a *mitzva* – which do not have intrinsic holiness) may be thrown away (as opposed to *tashmishei kedusha*, articles that are intrinsically holy, which require *geniza*). The classic examples of *tashmishei mitzva* are *sukka*, *lulav*, *shofar*, and *tzitzit*.

Moving on to the *Rishonim*, the *Tur*,³ citing the *She'iltot*, says that as long as the *tzitzit* remain on the garment, they must be treated with respect and cannot be used for non-*mitzva* purposes. Although the *tzitzit* do not have intrinsic holiness, abusing them while they are still designated for a *mitzva* is a *bizuy* (disgrace to the) *mitzva*. The *Darchei Moshe*⁴ cites the *Kol Bo*, who says that even *tzitzit* that have been removed may not be disgraced, as the *gemara* meant to exempt them only from *geniza*. Therefore, they should not be purposely thrown into a garbage dump.⁵ He also cites the Maharil's more stringent practice to either do *geniza* or use them for a *mitzva*, for example as a bookmark for a *sefer*. The

1. The burial of sacred scrolls and objects.
2. Megilla 26b.
3. *Orach Chayim* 21.
4. *Orach Chayim* 21:1.
5. See *Mishna Berura* 21:7.

Rama⁶ cites the *Kol Bo* as a halachic opinion and the Maharil as a preferable but non-binding practice. That said, the Maharil's practice appears to be quite widespread.

The *Shulchan Aruch*⁷ says: “*Tallitot* that one uses for a *mitzva* (presumably a *tallit gadol*) that became worn out – one separates himself from them, and one is not allowed to...set them aside for a disgraceful use, rather, he should throw them out and they will cease [to exist].” This ruling seems to say that neither should we disgrace the *tallit gadol* nor does it require *geniza*, and it can be thrown into the garbage.⁸ This is actually what the *Shulchan Aruch* ruled regarding *tzitzit* that are no longer used. The *Mishna Berura*⁹ says that the Rama agrees regarding the *tallit*.

What does one do when the *tallit* may be thrown into the garbage but the *tzitzit*, which are usually still attached, may not, according to the Rama? A few possibilities and practices exist. Although one may not normally remove *tzitzit* unless he plans to put them on a different *tallit*,¹⁰ he may do so if the *tallit* is worn out and will not be used anymore.¹¹ It is best to remove the *tzitzit* by untying them, thus not disqualifying them in the process.¹² If this is difficult, some allow cutting them off.¹³ Another practice, which seems halachically sound, is to cut off the four corners of the *tallit*, while keeping the *tzitzit* intact. Then one can discard the *tallit* (preferably in a bag) and either use the *tzitzit* for a *mitzva* or put them in *geniza*.

The most stringent practice, which is common and easy enough for most people, is to put the whole *tallit* in *geniza*. For better or for worse, we put a tremendous amount of material into

6. *Orach Chayim* 21:1.

7. *Ibid.* 2.

8. See *Mishna Berura* 21:13.

9. *Ibid.*

10. *Shulchan Aruch, Orach Chayim* 15:1.

11. *Mishna Berura* 15:2.

12. *Ibid.*

13. *Chayei Adam* 11:32.

geniza nowadays anyway.¹⁴ The *Kaf HaChayim*,¹⁵ an important *sefer* of Sephardic *p'sak*, seems to require this approach, as he understands that even the *Shulchan Aruch* requires *geniza* for a *tallit gadol* since it was made for a *mitzva*. He implies that the same may be true for a *tallit katan*, which nowadays is also worn only for the purpose of a *mitzva*.

In summary, one can choose from among the various legitimate ways, not necessarily the most stringent one, to respectfully discard these *mitzva* articles. Convenience or feasibility may be a factor.

14. The gist of a phone conversation with Rav Tzvi Cohen, author of *Tzitzit – Halacha P'suka*.

15. *Orach Chayim* 21:2.

G-9: Leaving *Mezuzot* when Vacating an Apartment

Question: I am moving out of a rented apartment. Is it true that I have to leave the *mezuzot*?

Answer: The *gemara*¹ states that the renter of a house has the obligation to affix *mezuzot*, but he may not remove them when he leaves. The early authorities offer two basic explanations: *Tosafot*² say that it is out of concern that leaving the house without *mezuzot* will endanger future inhabitants. The *She'iltot*³ assumes that the reason is that removing *mezuzot* from use disgraces them. One practical difference between the approaches is whether one may remove *mezuzot* in order to affix them promptly elsewhere.⁴ We usually follow *Tosafot*, but if it will be difficult to find other *mezuzot* for his new apartment, one may rely on the *She'iltot* and transfer them.⁵

If one must leave the *mezuzot*, he can demand the value of basic kosher *mezuzot* from the owner of the apartment.⁶ If one has a special *mezuzah* that he wishes to bring to his new home, he can replace it with a simple one that he will leave (and be reimbursed for) and put up the special one in his new home.⁷ One may certainly switch or remove the *mezuzah* cases.⁸

The above applies only if one was renting from a Jew. If he rents from a non-Jew, then he should remove the *mezuzot*⁹ to

1. *Bava Metzia* 102a.
2. Ad loc.
3. 126.
4. The *She'iltot* (ibid.) allows this; *Tosafot* would presumably forbid it.
5. *Pitchei Teshuva*, *Yoreh De'ah* 291:7.
6. Rama, *Yoreh De'ah* 291:2 – see *Chovat HaDar* 1:(51).
7. Ibid. 1:12.
8. *Pitchei She'arim* 291:23.
9. *Bava Metzia* op. cit.

protect them from potential disgrace.¹⁰ Similarly, if the owner is a Jew who would take off the *mezuzot* and not know how to respect them, one should remove them. In addition, if a Jew owns the apartment but the next tenant will not be Jewish, there is no reason to leave them.¹¹ If a non-Jew owns the home, then one does not have to leave the *mezuzot* even if the next tenants are expected to be Jews.¹² Finally, even if everyone is Jewish, the new occupant has the right to change the *mezuzot*. Such a switch can be coordinated between the outgoing and incoming occupants in a manner that will allow only a short time to pass before the latter tenant affixes *mezuzot* to his home.¹³

10. *Shita Mekubetzet* ad loc.

11. *Shita Mekubetzet* *ibid*.

12. *Pitchei Teshuva* *op. cit.* 9.

13. *Chovat HaDar* 1:(53).

G-10: Making a New *Beracha* when Replacing *Mezuzot*

Question: I want to remove the *mezuzah* from a doorpost and replace it with a more beautiful one. When I do so, should I make a new *beracha* upon affixing it?

Answer: First, let us make sure we are talking about the same thing. If you want to put the same scroll in a new, more beautiful case, then you do not make a new *beracha*.¹ The *mitzva* has not been changed significantly, as the *mitzva* relates to the *mezuzah* scroll. The short break in time is not a factor when one takes the *mezuzah* off with the expectation to return it imminently. If you take the opportunity to check the *mezuzah* before reaffixing it (not a bad idea, as it should be checked twice in seven years), then it is a more complicated question.²

Regarding switching the *mezuzah* scroll itself, we have no early sources on the matter, and so the *Acharonim* expend much energy looking for the closest precedent. The Rosh³ implies that if one changes garments, each of which has *tzitzit*, he makes a *beracha* when putting on the new one. Is switching *mezuzot* comparable? There is a basic difference. Since one does not have an obligation of *tzitzit* when he is not wearing a four-cornered garment, a *new* obligation is created when he puts on the second garment. In contrast, the house generates a continuous obligation of *mezuzah*, so a new *beracha* might not be appropriate.

According to most authorities,⁴ if one removes a pair of *tefillin* to replace it immediately with another, he makes a new *beracha*. This is more similar to our case, in that the fulfillment

1. If you “inherited” the original *mezuzah* from a previous resident, see below.
2. See *Living the Halachic Process*, vol. 1, G-5.
3. *Tzitzit* 20.
4. See *Kaf HaChayim*, *Orach Chayim* 25:79; *Yabia Omer* III, *Yoreh De'ah* 17.

of the same obligation continues with a different object, and we see that one makes a new *beracha*. However, this too may not be perfectly analogous, since many are of the opinion that there is *not* a continuous *mitzva* to wear *tefillin* all day. If so, putting on a new pair after removing the first is a new *mitzva*. In contrast, as above, there is always a *mitzva* to have a *mezuzah* on one's doorpost. Therefore, continuing the same *mitzva* of *mezuzah* with a different scroll might not be a new enough fulfillment of the *mitzva* to warrant a new *beracha*. Nevertheless, the Maharam Shick⁵ says that assuming one did not have the second *mezuzah* in mind when putting on the first,⁶ the earlier *beracha* does not cover this *mezuzah*, and one needs a new *beracha*. Although some argue, the *Chovat HaDar*⁷ follows this opinion and the *Yabia Omer*⁸ leans toward it. (The latter suggests strengthening the need for a *beracha* as follows: Wait a few hours between removing the first one and affixing the other; then there will be sufficient *hesech hada'at* to require a *beracha* even according to the dissenting opinions).⁹ If a previous resident affixed the first *mezuzah*, then he who affixes one now was not involved in the *beracha* and should make one even if he removes and returns the same *mezuzah*.¹⁰

There is another issue to consider. The *gemara*¹¹ rules that it is permitted to remove *tzitzit* from one garment in order to put them on another, and the *Shulchan Aruch*¹² says that it is forbidden if one does not plan to put the *tzitzit* on another garment. The issue is that of disgracing an article that was used for a *mitzva* by

5. *Yoreh De'ah* 285.

6. Here, the second one may not even have been written when the first was affixed.

7. 11:14.

8. III, *Yoreh De'ah* 17.

9. See *Ben Ish Chai* 11, *Ki Tavo* 8.

10. *Har Tzvi*, *Yoreh De'ah* 236.

11. *Shabbat* 22a.

12. *Orach Chayim* 15:1.

removing it from use. Since *Rishonim*¹³ equate removing a *mezuzah* to removing *tzitzit*, it is thus problematic to replace a *mezuzah* without sufficient justification. There are significant opinions that permit it in order to replace one *mitzva* object with a more beautiful one.¹⁴ However, it may be best to move the old *mezuzah* to another place¹⁵ that requires one.¹⁶

13. Including *Tosafot, Shabbat* op. cit.

14. See *Mishna Berura* 15:3.

15. Assuming the second doorway requires a *mezuzah* on the same level as the first – *Chovat HaDar* 1:9.

16. *Torah Lishma* 244.

G-11: Sleeping With *Tzitzit* On

Question: I am *machmir* (stringent) on the great *mitzva* of *tzitzit*¹ and, therefore, sleep with it on. Should I make a *beracha* on it in the morning, as I am not putting it on anew?

Answer: There are different opinions as to whether a “day garment” is obligated in *tzitzit* at night (the Rosh) or not (the Rambam).² Even if it is, you are certainly not obligated to wear the garment. We respect your interest in trying to fulfill the maximum possible *mitzvot* in this regard. However, one should realize that stringency can cause more halachic problems than it solves. You will see the application as we go on.

The *gemara*³ indicates that if one is obligated to wear *tzitzit* at night and wears it all night, he does not make a *beracha* in the morning unless he puts on a different *tzitzit*. This is because, according to this opinion, there is no interruption in the fulfillment of the *mitzva*. According to the opinion that one is exempt at night, the new obligation, which begins in the morning, generates a new obligation to make a *beracha* as well. The *Shulchan Aruch*⁴ rules that one who sleeps in *tzitzit* makes a *beracha* in the morning.⁵ This seems in line with the Rambam’s opinion that the *mitzva* had stopped overnight. However, we do not dismiss the Rosh’s opinion.⁶ Therefore, several major *poskim* disagree with the *Shulchan Aruch*’s ruling, and the *Mishna Berura*⁷ concludes that, because of this uncertainty, one should refrain from making the *beracha*.

1. For convenience’s sake, *tzitzit* will refer not only to the strings but also to the garment, which is a *tallit katan*.
2. *Shulchan Aruch, Orach Chayim* 18:1.
3. *Menachot* 43a.
4. *Orach Chayim* 8:16.
5. See *Aruch HaShulchan, Orach Chayim* 8:23.
6. See Rama, *Orach Chayim* 18:1.
7. 8:42.

The best advice is to have in mind when making the *beracha* on one's *tallit* that the *beracha* apply to the *tzitzit* as well.⁸ One who does not wear a *tallit* will, out of doubt, have to refrain from the *beracha*. In this case, the “*chumra*” of wearing the *tzitzit* at night turns out to have caused the *kula* of skipping the *beracha*. If the Rambam is right, then not only did one not fulfill the *mitzva* at night, but also he missed the opportunity to make a *beracha* in the morning because he put himself in an uncertain situation.

Another potential problem with keeping *tzitzit* on all night is that some authorities maintain that wearing it while sleeping compromises the dignity of the *tzitzit*. Although we are lenient on the matter,⁹ it is not clear that one shows greater respect for the *mitzva* of *tzitzit* by keeping it on.¹⁰ The *Mishna Berura* indeed notes that the Arizal advocated sleeping in *tzitzit* for kabbalistic reasons. However, the *Sha'arei Teshuva*¹¹ infers from earlier authorities that this was not the normal practice. We do not usually recommend to regular people to adopt kabbalistic practices that classical *halacha* does not favor.

8. *Magen Avraham* 8:21.

9. Rama, op. cit. 21:3.

10. See also *Aruch HaShulchan* op. cit. 21:6.

11. 8:1.

G-12: Tefillin for Questionably Left-Handed Men

Question: My son will soon be a *bar mitzva*. He writes and does most things with his left hand but does many things with his right. On which arm does he lay *tefillin*?

Answer: Mazal tov! Your case appears straight-forward, although we request a list of the things he does with each hand and those he does equally with both. Then we can give a final ruling. First, allow us to present a little background.

All agree that a righty lays *tefillin* on his left hand, but three different prooftexts are cited as the source of this determination.¹ The *Tanna Kamma* says the word “*yadcha*” (“your hand” – referring to where the *tefillin* are to be fastened) means the left arm. R. Natan derives it from the *hekeish* (juxtaposition of *p’sukim*) that associates the hand one uses to fasten the *tefillin* with the hand one uses to write a *mezuzah*. Most people write with their right hands and, thus, use their right hands to fasten the *tefillin* onto their left arms. Yet, a lefty would use his left hand to fasten the *tefillin* on the right hand. Rav Ashi learns from the extra letter “ה” in “ידכה” (“your hand”)² that *tefillin* go on the יד כהה (weaker hand), usually the left. A lefty’s right hand is the weaker one.

A major *machloket* exists among the *Rishonim* about one who writes with one hand and does most other activities with the other. The *Sefer HaTeruma* says to lay the *tefillin* on the overall weaker hand, without special emphasis on writing. Rav Yechiel of Paris says that one who writes with his right hand lays *tefillin* on his left arm, even if he does everything else with his left.³

1. *Menachot* 36b–37a.

2. *Shemot* 13:16.

3. See *Tur, Orach Chayim* 27.

The *Shulchan Aruch*⁴ brings both opinions, but he and the Rama favor Rav Yechiel's opinion that writing is the determining factor. Thus, your case should be simple – your son puts the *tefillin* on his right arm.

However, despite the stature of the *Shulchan Aruch* and Rama, some major *poskim* question their *p'sak*. It appears that the two opinions in the *Rishonim* are based on two of the three sources in the aforementioned *gemara*, one of which stresses writing and the other general strength/skill. The Gra⁵ demonstrates that the majority of opinions follow Rav Ashi that we place the *tefillin* on the overall weaker hand. Furthermore, the *Bach*⁶ disagrees with the *Shulchan Aruch's* understanding of R. Yechiel's statement. The *Bach* says that R. Yechiel accepted both the source of “writing-fastening” and that of “the weak hand,” and one lays *tefillin* on the right hand only if he is a lefty in both regards. With a twist on this approach, R. Moshe Feinstein⁷ understands that one who writes with one hand but does most work with the other is deemed ambidextrous (*sholet b'shtei yadav*), who lays on the left arm.⁸ The exact parameters of *sholet b'shtei yadav* are not fully clear and, according to certain opinions and in certain cases, may cause one who considers himself a lefty to be treated like a righty. For example, there are different opinions about one who writes with both hands but prefers his left or one who writes script with one hand and print with the other. Therefore, we ask for more detailed information and hope that the situation will turn out clear-cut; otherwise, there may be no easy way to cover all bases.

4. *Orach Chayim* 27:6.

5. To *Shulchan Aruch*, *Orach Chayim* 27.

6. To the *Tur* op. cit.

7. *Igrot Moshe*, *Yoreh De'ah* 1v:11.

8. *Menachot* 37a.

Section H:
Miscellaneous

H-1: Searching the Property of a Suspect

Question: In our religious summer camp, some items were apparently stolen, and there were grounds to suspect a specific camper. We considered searching the camper's belongings to try to catch him, return the stolen objects, prevent future thefts, and perhaps educate the offender. We decided not to do the search, but could we have?

Answer: Psychological and educational issues need to be addressed in such a case by those who are familiar with its dynamics. We will concentrate on the halachic issues.

Simply moving someone's possessions around while searching is not stealing, which is defined as taking something *away from its owner*, even temporarily,¹ or actually *using it* physically without permission.² However, going through another's belongings compromises his right to privacy, a right that *halacha* defends. The *gemara*³ discusses in detail the concept of avoiding *hezek re'iya* (damage caused by being able to see sensitive matters). Rabbeinu Gershom instituted a *cherem*⁴ against reading someone's letters without permission. According to many *poskim*, the prohibition against doing so existed previously; the ban just added additional sanctions.⁵

May one invade a thief's privacy in order to catch him? As a rule, one may take the law into his own hands to *legitimately* protect his interests. One who recognizes his stolen object on the thief's property may enter the property and take it forcibly if opposed.⁶ (According to one opinion, he should not do so

1. Rambam, *Gezeila* 1:3.

2. *Ibid.* 3:15.

3. First *perek* of *Bava Batra*.

4. Ban.

5. See *Encyclopedia Talmudit*, *Cherem Rabbeinu Gershom*, 18.

6. *Bava Kama* 27–28; *Shulchan Aruch*, *Choshen Mishpat* 4:1.

surreptitiously and thereby look like a thief himself.) Presumably, this allows suspending some of the thief's civil rights, including his privacy. The *Chikekei Lev*⁷ leaves unresolved the question whether *beit din* may allow one who suspects that a letter contains improperly damaging information about him to read it in order to know how to proceed. The prominent *dayan*, Rav Shlomo Daichovsky,⁸ discusses the issue of listening devices. He says that the *Chikekei Lev* would agree that an *individual* who has strong reason to expect that someone is harming him may use such a device to protect his interests. All the more so, he continues, it is permissible if one has the opportunity to prevent another from sinning. In our case, it is a sin to steal or to possess stolen goods, and the staff might have been able to facilitate the youngster's receiving counseling, which he likely needs.

One obvious problem is that barring definite knowledge of the suspect's guilt, one could be acting improperly toward an innocent person. However, there is precedent in this regard, as well. The *gemara*⁹ tells of how Mar Zutra suspected someone of stealing a silver goblet because he showed disregard for someone else's property. Mar Zutra physically pressured the suspect until he confessed to the crime. The *Panim Meiroi*¹⁰ cites more recent rulings on the issue of taking physical steps based on strong suspicions.

Another issue is that, classically, it is the one with the personal stake who may take steps to protect himself, whereas others should not.¹¹ However, this is apparently to prevent people who should not be involved from 'sticking their noses in' without judicial authority. In our case, though, it would be improper to allow the alleged victim to act based on his suspicions alone.¹² The camp's responsible staff members, who are mandated to su-

7. 1, *Yoreh De'ah* 49.

8. *Techumin*, vol. x1, pp. 299–312.

9. *Bava Metzia* 24a.

10. 11:155.

11. See *Halacha Pesuka*, *Dayanim* 4:16.

12. See the warning in *Chafetz Chayim*, *Lashon Hara* 7:14.

pervise the campers' welfare and conduct, are the proper people to be involved.

Thus, if the staff's upper echelons, in consultation with its rabbis, were *convinced* that the suspicions justified a search, they could have halachically done so. (It would be prudent, though, that one consult appropriate counsel regarding the legality of his actions and consider all relevant consequences.)

H-2: Permissibility of Pet Dogs

Question: I heard that a Jew is not allowed to own a pet dog. Is that true, and, if so, why?

Answer: There is no outright prohibition to own a pet dog, but one must address some concerns and make some distinctions.

The *gemara*,¹ citing the *pasuk*² that requires one to fence his roof, gives two further applications of the prohibition against endangering someone's life. One of them is not to raise a "bad dog" in his house. This appears to be a Torah law.

The *gemara*³ cites a rabbinic law⁴ not to raise a dog unless it is chained up. Two reasons are given: 1. The dog may cause direct, physical damage. 2. It may scare someone, which might include a pregnant woman who could miscarry out of fear (one might add someone with a weak heart). Yet, it does not explicitly distinguish between a "bad dog" and others. The *gemara* does make an exception for those living in frontier areas, who may untie their dogs at night. The Rama⁵ extends this leniency to any situation of danger, provided the dog is not apt to cause damage to innocent people. Interestingly, the *Shulchan Aruch*⁶ cites the need to tie up the dog only regarding a "bad dog." The implication is that there are three categories: The Torah forbids vicious dogs, the rabbis forbid dogs that might cause damage without proper precautions, and docile dogs are permitted.

It is permitted to feed domesticated animals⁷ and walk them

1. *Bava Kama* 15b.
2. *Devarim* 22:8.
3. *Bava Kama* 83a.
4. See Rambam, *Nizkei Mamone* 5:9.
5. *Choshen Mishpat* 409:3.
6. *Ibid.*
7. *Shulchan Aruch, Orach Chayim* 324:11.

with their leashes on Shabbat.⁸ However, according to most *poskim*, they are *muktzeh*⁹ and may not be held or moved directly in the normal manner.¹⁰

Some communities frown on owning certain pets such as dogs because of the phenomenon of such pets serving as a replacement to having children. While one should not generalize, there do appear to be situations where this objection has merit.

8. *Ibid.* 305:5.

9. See *Shemirat Shabbat K'Hilchata* 27:(96) and *The 39 Melochos, Tzad* (135).

10. *Shulchan Aruch* op. cit. 308:39–40.

H-3: Being a Vegetarian

Question: I have read a lot about the negative effects of a diet that contains dairy and/or meat. Is it halachic to be a vegetarian? What does one do on the holidays when the celebration of our faith includes meat?

Answer: There is nothing wrong whatsoever with refraining from milk and/or meat for health reasons. If one does not want to eat these foods, it is possible to do without them on festivals as well. The Rambam (Maimonides) gave much advice regarding the healthy foods to eat. It is not for us to give advice about what is or is not healthful, but if you are convinced that a given kosher diet is wholesome (and have a reasonable basis for your conviction), then *halacha* looks on your efforts to keep healthy most favorably.

Let us now deal with Shabbat and *Yom Tov*.¹ Even though we have not merited in our time to have a *Beit HaMikdash*² and do not make offerings and partake from the festival sacrifices, we still have a *mitzva* to indulge in festive meals. On Shabbat, this is referred to as *oneg* (delight), on *Yom Tov*, as *simcha* (joy).³ Classically, this includes eating meat and drinking wine (for children, it includes eating candies).⁴

However, if someone has a dislike for meat, he need not force himself to have it. If one prefers fish or some other food, it is halachically valid to use it as a substitute. What is crucial is to treat the meal with the proper festive mood, which depends to a great extent on the menu. The specifics depend on the particular person.⁵

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1. Festivals.
 2. Holy Temple.
 3. Rambam, *Yom Tov* 6:17–18.
 4. *Ibid.*
 5. *Mishna Berura* 242:2.

If one enjoys meat but refrains from eating it for health reasons, then the matter depends on how important the dietary considerations are. If one anyway bends his dietary 'rules' for special occasions from time to time without significant consequences, then Shabbat and *Yom Tov* would also be a time to do so, at least in moderation. If one is strict about his diet, one may refrain from meat and find an appropriate substitute.

H-4: Naming after a Sephardi Grandparent when One Parent is Ashkenazi

Question: My spouse and I come from different backgrounds and customs. I am Sephardi, and my spouse is Ashkenazi. A divisive issue has arisen: whether to name a future son after my living (until 120) father. This is important to my family and taboo to my in-laws. What can we do?

Answer: The phenomenon of marriages between Ashkenazic and Sephardic families is positive and enriching for individual couples and for the Jewish community. Although emotionally charged issues such as this one may arise, they are often handled best through education, which can moderate feelings.

Many sources discuss names in general and the significance of naming after relatives specifically. The issues pertain primarily to the more esoteric aspects of Judaism, in which we personally do not delve, and are matters of custom, not *halacha*. However, there are some rules that all should follow.

Both parents should be involved in choosing names, although this may consist of having the privilege alternate between the spouses. There are different *minhagim* regarding who gets to choose first.¹ In the time of *Tanach*, naming after relatives was infrequent, but the practice is already mentioned and explained in the *midrash*.² Several positive aspects are found in the sources: 1. We heighten the consciousness of lineage. 2. It is a *segula*³ for transferring the namesake's positive traits (apparently, negative

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1. See *Otzar HaBrit* 6:3.
 2. *Bereishit Rabba* 37:7.
 3. A spiritual/mystical positive device.

ones do not transfer as easily). 3. It brings *nachat*⁴ to the deceased's *neshama*.⁵ 4. It is a sign of respect for the namesake.⁶ The majority of these aspects apply even during the life of the grandparents.

The Ashkenazic *minhag* posits that because much of the naming's effect is to continue the forebear's legacy after his passing, naming after a living person might give the impression that the family is awaiting his death, Heaven forbid.⁷ Since it is not a bad omen for the baby and any possible negative element would affect only the grandparent, Ashkenazi spouses and in-laws have no reason to object if a Sephardi grandfather wants the honor in his lifetime, as is traditional. If it is the Sephardi parent's turn to choose the name, it may even be improper to forego this right and possible semi-obligation to honor his/her parent.

If gentle education of one's family fails to solve the problem, all should use great care and wisdom in choosing the steps and timing to resolve the matter with a minimum of hard feelings.

4. Feeling of satisfaction.

5. Soul.

6. See *Otzar HaBrit* 6:4.

7. *Ibid.* (3).

H-5: The Subjective Parameters of Human Dignity

Question: My digital camera enables me to make a picture that puts A's head on B's body. I took pictures at a family wedding with permission from all of the subjects to make 'photoshopped' pictures to share with family members in an electronic wedding album. Included was a picture of a twenty-three-year-old male's head on his seventeen-year-old sister's body. Their father (a relative) has suggested that under Jewish law it is improper to include these photos. He says that the sacredness of the human body is a basic value in Judaism, based on the Genesis 1 comment that God created humans in His image, and that deliberately distorting the body in such a manner deviates from that value. Is he right? Does his opinion matter, considering that the pictures are mine and they were taken with the subjects' consent?

Answer: As far as strict *halacha*¹ is concerned, we are not aware of a specific ruling that would forbid the type of photoshopped pictures you describe. On the other hand, we must understand what *halacha* is. The Torah legislates commandments based on values and presents their parameters in a cryptic, coded form. The Rabbis through the ages have deciphered the texts and built on the values and the commandments, turning them into thousands of binding regulations. These formal regulations have a life of their own, semi-independent from the original value, as we apply halachic principles to arrive at rulings for a myriad of real-life cases. Certain cases, especially modern applications that the Rabbis could not have addressed directly or that lend themselves to subjective factors, may not violate a specific regulation even if they compromise a certain value. While treatment of such cases has some flexibility, it is inaccurate to say that Judaism has

1. Jewish law.

no objection to them. Rather, the pros and cons of the situation need to be weighed, and the matter might be viewed differently by different beholders and in different contexts. Your case is an excellent example.

Whether you ascribe the Divinely related nature of humanity to the body or just the soul (a broad topic in itself), the dignity of the human body is an unquestionably serious Torah value with far-reaching halachic applications. There are times when one can or must compromise certain laws in order to protect a human body, living or dead, from disgrace.² The body is the Divinely ordained home of the pure soul He granted us, and it represents the person. Disgracing the body disgraces the person as a whole.

You will surely agree that it would be reprehensible to display such photoshopped pictures of a deceased person at his funeral, and your relative would presumably not object to using such pictures in the frivolity of a Purim party. Context is crucial. A wedding album is a borderline case. On one hand, things related to a wedding have a formal side. On the other hand, it has long been accepted and even encouraged at Jewish weddings for people to do outlandish things to increase the sense of excitement.³ It is most appropriate to consider the tastes of the bride and groom (without creating a family squabble).

Regarding your relative's involvement in his children's affair, there is limited precedent for his right to raise a moral protest. The *gemara*⁴ discusses a situation where one disgraced a sleeping person who subsequently died without becoming aware of it and therefore never suffered any embarrassment. The *gemara* leaves unresolved the question whether the family can demand payment for the vicarious disgrace to the family. This likely implies that, before the fact, the relatives have some right to prevent the act from

2. *Berachot* 19b.

3. *Ketubot* 17a.

4. *Bava Kama* 86b.

being done.⁵ There are many distinctions that might distinguish your case from the *gemara*'s, but it is noteworthy to see that the father's feelings have some grounds in Jewish ethics and should be taken into account.

If this question were to be presented to a religious court for adjudication, there could be some fascinating twists and complicated issues to hammer out. However, neither side of this hopefully friendly disagreement on this subjective, borderline matter has moral grounds to turn it into a quarrel. Neither your desire to include the picture nor your relative's objection appears to be of cardinal importance (as family relationships are). You should reach a meeting of the minds on the matter of photoshopped images.

5. See *Bava Batra* 22b.

H-6: Permissibility of a Mesh *Parochet*

Question: We have a mesh *parochet* (curtain) in front of our *aron kodesh*. Some congregants have been questioning whether it is valid since you can see through it. Are there *halachot* or firm *min-hagim* on the opacity required? Please provide sources.

Answer: This type of public question is clearly in the local rabbi's domain. However, since the answer affirms the validity of this *parochet* and you want sources to clarify the topic, we assume we are not getting involved improperly. Let us first understand the *parochet's* function and status.

The *gemara*¹ reports that Rava originally thought that a *perisa* (our *parochet* or something similar) is not imbued with *kedusha*² because it is only a *tashmish d'tashmish* (something that serves an object (e.g., an *aron kodesh*) that serves a holy object (e.g., a *sefer Torah*)). Rava changed his mind when he noticed that people sometimes folded the *perisa* under the *sefer Torah*. That contact makes the *perisa* a *tashmish kedusha* (something that directly serves a holy object), meaning that it is governed by more restrictions. The *Beit Yosef*³ and Rama⁴ point out that nowadays we never use the *parochet* in a way that places it in direct contact with a *sefer Torah*. Therefore, they say that our *parochet* is a *tashmish d'tashmish* and has only the lower status of objects that are set aside for synagogue use.

What does the *parochet* serve and how? The Maharam Padua⁵ and others say that it serves the *aron kodesh*. It is appropriate to separate between the holy and the mundane. Just as we use a

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1. *Megilla* 26b.
 2. Sanctity.
 3. *Orach Chayim* 154.
 4. *Orach Chayim* 154:6.
 5. 82.

bima cover as a separation between the *sefer Torah* and the *bima*, where the *sefer Torah* is read, we use the *parochet* as a separation between the *aron kodesh* and the congregation.

The *Terumat HaDeshen*⁶ points out that the *parochet* is used primarily with the doors of the *aron kodesh* closed. Thus, not only does it not touch the *sifrei Torah*, it does not even directly separate them from us. Based on this observation, the *Terumat HaDeshen* concludes that one may hang a *parochet* in front of the *aron kodesh* on Shabbat. We rule⁷ that it is forbidden to erect a vertical partition only when it serves a defined halachic function (e.g., the wall of a *sukka*). The *Terumat HaDeshen* demonstrates that a *parochet* lacks a defined halachic function and simply serves the purpose of *tzni'ut*. *Tzni'ut*, in the usual context of proper attire, generally means modesty. In that context, see-through clothing clearly does not satisfy the demands of *tzni'ut*. However, in our context, there is no prohibition against seeing the *aron's* doors or, in *shuls* that keep the *aron* doors open, the *sifrei Torah*. Rather, the partition demonstrates our reverence for that which is behind the curtain. Although at some point the degree of transparency makes a *parochet* meaningless, we doubt that the one in question is that transparent.

Some say that the *parochet* honors the *sifrei Torah*, rather than the *aron kodesh*. Still, it is not a *tashmish kedusha*. Not only does it not touch the *sefer Torah*, it hangs in front of them, not as a layer on top of them.⁸ Regarding honoring the *sifrei Torah*, aesthetics are more of a factor than opacity.

As we have seen, a mesh *parochet* can adequately accomplish the various possible functions of the *parochet*, certainly when it significantly distorts the view. In general, we should adorn and thus honor our synagogues and their sacred objects. If it is in proper taste and generally finds favor in the eyes of the congregation, it need not be the center of controversy.

6. 1:68.

7. See *Shulchan Aruch, Orach Chayim* 315:1.

8. See *Machatzit HaShekel* 154:8.

H-7: *Kilayim* (Mixed Planting) Outside Israel

Question: I want to plant a variety of vegetables in my backyard (in New Jersey). Do the vegetables have to be planted at a certain distance one from the other to avoid problems of *kilayim* (mixed planting)? A gardener even told me that I should plant carrot and radish seeds in the same hole to help the carrots. Is that permitted?

Answer: The specific laws of *kilayim* are very complex. A whole tractate of *mishnayot* deals with them, and our mentor, Rav Shaul Yisraeli, dedicated a volume of *Eretz Hemdah* to the subject. However, your case avoids most of the issues, as we will see.

Let us start with a little background. There are several types of prohibited mixing of species as they grow or reproduce. The one you refer to is *kilei zera'im*, which pertains to planting vegetables. A more severe type of mixing of seeds, which even imparts an *issur hana'a*¹ to the resulting produce, is *kilei hakerem*, mixed planting that includes grapevines.² Another agricultural type of *kilayim* is *kilei harkava*, which is the grafting of the branches of one species of tree onto a different species of tree. There is a prohibition against facilitating the crossbreeding of animals, which is called *harba'a*. Finally, the combination of wool and linen in clothes, known as *sha'atnez*, is a form of *kilayim*.

The question that is of greatest importance to you is: where do these prohibitions apply? The general rule is that *mitzvot* that are land-based apply only in *Eretz Yisrael*, whereas other *mitzvot* apply throughout the world.³ Thus, the prohibition on crossbreeding animals, which is not land-based, applies in New Jersey as in

1. A prohibition against deriving benefit.
2. *Devarim* 22:9.
3. *Kiddushin* 36b.

Israel. Yet, the *mishna*⁴ mentions two land-based *mitzvot* (and a disputed third) that are nevertheless in effect in *chutz la'aretz*.⁵ They are *orla* (benefiting from the fruit of trees during their first three years) and *kilayim*. Thus, it would seem that you would have to be careful to make sufficient separation between the species.

However, the *gemara*⁶ limits the *mishna*'s statement that *kilayim* applies in *chutz la'aretz* to *kilei hakerem*, which, as we mentioned, is a more stringent prohibition within *Eretz Yisrael* than the others. Due to that stringency, the Rabbis extended its implementation to *chutz la'aretz*, as well. When we refer to the *gemara*, we mean the Babylonian Talmud. The Jerusalem Talmud,⁷ on the other hand, ascertains that even *kilei zera'im*, like our case, is forbidden in *chutz la'aretz*, based on a comparison to *sha'atnez*. The *Shulchan Aruch*⁸ rules in accordance with the *gemara*. Only with regard to tree grafting, which the Torah hints is connected to the crossbreeding of animals, does the Torah prohibition apply in *chutz la'aretz*.⁹

Let us summarize that which applies and does not apply in *chutz la'aretz*: Crossbreeding animals and grafting branches onto trees of a different species are Torah level prohibitions. Rabbini- cally, mixed planting of species along with grapevines is forbid- den. Planting trees or vegetables or even mixing the seeds of dif- ferent species other than grapes are all permitted in *chutz la'aretz*. Therefore, the mixed planting that you refer to is permitted in New Jersey.

Here are some basic concepts about the amount of required separation, when applicable, so you will have an idea of what to do regarding grapevines, and you can be prepared if and hope- fully when you make *aliya*. The minimum separation between

-
4. Ibid.
 5. Outside Israel.
 6. Ibid. 39a.
 7. *Orla* 3:3.
 8. *Yoreh De'ah* 297:2.
 9. Rambam, *Kilayim* 1:5.

most types of vegetation is six *tefachim* (approximately a foot and a half). (According to the Rambam,¹⁰ regarding certain types of vegetables, the requirement according to Torah law is only one *tefach*.¹¹) As the sizes of the patches grow, the required separation increases significantly, until the groups do not look like they are being intergrown.¹² Regarding grapes, the minimum separation is six *tefachim*. Once you have a patch of five vines, the minimum goes up to four *amot* (approximately six feet).¹³

10. Ibid. 3:10.

11. See *Eretz Hemdah* 11:6:1.

12. Rambam op. cit. 7.

13. Ibid. 7:1, 7.

H-8: Creating a New *Shul* and/ or Changing Customs¹

Question: In our community, there has always been one *shul*. Over time, major changes in the background of the Jewish population have occurred, and many people want either to change the *minhagim*² of the *shul* or to start a new *minyan*. Are there issues of “*lo titgod’du*” (not having different sets of rulings and practices within a community) or changing *minhagim*?

Answer: The issue of “*lo titgod’du*” is an important halachic concept. However, it does not preclude the formation of new *shuls* in a community, reflecting different age-old approaches to *halacha* and to the text of the *tefillot*. Unquestionably, the *shuls* with varying *minhagim* in the same community did not all start simultaneously.³

In practice, not every time a group breaks off from one *shul* to form a new *minyan* or *shul* with a different *nusach*⁴ is the true motivation the stated one. It *may* involve issues such as “local politics” or personalities. Certainly, it is not proper for people who are not familiar with all the particulars to make rulings without being invited by those concerned and hearing all sides of the situation. Accordingly, our statement is a general one dealing with certain parameters of “*lo titgod’du*” and is not a specific ruling or advice. It is crucial that the local rabbinic and lay leadership work matters out in a way that is best for the peace and needs of the community.⁵

Changing the *minhagim* of a *shul* to reflect the present population is a tricky matter. If a *shul* was formed with a clear *min-*

1. This response is based on a *teshuva* in our *sefer*, *BeMareh HaBazak* 111:31.
2. Customs.
3. See *Shut Chatam Sofer* v:188; Maharam Shick, *Choshen Mishpat* 24.
4. Liturgical rite.
5. See also Maharam Shick, *ibid*.

hag and *nusach*, it is improper to alter them, even when the membership has changed significantly.⁶ This assumes that the ‘old timers’ who adhere to the original *minhagim* are still significantly represented.⁷ When a new congregation is established, it should follow the majority of the participants. It is *possible* that a congregation that was formed with the realization that it would serve a heterogeneous and possibly changing group could be more flexible about changing *minhagim*.⁸ On these matters as well, it is the duty and privilege of the local *rav* to appraise the situation and rule accordingly.

6. *Chatam Sofer* op. cit.; *Igrot Moshe, Orach Chayim* 11:21.

7. *Ibid.*

8. *Ibid.*

H-9: Halachic Issues Related to Non-Jewish Caregiver

Question: I have a relative who is severely paralyzed and has a non-Jewish live-in caregiver taking care of his needs. Can the caregiver put his *tefillin* on him, cook for him, and/or go into *shul* with him?

Answer:

Tefillin: The rule is that one can do a *mitzva* on someone else's behalf only if the person doing it is himself obligated in the *mitzva*. Obviously, a non-Jew is not obligated to put on *tefillin*. Thus, the matter depends on the following *chakira* (analytical dilemma): Is the *mitzva* the *action* of putting on and fastening the *tefillin*, in which case, only one who is obligated in *tefillin* may perform it? Alternatively, is the *mitzva* the *state* of having them on the arm and head, in which case, it is not important who places them on the person? The *gemara*⁹ tells of a woman (who is not obligated in *tefillin*) who would place *tefillin* on her husband. The *Har Tzvi*¹⁰ derives from this that the *mitzva* is the state of wearing *tefillin*; the action is just preparatory. Therefore, the non-Jew can put the *tefillin* on the Jew. The Jew will make the *beracha*.

*Cooking:*¹¹ Regarding the issue of *bishul akum* (cooking done by a non-Jew), one can solve the problem as follows: Regarding bread baked by a non-Jew, it is sufficient for a Jew to light the flame from which the flame for baking is taken. There is a critical *machloket* if this leniency applies to all foods or whether a Jew must take part in the actual cooking. The *Shulchan Aruch*¹² is stringent, while the Rama is lenient. In the case you describe,

9. *Avoda Zara* 39a.

10. *Orach Chayim* 1:23.

11. See also question E-10.

12. *Yoreh De'ah* 113:7.

even Sephardim (who follow the *Shulchan Aruch*) have room for leniency due to two additional factors: 1. Some opinions say that *bishul akum* done in a Jew's house is permitted. 2 Some say that *bishul akum* done by a Jew's hired workers is permitted.¹³

Entering a shul: While it is difficult to find explicit sources on the matter, we see no reason to forbid a non-Jew to enter a *shul*. The Rambam states that non-Jews were permitted even on a large portion of the Temple Mount.¹⁴ It is also clearly customary to allow non-Jews into the sanctuary of a *shul*, all the more so when the need is as clear cut as in this one.

13. See *Yechaveh Da'at* v:53–54.

14. *Beit HaBechira* 7:15–16.

H-10: Washing Hands After Leaving the Bathroom

Question: Must one wash his hands with a cup after using the bathroom for personal needs? Is there any specific order for washing and saying the *beracha*? Can this washing be done in the bathroom itself?

Answer: A proper washing cup is mandatory for *netilat yadayim* before a meal. There is a *machloket Rishonim* whether a cup is required for washing hands upon rising in the morning. The *Shulchan Aruch*¹ says that it is “good” to be careful about all the essential requirements of full *netilat yadayim* when washing in the morning, but the Rama² stresses that a cup is not absolutely necessary. The Rashba,³ the main source of the stringent approach, attributes the need for a cup to the need to sanctify oneself as he rises in the morning as a “new creation.” Another reason to wash hands in the morning is to remove *ruach ra’ah* (a “bad spirit”). The *Shulchan Aruch*⁴ is equivocal about whether one must wash his hands with a cup in order to remove *ruach ra’ah* (based on the *Zohar*), or whether it is sufficient to dip his hands in water three times.⁵

One who used the bathroom should wash or scrub his hands to remove any uncleanness, but that does not require a cup.⁶ Regarding *netilat yadayim* upon leaving a lavatory or a bathhouse, realize first that the source is post-Talmudic.⁷ The issue is a concern about *ruach ra’ah*, but the level of *ruach ra’ah* is lower than that

1. *Orach Chayim* 4:7.
2. Ad loc.
3. *Shut HaRashba* 1:191.
4. Op. cit. 12.
5. See *Mishna Berura* ad loc. 25.
6. *Shulchan Aruch, Orach Chayim* 4:18.
7. See *Beit Yosef, Orach Chayim* 4.

of the morning.⁸ Therefore, although the *Zohar* requires washing three times to remove *ruach ra'ah* in the morning, we wash only once after leaving the bathroom.⁹ Along the same lines, it appears that the need for a cup does not apply either. There is a stringent opinion that requires three washings after leaving the bathroom, and some people do so and/or use a cup. However, the *Mishna Berura*,¹⁰ who cites it, points out that the *Magen Avraham* rejects the stringency, and he does not seem to endorse it either.

The *gemara*¹¹ forbids reciting holy utterances, such as *Kri'at Shema* and *berachot*, in a privy or near a chamberpot. However, the *gemara* permits such recitations in the proximity of a “Persian outhouse,” where the ground is graded so that the excrement rolls away immediately. Modern *poskim* discuss whether our modern plumbing is like a Persian outhouse because the waste does not stay in the bowl for extended periods, or whether it is more akin to a classical outhouse since the waste remains there until it is flushed away. Another point of leniency is that most modern bathrooms contain a washing area and, thus, since the room is not designated solely as a toilet, it might not have the laws of a talmudic bathroom.¹² Another issue is that today’s toilets might not absorb excrement.¹³ Some claim that *ruach ra'ah* (which mandates the washing) is no longer prevalent. Do all these points add up to a *heter* to make *berachot* and wash in modern bathrooms?

A consensus among *poskim* forbids reciting *berachot* in modern bathrooms. However, many feel differently regarding the need to wash hands upon exiting the facilities. Since the requirement to wash then is weaker, there is halachic justification for leniency. Indeed, prominent *poskim* are lenient when it is difficult for one

8. *Sha'arei Teshuva* 4:12.

9. *Magen Avraham* 7:1.

10. 4:39.

11. *Berachot* 25a.

12. Based on a parallel idea in *Mishna Berura* 87:2.

13. See discussion in *ibid.* 5.

to find a washing area outside the bathroom.¹⁴ This also lends legitimacy to the many whose practice is never to be careful to wash after *leaving* a bathroom. Please note that the above applies only when the toilet is cleaned effectively by flushing.

Ruach ra'ah does not preclude one from making *berachot*¹⁵ as unclean hands do. Thus, even if one generally uses a cup, but happens to be in a situation where none is available, he should nevertheless wash and then recite *Asher Yatzar*. If water is not available, one should clean his hands in other halachically viable ways and then recite *Asher Yatzar*. When he finds water, he should then wash his hands to remove the *ruach ra'ah*.

14. *Minchat Yitzchak* 1:60; *Yabia Omer* 111, *Orach Chayim* 2.

15. *Mishna Berura* 4:39.

H-11: Which Debts Require a *Pruzbol*

Question: As far as I know, no one owes me money now. Do I need a *pruzbol* (a halachic device to prevent the canceling of debts at the end of the *Shemitta* year)?

Answer: You may not need a *pruzbol*, but it is probably worthwhile for you to make one (before Rosh Hashana). We do not know your specific circumstances, so we will deal with issues that commonly arise.

In addition to classic loans, there are many other types of interpersonal debts, some of which are not cancelled by *Shemitta*. Thus, for example, *Shemitta* does not cancel salaries and wages owed.¹ The simplest explanation for the distinction is that the laws of *shemittat kesafim* (canceling of debts) are unique to loans or very similar matters, not to the various sorts of other financial obligations.²

The *Beit Yosef*³ cites a different explanation, which should, in theory, affect the *halacha*. He says that credit accounts, store tabs, and salaries are usually paid only after a long time, and are therefore akin to loans which are due *after Shemitta*, which *Shemitta* does not cancel.⁴ According to his logic, it should follow that when the accounts or salary are clearly past due, they would be subject to *shemittat kesafim*. However, there are strong questions on the *Beit Yosef*'s position,⁵ and even he brings the law of the *mishna* in its plain form without mentioning limitations.⁶

1. *Mishna, Shvi'it* 10:1.

2. See Rambam's Commentary on the *Mishna* ad loc.; *Urim* 67:30; *Shut Chatam Sofer, Choshen Mishpat* 50.

3. *Choshen Mishpat* 67.

4. *Shulchan Aruch, Choshen Mishpat* 67:10.

5. See *Urim* and *Shut Chatam Sofer* op. cit.

6. *Shulchan Aruch* op. cit. 14–15. See also *Yalkut Yosef, Shvi'it* 24:20, who seems to accept the *Beit Yosef*'s reasoning yet appears to apply the rule broadly.

It is important to point out that the *mishna* says explicitly that once some debt is converted into a loan, *Shemitta* does, in fact, cancel it. The Rama⁷ mentions two opinions concerning those actions that turn an account or salary into a loan, and the modern application is more complex than we can get into in this forum. Furthermore, if you have an account in a Jewish-owned bank, be aware that even with a *heter iska*,⁸ part of the deposited money is usually still categorized as a loan and needs a *pruzbol*.

Because of the possibility of forgotten loans, the complexity of the question of salaries, bank deposits, and other issues that might apply to you, we suggest you make a *pruzbol*. There is no *beracha* on *pruzbol* or any other reason not to cover one's bases. The process is relatively simple, and your local rabbi should have forms available.

7. *Choshen Mishpat* 67:14.

8. A halachic device that allows charging interest by turning at least part of the money given into an investment rather than a loan.

H-12: When to Commemorate Halachic Anniversaries in Leap Years

Question: If one's parent died in the month of Adar in a regular, non-leap year, when does he observe *yahrtzeit* in a leap year (when there are two months of Adar)? Is the answer the same for the *bar mitzva* of a boy born in Adar of a regular year who turns thirteen in a leap year?

Answer: Although one would expect the same answer for both questions, the answers may differ for the following reason. Becoming a *bar mitzva* depends on the passage of thirteen years. Although this occurs on one's birthday, it is the passage of time, not the date per se, that is critical. For a *yahrtzeit*, the date is the factor. A related distinction is that one can become a *bar mitzva* only once (we refer to becoming obligated in *mitzvot*, not to the celebration). In contrast, it is possible to commemorate a *yahrtzeit* on two days, in some years.

The Rama¹ rules unequivocally that in the situation you describe, the boy becomes a *bar mitzva* in Adar II.² Several sources support this claim. The *Yerushalmi*³ and *Tosafot*⁴ say that the extra month is Adar I, whereas Adar II corresponds to the regular month of Adar. Also, the Mahari Mintz⁵ points out that when one rents a house for a year and there is a leap year in the interim, the renter always gets the extra month,⁶ even if the rental period ends up being from Adar to the next Adar II.

Regarding *yahrtzeit*, the situation is more complex. The *poskim* discuss the matter primarily in regard to the custom that

1. *Orach Chayim* 55:10.

2. It is clear that the *Shulchan Aruch* agrees – see *Mishna Berura* ad loc.: 45.

3. First *perek* of *Megilla*.

4. *Nedarim* 63b.

5. *Shut Mahari Mintz* 9.

6. *Bava Metzia* 102a.

some accept upon themselves to fast on the *yahrtzeit*. The *Shulchan Aruch*⁷ says that here too, the *yahrtzeit* is in Adar II. However, the Rama⁸ says that here the preferred day is in Adar I. Why the change?

Most seem to understand that Adar I is also Adar, and the question is one of prioritization and precedence. *Tanna'im* debate this question in *Megilla* 6b. R. Eliezer says that we should perform the *mitzvot* of Adar (including those of Purim) in Adar I because we do not pass up the opportunity to do *mitzvot*. R. Shimon b. Gamliel, whose opinion we accept, says that we perform them in Adar II because they should be done in proximity of the month of Nisan, which is related to Purim through the common theme of redemption. The *Terumat HaDeshen*⁹ derives from this *gemara* that when a *mitzva* is not related to redemption, we do the *mitzva* at the first opportunity, namely, in Adar I. The Rama prefers this opinion.¹⁰ However, he mentions that there are those who are stringent and fast on both days. The *Shach*¹¹ seems to accept that stringency.

The simple understanding of the Rama's stringency is that we do not know which opinion is correct, and thus we cover our bases. However, the *Magen Avraham*¹² and Gra¹³ believe that when there is no special reason to prefer one Adar to the other, we actually consider there to be two *yahrtzeit* days, one in each Adar. Although the *Magen Avraham* points out that one who voluntarily accepts the *minhag* of fasting can do so however he wants, it is advisable to keep both days. The *Mishna Berura*¹⁴

7. *Orach Chayim* 568:7.

8. Ad loc.

9. 294.

10. See also *Yoreh De'ah* 402:12.

11. Ibid. 11.

12. 568:20.

13. To *Orach Chayim* 568:10.

14. 568:42.

seems to concur, as does the *Igrot Moshe*.¹⁵ It appears that most Ashkenazim follow the *minhag* cited in the Rama's main ruling (Adar I), whereas Sephardim follow the *Shulchan Aruch* (Adar II). Those who want to keep both days or come from a place with that *minhag* should feel free to do so.

What about the other practices of *yahrtzeit*? The same basic opinions pertain, but one may decide to keep two days as far as visiting the grave, learning, and/or saying *Kaddish* are concerned, but perhaps not fast twice (for those who fast). We should note that even the *Magen Avraham* says that one has the *right* to say *Kaddish* only once. He refers to the times when only one person would recite a Mourner's *Kaddish* and a *yahrtzeit* would supersede a mourner during his year of mourning. This situation exists in relatively few *shuls* these days. However, the principle still precludes one from asking in both Adars to get an *aliya* or to be *chazan* to commemorate the *yahrtzeit*.

15. *Yoreh De'ah* 111:160.

H-13: The *Berachot* and *Mitzvot* of the Mentally Challenged

Question: In the special education setting where I work, the following halachic issues arise. May one answer *amen* to the *beracha* of a mentally challenged child who is not expected to ever be obligated in *mitzvot*? When teaching him *berachot*, can one pronounce HaShem's Name? Is there a point in teaching him *mitzvot* if he will never be obligated in them?

Answer: The determinations of which mental handicaps translate into which halachic standings are too complicated and individualized for this forum. Rather, we will use the term "mentally challenged" for whoever it is that meets your halachic assumptions. We will touch on the laws regarding a *cheresh* and a *shoteh* (loosely translated as deaf-mute and lunatic, respectively) and a child, who are often bunched together as being exempt from *mitzvot*.¹ Although we will not deal with your questions in an exhaustive manner, we hope to add perspective and provide some guidelines.

It is inaccurate to say that the Torah's laws do not apply to those who are exempt from *mitzvot*. For example, it is forbidden to feed non-kosher food to a child,² a *cheresh* or a *shoteh*.³ Rather, they are personally exempt from responsibility for *mitzvot* because they lack the level of understanding that such commitment requires.⁴ Since people who are exempt from a *mitzva* receive reward for fulfilling it,⁵ one might posit that there is intrinsic value in the mentally challenged performing *mitzvot*. However, a person who is mentally challenged is less connected to the *mitzvot* than

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1. *Rosh Hashana* 29a.
 2. *Yevamot* 114a.
 3. *Shut Chatam Sofer* 1:83.
 4. See the *Pri Megadim's Peticha Kollelet* 2:1.
 5. *Bava Kama* 87a.

someone with an incidental exemption because his actions lack the level of cognitive intent that others have.⁶

On the other hand, although a minor also lacks full intent,⁷ he is nonetheless instructed to perform those *mitzvot* he is capable of.⁸ Furthermore, he does the *mitzvot* with *berachot*, to which we answer *amen*.⁹ (It is forbidden to answer *amen* to an unauthorized *beracha*.¹⁰) A possible explanation is that since there is a mandate to train him to perform *mitzvot* (*chinuch*), his *mitzvot* and *berachot* have halachic standing. In contrast, the *mitzvot* and *berachot* of one whose prognosis is that he will never be obligated in *mitzvot* (and is apparently free of the *chinuch* mandate)¹¹ would lack such standing. However, a different possibility is that the *mitzvot* and *berachot* of anyone who is capable of carrying them out with a basic understanding of He Who commands and what He commands are significant.

A test case is a child under the age of *chinuch*¹² who is able to make a *beracha* with reasonable understanding. The *Mishna Berura*¹³ and the *Yabia Omer*¹⁴ say that one should not answer *amen*. However, Rav Bakshi-Doron¹⁵ notes that most people answer *amen* to preschoolers' *berachot* and substantiates the practice by noting that the child's basic understanding of his words' purpose makes this appropriate. He states that the same is likely true for a *cheresh* and a *shoteh*. Reportedly, Rav S.Z. Auerbach

6. See *Chulin* 12b.

7. *Ibid.*

8. *Sukka* 42a.

9. *Shulchan Aruch, Orach Chayim* 215:3.

10. *Ibid.* 4.

11. See *Encyclopedia Talmudit*, xv1, p. 169.

12. See *Rivash* 451.

13. 215:16.

14. 1, *Orach Chayim* 13.

15. *Binyan Av* 1:8.

would inconspicuously answer “ame_”, without the “n,” to small children’s *berachot*.¹⁶

Rav Auerbach has two important ideas that enable one to teach and respond to *berachot* of the mentally challenged: First, he says that many if not most of them should not be considered like a *shoteh*, whose problems are psychological, or a *cheresh*, who has a specific condition the Torah addresses. Rather, a mentally challenged person is analogous to a child. A person of *bar mitzva* age who is on the level of a *pa’ot* (an average six-year-old or so) is obligated in *mitzvot*, although he is not culpable like others.¹⁷ Thus, one who can be expected to reach that level should receive training, even when he is a child.¹⁸ Rav Auerbach is also quoted as saying that one can use HaShem’s Name in teaching those mentally challenged who are on an even lower cognitive level (but not to answer *amen*) because their ability to make *berachot* has value in that it enables them to fit into their surroundings better.¹⁹

16. *Halichot Shlomo*, Tefilla 22:20.

17. *Minchat Shlomo* 34.

18. See *ibid*.

19. *Halichot Shlomo* op. cit. (70).

Section I: **Family Law**

I-1: Wearing the Clothes of the Deceased

Question: My father passed away, and I want to know which of his clothing and other items, such as shoes, jewelry, suits, underwear, etc., can be worn. I do not want to feel like I am doing something wrong or disrespectful. If I am not allowed to wear the items, can I give them away?

Answer: Clothing and jewelry of the deceased, even if he was wearing them at the time of death, may be worn by anyone – including relatives. Although the *gemara* in *Yevamot* 66b states that an article of clothing that was placed on the deceased is “acquired” by him and is forbidden to use for any other purpose, this is only when the intention was for the article to be buried with the deceased.¹

In most cases, a father is happy that his son will wear his clothes after his death. It represents the concept of continuity and pride that the next generation appreciates the former one. In practice, one should consider the emotions of each generation.

Shoes worn by the deceased are somewhat of an exception. The *Gesher HaChayim*² allows them to be worn if either: a. the deceased did not wear them when he was ill, or: b. he wore them while he was ill but not during the last thirty days of his life.

However, many people are cautious not to wear shoes that the deceased wore during his lifetime. According to that opinion, one should not give them to anyone else. The issue with shoes is based on a cryptic statement in *Sefer Hasidim*³ that there may be some danger involved in wearing such shoes. It is not a matter of disgracing the deceased.

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1. *Shulchan Aruch, Yoreh De'ah* 349.
 2. 1:8:(2).
 3. 554.

I-2: A Mourner Changing His Place in *Shul* on Shabbat

Question: What is the final *halacha* regarding whether an *aveil* (mourner) may/should change his seat in *shul* on Shabbat? According to the opinion that he does change, why doesn't that violate the principle that one does not do *aveilut b'farhesia* (mourning in public) on Shabbat? Also, is the *halacha* the same for women?

Answer: The laws of *aveilut* are the classic example of an area where *minhag* supersedes classical sources, and we do not intend to change that tendency. If there is a clear local *minhag* where one lives and *davens*, he should follow it. We will explain the validity of each side on the issue. We do not have access to a reliable survey of practices, but it seems that in America, most *aveilim* change their places in *shul* even on Shabbat, whereas in Israel, not as many do so. This response focuses primarily on Ashkenazic communities, as your particulars seem to indicate that you belong to one.

The concept of changing places is based on the following *gemara*: “A mourner: the first week, he does not leave his house; the second, he leaves but does not sit in his place; the third, he sits in his place but does not talk; the fourth, he is like everyone else.”¹ Thus, ostensibly, the practice of changing seats should not extend for even thirty days. However, the Rama² says that there is a *minhag*, which is to be followed despite its lack of basis, that mourners change places for their entire period of *aveilut*. Although the classical sources do not specify the venue where one changes his place, the main location where it is practiced, at least regarding the twelve-month period, is in *shul*, not at home.³

Indeed, as you point out, there is a rule that one does not

1. *Mo'ed Katan* 23a.

2. *Yoreh De'ah* 393:2.

3. *P'nei Baruch* 22:1; see *Chochmat Adam* 167:2.

display mourning publicly on Shabbat.⁴ Yet, there are classical references to mourning-related activities on Shabbat. The *Nimukei Yosef*⁵ ascertains from one such source that a mourner should change his place even on Shabbat. However, the *Beit Yosef*⁶ disagrees due to the issue of public mourning, and, in the *Shulchan Aruch*,⁷ he speaks out against the practice. Nevertheless, the Rama upholds the *minhag* to change seats even on Shabbat. The Arizal did not change seats on Shabbat, but the *Birkei Yosef*⁸ suggests that only one who is so respected that his deviation from the *minhag* would not be considered haughty should follow the Arizal against the local *minhag*. The standard *minhag* in America seems to be like the Rama, which is strengthened by Rav Moshe Feinstein's support.⁹ Practice in Israel may be affected by the *Gesher HaChayim*'s¹⁰ ambivalence on the topic.

Investigating answers to the question of *b'farhesia* may provide room for distinctions. In the *Beit HaMikdash* on Shabbat, the practice was that mourners entered through a special gateway with their heads covered like mourners. The Ramban¹¹ explains that since they wore shoes, unlike a mourner, it was not regarded as an act of mourning. The *Shach*¹² has a thesis that only practices that are reserved for *shiva* create problems of public mourning on Shabbat, and changing places extends beyond *shiva*. Neither of these is a mainstream opinion.¹³ A more likely explanation is that a person's particular seat is not necessarily a clear sign of *aveilut*,

4. *Shulchan Aruch, Yoreh De'ah* 385:3.

5. *Bava Batra* 49a–b in the Rif's pages.

6. *Yoreh De'ah* 393.

7. *Ibid.* 4.

8. *Ibid.* 2.

9. *Igrot Moshe, Yoreh De'ah* 1:257.

10. 1:22:3.

11. See *Beit Yosef* op. cit.

12. *Yoreh De'ah* 393:7.

13. See *Pitchei Teshuva, Yoreh De'ah* 393:6.

as different factors affect where one sits.¹⁴ If this is the logic, then one with a prominent, permanent place, especially the *rav* of a *shul*, would be demonstrating *aveilut* more clearly and has added reason to keep his seat on Shabbat.¹⁵ Along similar lines, others¹⁶ say that one sits in a different place on Shabbat only if he began sitting there before Shabbat. Thus, it is possible that a woman (or a man in the same circumstances) who frequents a given *shul* only on Shabbat and did not establish a new place before Shabbat should not change her seat.¹⁷ Again, all should follow the local *minhag*, if one exists.

14. *Shut Radvaz* 11:662; *Shach* op. cit.

15. *P'nei Baruch* 22:(12).

16. *Taz, Orach Chayim* 526; *Rav Akiva Eiger, Yoreh De'ah* 393.

17. Based on *Panim Me'ivot* 11:124.

I-3: Scheduling a Delayed *Brit*

Question: If a *brit mila* is delayed because of illness and the baby becomes well at a time when it is inconvenient to make a *brit*, may one delay it for a few days?

Answer: As you are aware, the time to do the *brit mila* is on the eighth day, but it is not always possible to do it then. After that time, there are several reasons to do the *brit* as soon as possible.

A simple reason to do the *brit* promptly is the rule *z'rizin makdimin l'mitzvot* (the diligent do *mitzvot* promptly).¹ Promptness is a relative term, and its application depends on the relative gain versus the loss from any delay. For example, if one has a choice between using a *mohel* of questionable validity on the eighth day and waiting a few days for a proper one, one waits.²

The question regarding a delayed *brit* is in determining what constitutes a significant delay. A regular *brit* has a deadline of sunset of the eighth day.³ Here, by contrast, there is no specific day, as the *mitzva* needs to be done some time during one's life, but the sooner the better. The *Noda B'Yehuda*⁴ was asked whether it was permissible to postpone a *brit* until the upcoming *Erev Pesach* so that the *se'uda* of the *brit* could be used to excuse firstborns from their fast, and he vehemently opposed the idea.

One should realize that it is more problematic to delay a *brit* than to delay other *mitzvot*. Usually, positive *mitzvot* are obligatory opportunities to do something positive, and as long as it is done, it is done. However, *brit mila*, in addition to being a positive *mitzva*, removes the status of *arel*.⁵ That status has major spiritual

1. *Pesachim* 4a.
2. See *Da'at Kohan* 138.
3. Some *poskim* say that one should make efforts to have it no later than mid-day – see *Otzar HaBrit* 3:5:9.
4. 11, *Yoreh De'ah* 166.
5. Uncircumcised.

and halachic negative ramifications, and should be removed as soon as possible. For this reason, the *Magen Avraham*⁶ allows the *mila* and *se'uda* of a delayed *brit* to take place on *Erev Shabbat*, whereas one may not do the same for a delayed *pidyon haben*.

The *D'var Avraham*⁷ went so far as to say that a *mohel* who must choose whether to first do an eighth-day *brit* or a delayed one should choose the delayed one. This is because the latter baby needs to have his foreskin removed immediately, whereas the eight-day old has until the end of the day. Few *poskim* agree with this urgency to shorten the delay by just a few minutes, as long as the *brit* is in the process of being addressed.⁸ Nevertheless, there is a consensus that the delayed *brit* should be performed on the first possible day, barring unusually difficult circumstances.⁹ One should not delay a *brit* in order to facilitate its being more lavish or better-attended.

Although it is proper to have the *se'udat mitzva* on the day of the *brit*,¹⁰ it is preferable to schedule it on some day after the *brit*, if need be, rather than delay the *brit*.¹¹ Be aware that a modest meal with a *minyán* fulfills the requirements for a *se'udat mitzva*.

6. 249:5.

7. 1:33.

8. *Gilyon Maharsha*, *Yoreh De'ah* 260; see *Tosafot*, *Pesachim* 29b.

9. See *Noda B'Yehuda* op. cit.

10. *Shulchan Aruch*, *Yoreh De'ah* 265:12.

11. See *Pitchei Teshuva* ad loc. 16.

I-4: *Sheva Berachot*¹ that Finish after the Week's End

Question: On the last day of *Sheva Berachot*, we ate most of the meal in the daytime but got up to *Birkat HaMazon* and the *sheva berachot* after sunset. Should we still have recited the *berachot*?

Answer: At first glance, the same logic applies here as to one who starts a meal on Shabbat and gets up to *Birkat HaMazon* only after nightfall, with the question being about reciting *R'tzei* at that time. The *Beit Yosef*² cites differing opinions. The *Shulchan Aruch*³ rules that the beginning of the meal is the determinant, and one recites *R'tzei* even after Shabbat has ended.

However, in our case, the *Acharonim* rule differently. Many⁴ cite the *Ginat Veradim*,⁵ who says that the reason we recite those sections of *Birkat HaMazon* that were relevant at the beginning of the meal, even though they no longer seem to be relevant when *bentching*, is that they do not form independent *berachot*. Examples are *R'tzei* and *Ya'aleh V'Yavo*, which are additions to the existing *berachot* of *Birkat HaMazon*. However, one should not extend the practice to reciting independent *berachot* of *sheva berachot* after the week of festivities is over just because the meal began or even ended during that week.⁶

1. *Sheva Berachot* can refer either to the days (usually, seven) of celebration after a wedding or to the seven blessings that are recited after the festive meals during this period. For convenience sake, the former will be written in upper case and the latter in lower case.
2. *Orach Chayim* 188.
3. *Orach Chayim* 188:10.
4. Including *Sha'arei Teshuva* 188:8 and *Birkei Yosef, Orach Chayim* 188:13.
5. *Orach Chayim* 1:28.
6. We should note that there are other questions that arise in regard to counting the seven days. We rule that it follows the time of the *chupa* (Rama, *Even HaEzer* 62:6; see *Acharonim*). When there are multiple reasons to allow the *berachot*, it may be possible to accept a combination of opinions. Thus,

The *Pitchei Teshuva*,⁷ after citing this *Ginat Veradim*, seems to be bothered by the following question: When a man and woman who both were previously married get married, there is only one day of *Sheva Berachot*.⁸ There is a major dispute about what one day means.⁹ Some say the first day refers to all the meals the couple partakes in on the halachic day of their marriage. Others say it applies to the first festive meal that the couple partakes in, even if it takes place during the night after the wedding – technically a new day. This scenario is very common in summer weddings. While there is a question whether to make *sheva berachot* if this couple's wedding meal was not held until the night, the *Ba'er Heitev*¹⁰ says that *sheva berachot* are indeed recited at night if the meal began during the day. The *Pitchei Teshuva* apparently expected that the same should be true for a meal that began on the seventh day of normal *Sheva Berachot* and ended on the night of the eighth. However, distinctions can be made to explain why there is more logic to recite the *sheva berachot* at this first meal that continued into the night of the next day after the wedding than at a *Sheva Berachot* meal that went into the eighth day.¹¹

There is a difference between your question of reciting *sheva berachot* on the eighth night and that of reciting “*shehasimcha bim'ono*” in the *zimun*.¹² The *Ginat Veradim*¹³ says that one does recite “*shehasimcha bim'ono*” in this case. First of all, this is not a separate *beracha*, and furthermore the *gemara*¹⁴ says that when

for example, Rav O. Yosef (*Yabia Omer v, Even HaEzer 7*) allows making *Sheva Berachot* at *bein hashemashot* of the eighth night when the couple had not entered the *yichud* room until the night of their wedding.

7. *Even HaEzer* 62:12.
8. *Shulchan Aruch, Even HaEzer* 62:6.
9. See *Chelkat Mechokek* 62:6 and *Beit Shmuel* 62:5.
10. *Even HaEzer* 62:5.
11. See *China V'Chisda, Ketubot* 7a.
12. Introduction to *Birkat HaMazon*.
13. *Op. cit.*
14. *Ketubot* 8a.

one makes a meal in honor of a wedding, even up to twelve months later, one may recite this addition. Although we do not practice this after the period of *Sheva Berachot*, in a case like ours, where there are serious reasons to consider this a continuation of the *Sheva Berachot* period, it is appropriate to do so. Some maintain that this is true only when people outside the household take part in the meal.¹⁵

15. See *HaNisu'im K'Hilchatam* 14:128.

I-5: Giving an Injection to One's Parent

Question: Is a Jewish physician permitted to give his parent an injection, such as of insulin or a flu vaccine?

Answer: *Shemot* 21:15 lists striking one's parent as a capital offense, and the *gemara*¹ says that this applies when he causes a *chabura* (wound). The *gemara* then asks whether one may perform a bloodletting (a medical procedure at that time) on his parent. It brings two derivations from the Torah to show that when the action is done in a positive context, it is permitted. Yet, the *gemara* relates that *Amora'im* would not allow their sons to perform certain procedures, fearing that they might accidentally make a wound, which is a serious transgression. Regarding someone other than a parent, where the sin of injuring is much less severe, it is permitted to draw blood despite the concern of injury. The *gemara's* conclusion seems to be that although one should have been permitted to perform medical procedures that include piercing his parent's body, we instruct him to refrain. The *Shulchan Aruch*² rules unequivocally that a child should not perform a bloodletting on or remove a splinter from a parent. However, the Rama,³ based on the Rambam, adds that if the child is the only one available to do the procedure and the parent needs it, he should do so.

Let us apply this general halachic background to our specific case. Several *poskim* discuss injections for parents, including four responsa that appear in the beginning of *Gesher HaChayim*, vol. II. We will summarize the main indicators for leniency and try to arrive at a conclusion.

1. *Sanhedrin* 84b.
2. *Yoreh De'ah* 241:3.
3. Ad loc.

The *Gesher HaChayim*⁴ raises the point that, by its halachic definition, a *chabura* always includes blood that is spilled or that accumulates under the skin. The *gemara*'s conclusion, which was meant only as a stringency,⁵ expresses concern about the possibility of a mistake. However, perhaps it was intended for a case of a definite wound, with the mistake being that the procedure went beyond the therapeutic need. Thus, if there is only a small chance of a wound at all, it is possible that the stringency does not apply (The probability of blood, of course, depends upon the site of the injection, among other factors).

The *Minchat Chinuch*⁶ claims that if a father asks his son to wound him, the son is not bound by the prohibition of striking a parent. Some⁷ raise a *possibility* that this enables a father to request his son to treat him even if unnecessary damage may occur. However, this suggestion is problematic on a few grounds. The Rivash⁸ says that granting permission exempts someone from damage payments but does not permit bodily damage. Furthermore, it is unlikely that the parent does not mind if he suffers an unnecessary injury. His main intention, even if he says otherwise, is to permit a proper job, and the *halacha* is concerned that the son may botch the treatment. It is also quite clear that the early authorities did not accept the *Minchat Chinuch*'s approach.⁹

Ashkenazim can rely on the Rama's ruling that if no one else can provide the treatment, then the child may. It is unlikely, though, that no one else is capable of performing routine injections. However, *poskim* discuss the parameters of "availability" in this context. Some suggest that the prospect that the child will do it for free, whereas others will charge, may be sufficient to render

4. II:1:1.

5. *Bach, Yoreh De'ah* 241.

6. #48.

7. Including Rav S.Z. Auerbach, cited in *Gesher HaChayim* op. cit. 4.

8. 484.

9. Rav Auerbach, cited in *Gesher HaChayim* op. cit.

it a case of “no one else available.”¹⁰ (This point is too complex and dependent on particulars to do justice to in this forum.) Sometimes, the chance of reliable treatment improves when the son provides the service himself.¹¹

In sum, Sephardim should make every effort to find an alternative to a child injecting his parent.¹² For Ashkenazim, the main concern is to find the system that is best for the patient’s welfare. However, a child should avoid doing injections when comparable alternatives exist. One should consult a local rabbi in borderline cases.

10. See *ibid.* and *Chelkat Yaakov, Yoreh De’ah* 131.

11. See *Minchat Yitzchak* 1:27.

12. *Beit Yosef, Yoreh De’ah* 241.

Section J: **Monetary Law**

J-1: Respecting Intellectual Property Rights

Question: I would like to make copies of tapes for my school and lend them to students. What are the halachic considerations regarding the laws of copyrights of tapes, disks, pictures, etc.?

Answer: We are glad that you ask this type of question rather than just assume that what is easier is permissible.

Some halachic authorities question whether there is a halachic category that could prevent one from infringing on copyright laws. After all, one who buys an object can ostensibly use it for whatever he wants. However, even according to this approach, in many cases, *mentchlechkeit* (decency) and the welfare of society dictate that people respect the rights of those who invested their time, energy, resources, and talents to produce a product. Many or most *poskim* accept the approach spelled out by Rav Zalman Nechemia Goldberg in *Techumin*.¹ He agrees that it is unfeasible to say that a standard sale was done on condition that misuse nullifies the sale, because that needs to be stipulated in a special way. Yet, he posits that there is still a halachic problem.

One can sell something with a *shiyur*, which means that he can retain certain rights. Thus, he can sell a tape and reserve his right as owner to forbid others to use his tape for certain uses, e.g., various means of copying its contents. Although the classic cases of *shiyur* involve original owners who want to continue *using* the object at certain times, Rav Goldberg explains that one can also reserve the right to *forbid* the buyer to use the object in specific ways. Rav Goldberg has other objections, which are beyond the scope of this answer. Others talk about the issue of *dina d'malchuta dina*

1. VI, pp. 185–207.

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(the law of the land is the law), which applies in most cases.² This is especially so when the recipients of the copies are less likely to buy an original because they have access to a copy.

2. See *HaMachsev L'Or HaHalacha* 5.

J-2: Borrowing without Explicit Permission

Question: May I borrow my friend's object without permission if I am confident that he would allow it?

Answer: This is an important question. Adherence to every halachic nuance is as important in day-to-day monetary and personal relations as it is in the most famous ritual laws.

The matter starts with the *sugya*¹ of *yei'ush shelo mida'at* (loss of hope without knowledge) in *Bava Metzia*.² It concerns one who loses an object under circumstances where, upon finding out that it is lost, will despair of recovering it. Can someone who found the object before the owner became aware of the loss keep it? The *gemara* tries to derive an answer from the following story: Three rabbis visited Mari bar Isak's orchard, and his sharecropper brought them fruit from the orchard. Mar Zutra refused to eat because Mari was not there to give permission, although presumably he would have wanted the honored guests to have the fruit.³ Thus, it is evident that the critical factor is the owner's conscious thoughts, not his presumed intentions were he to find out. *Tosafot*⁴ say that the other rabbis actually agreed with Mar Zutra in principle, but assumed that the sharecropper had given them fruits from his own portion. According to *Tosafot's* approach, indeed, one may not depend on the permission the owner would have given had he known the situation.

Others disagree with *Tosafot*. The *Ran*⁵ cites the *Rashba*, who says that when one can assume that the owner would be happy to share his food with certain guests, they may eat without his

1. Talmudic discussion.

2. 21b–22b.

3. *Ibid.* 22a.

4. *Ad loc.*

5. *Ad loc.*

knowledge. He cites talmudic precedents where we assume that a homeowner has in mind to authorize others to give on his behalf. The *Shach*⁶ distinguishes between this case and *yei'ush* on a lost object. A person would prefer not to have *yei'ush*. Therefore, only if he actually loses hope does he lose the object. In contrast, in the event that the owner would want to share with his unknown guest, the latter may partake without the owner's knowledge.

There is not a consensus among today's *poskim* on which position to accept.⁷ Therefore, it is preferable not to take a friend's object without permission. This certainly applies to food, which is consumed and lost to its owner. Although reimbursement mitigates the situation, it does not erase the fact that, according to *Tosafot*, his action was theft (excuse the harsh term). Even in regard to objects that can be borrowed and returned, one who borrows without permission is a thief.⁸ However, we cannot condemn one who relies on the *Shach*'s leniency.

In certain cases, the owner's explicit permission is not required. One can give blanket permission for those close to him to take things without permission, which may even be assumed regarding some neighbors and guests during their stay. It is permissible to use an object of so little value that owners generally do not care if anyone uses it.⁹ If, under normal circumstances, someone receives an object from a responsible member of a household, he can assume that the member has explicit or tacit authority to take such action on behalf of the heads of the household. For that reason, *tzedaka* collectors may accept modest donations from older children at the door without knowing the family situation.¹⁰ In a setting in which it is clearly accepted for people to borrow certain things without permission, one can assume that it applies to any

6. *Choshen Mishpat* 358:1.

7. See *Pitchei Choshen, Geneiva* 1:15.

8. *Shulchan Aruch, Choshen Mishpat* 359:5.

9. *Pitchei Choshen* op. cit.

10. Based on *Bava Kama* 119a.

given person. For example, in many *yeshivot* there is a policy of borrowing another's *sefarim* for short periods of time. If a *talmid* does not want people to borrow his *sefarim*, he should put such instructions in writing on or in the *sefarim* to save others from doing wrong unknowingly. Regarding articles to be used for *mitzvot*, permissibility of borrowing depends on the article in question and other factors, which likely change depending on time and place. Details are beyond our present scope.

Let us caution the potential borrower: It is wrong to assume, "I would give him, so he would give me." People have different natures and upbringings. Aside from halachic concerns, many relationships between siblings and friends have been strained by incorrect assumptions of this sort. As it says in *Pirkei Avot*, "One who says... 'Mine is yours, yours is yours' – is a righteous person."¹¹

11. 5:10.

J-3: Heirs Who Disagree About What to Do With an Estate

Question: My brother and I inherited a two-family house. One, say A, wants to sell it. The other, say B, wants to keep it but cannot afford to buy A's part. Can B force A to remain in partnership and not sell the house?

Answer: We begin by clarifying a few points. Firstly, in an actual case, we cannot give a definitive answer without hearing both sides. This is not only a procedural matter. Details, which either side may overlook, can surface during a joint discussion in a way that influences a ruling. Secondly, it is best for the sides to work out the matter between themselves. In that context, it is worthwhile knowing the halachic guidelines. Upstanding Jews should use them as the point of departure when trying to arrive at a fair solution that satisfies the basic needs of those involved. It is in this spirit that we provide the following information.

When two or more people inherit an estate, their relationship is like that of business partners in regard to most considerations, including the right to end the partnership.¹ One difference is that people's agreement to enter a joint venture for a set time may include an obligation not to break up the venture prematurely.² Because inheritors become partners as the result of a common relative's death, not by an agreement, and for an open-ended period, each has the right to terminate the partnership. The question is how to go about this in a given case.

The optimal way to terminate a partnership is to divide the property proportionally among the partners. However, there is a feasibility check on that arrangement.³ Each side must be

1. *Shulchan Aruch, Choshen Mishpat* 171:1.
2. See *ibid.* 176:15.
3. *Ibid.* 171:1.

left with a portion that can be used for the same function as the entire unit was. The smaller parts must be similar enough to the original property to be called by the same name. For example, the divided parts of a field must be identified as fields and not gardens.⁴ Living quarters have to be broken up into sections, each of which could be called a home and would be suitable for use as a complete dwelling.

Where *halacha* does not deem it feasible to divide the property, the next best system is known as *gud oh agud*.⁵ This system, which is the subject of an Amoraic dispute in *Bava Batra*,⁶ means that Shimon challenges Reuven to either buy Shimon out or allow himself to be bought out by Shimon. The Rama⁷ even allows Shimon to challenge Reuven with an amount higher than the market value. If Reuven does not want to pay more than the property is worth, Shimon is given the opportunity to buy it at that higher price. However, if Shimon is not capable of buying it, he cannot force Reuven to buy him out.

When neither side is interested in buying out his partner and the property cannot be divided feasibly, two systems remain. The preferable one is to rent out the property to a third party and divide the profits.⁸ Where the property does not lend itself to being rented out, the two can time-share its use. In the case of living quarters, they each get intervals of one year.

Each of these alternatives has particulars that determine if and how it should be carried out. We do not have enough details to provide you with an exact course of action. We suggest that you use the above guidelines to help you arrive at a mutual agreement. If, as it sounds, the property can be broken up into two living units in a practical manner, then if one of you prefers

4. Ibid. 3.

5. Ibid. 6.

6. 13a.

7. *Choshen Mishpat* 171:6.

8. *Shulchan Aruch* and Rama op. cit. 8.

that arrangement, that is what should be done. A cannot force B to buy the house if he does not want to for whatever reason. Renting it out is halachically and probably practically a better idea than time-sharing.

If you cannot reach an agreement, it is perfectly respectable to go to a *beit din* to examine the claims in detail. It is regrettable if siblings reach the point of anger and recriminations before ending up in a *beit din*. One might prefer the more intimate forum of a *rav* knowledgeable in monetary law than a formal *beit din*.

J-4: Responsibility of One Carrying His Friend's Property

[*Editor's Note – The following question arose in an informal din Torah that came before us.*]

Question: Reuven and Shimon traveled together. Reuven allowed Shimon to put valuables, which Shimon is sure included a fifty-shekel bill, in one of the compartments of Reuven's backpack. Before getting on a bus, Shimon ripped the zipper while opening up the compartment but left his items inside. (Reuven was able to fix the zipper on the bus.) When they reached their destination, Shimon found all of his items except the fifty-shekel bill. Suggested possibilities of what might have happened to the money include that Shimon did not put the money in or took it out, it fell out, or it was stolen. The two disagree on the interpretation of the events, but they do not accuse each other of lying. Is Reuven responsible to pay for the loss?

Answer: A *shomer chinam* (an unpaid guard) is exempt from financial responsibility when the guarded object is lost or stolen but is liable if the loss was due to *p'shi'a* (negligence). There are two main points of contention to clarify. [*We had to omit other, smaller issues in this forum*]. One is whether Reuven was a *shomer* or just a "carrier," a matter they had not discussed. The second is whether the money's disappearance resulted from *p'shi'a* that occurred after the zipper opened, as Shimon claims, or whether Reuven guarded it in a reasonable manner. Reuven would only have to pay if both points are decided in Shimon's favor.

Status as a shomer – There is a dispute among *Tanna'im*¹ regarding

1. *Mishna, Bava Kama* 5:3.

one who allows his friend to put an animal in his pen without further stipulation. They disagree whether the owner of the pen accepts responsibility for the animal or simply gives permission without accepting responsibility. The *gemara*² suggests that this is a general *machloket* whether one who agrees to receive control over another's property becomes obligated as a *shomer* even without explicitly accepting that status. It concludes that local, psychological factors may explain the various positions in their specific contexts.

In any event, the *Shulchan Aruch*³ rules that when the wording of the agreement is inexplicit, the holder of the object does not assume the responsibilities of a *shomer*. However, he continues, if Levi allowed Yehuda to place his shoes on Levi's donkey before Levi went alone to another city, then, since the shoes would be in a precarious situation if not cared for, we assume that Levi accepted the responsibility of a *shomer chinam* for the shoes.

Despite similarities to our case, the rationale of the Rosh, the source of this latter *halacha*, displays differences. Since Shimon accompanied Reuven, Reuven likely intended that Shimon retain responsibility for his items, especially since at the time Shimon put them in the knapsack, it seemed unnecessary for Reuven to give them any further thought. Although the situation became more complex when the zipper broke, the parties' accounts indicate that Reuven did not intend to accept a new status of *shomer* as a result.

Was there p'shita? – Reuven is adamant that he was sufficiently careful under the circumstances that arose, whereas Shimon claims that he was not. Ordinarily, a *shomer* has to make a Torah-level oath that he was not negligent, but since we avoid oaths, there may be grounds for a monetary compromise. However, in this case, neither friend accuses the other of lying; they simply disagree

2. *Bava Metzia* 81b.

3. *Choshen Mishpat* 291:2.

about how to view this borderline case. (As Shimon was aware of Reuven's actions during the time in question, we can assume that had there been blatant *p'shi'a*, Shimon would have taken back his items and/or checked on them earlier.) If there is doubt whether there was *p'shi'a*, a *shomer* is exempt from paying.⁴

Based on the indications (albeit not fully conclusive ones) regarding both issues, and certainly given the convergence of the two, there are not sufficient grounds to require Reuven to pay.

4. See *K'tzot HaChoshen* 340:4.

J-5: Paying for Damage of an Object One Was Unaware of

Question: I had friends over; I did not notice that one of them brought a CD, which she left in my CD player. A week later, she inquired about its whereabouts. We found it outside its case, among an assortment of family CDs. I might have taken her CD out, thinking it was one of my kids', or perhaps my kids (under *bar mitzva*) did so. My friend later told me that it was scratched and ruined. Although she did not ask me to pay her, should I offer?

Answer: As always, we preface our answers to such monetary questions by pointing out that we cannot tell you for sure that you are exempt, even if this is our leaning, without formally hearing your friend's version of the story. However, we will be happy to provide our *thoughts* based on the narrative that you presented. Since your friend has not demanded payment, you have a right to know if you should honorably volunteer it.

There are two areas of monetary law to consider: One is whether it is possible that you are considered a *shomer* (guard) and therefore responsible to pay for neglecting to guard the CD properly; the other is whether you are responsible to reimburse your friend under the laws of *nezikin* (torts) for having damaged her property.

In general, a person is not obligated to guard something and pay for damages stemming from negligence unless she consented, on some level, to accept that responsibility.¹ Since you were unaware that your friend's CD was in your possession, you certainly did not accept responsibility.

This case, though, is more complicated because this may be a situation where the laws of *hashavat aveida*² apply. It is unclear

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1. See *Bava Kama* 47b.
 2. Returning a lost object.

from your description whether your friend quickly realized she left the CD in your home (and thus it was not lost) or whether she was not sure of its whereabouts and it was an *aveida*. Let us assume the latter. The Torah imposes the responsibilities of a *shomer* on one who finds an *aveida*, even if the finder did not intend to assume such responsibility.³ The question of whether he is considered a paid or an unpaid *shomer*⁴ is irrelevant here because it is negligence to not put a CD in its case, and all *shomrim* are obligated to pay for negligence.

Usually, one becomes obligated in the laws of *hashavat aveida*, including the obligations of a *shomer*, from the moment he lifts up the object.⁵ What happens, though, if one picks up an object without realizing that it is an *aveida*? There are related discussions on whether one who had physical control of an *aveida* without fully understanding the scope of his obligation becomes a full-fledged *shomer*. The *Ketzot HaChoshen*⁶ is unsure whether one who found something he thought was cheap is obligated in its full value when it turned out to be more expensive. This implies that if he had not realized that someone lost the object, he would not have been obligated. Similarly, the *Machaneh Ephrayim*⁷ provides evidence from the Rambam that one who unknowingly has an *aveida* in his property is not yet considered one who found an *aveida*. Therefore, in your case, you did not have a *shomer's* responsibility.

However, despite not having a *shomer's* responsibility, you may be liable for scratching the CD. In general, one who physically damages an object, even with little personal blame, must compensate the owner.⁸ Nevertheless, we do not know for sure that you scratched the CD. Something could have fallen on it when it

3. *Shulchan Aruch, Choshen Mishpat* 267:16.

4. *Ibid.*

5. See *Bava Metzia* 26b; *Pitchei Choshen, Aveida* 4:(2).

6. 291:4.

7. *Kinyan Chatzer* 5.

8. *Bava Kama* 26a.

was exposed; your friend could have scratched it; your kids could have done it, and minors – and their parents – are exempt from paying for damages they caused.⁹ Therefore, a *beit din* would presumably not obligate you to pay, since the burden of proof that you damaged the CD lies with the aggrieved party. *Poskim* discuss whether children who damage should offer compensation when they grow up,¹⁰ and parents often pay for their children's damages. However, a scratched CD is common; even proper care does not always prevent it. Therefore, you do not seem to have a strong moral obligation to pay, let alone a monetary obligation. On the other hand, you might feel better and make your friend feel good, as well, if you offer her at least partial compensation and see what she says. The choice is yours.

9. *Shulchan Aruch, Choshen Mishpat* 424:8.

10. See *Pitchei Choshen, Nezikin* 10:(115).

J-6: Returning a Stolen Object One Bought from the Thief

Question: This true story involves four people, whom I will refer to by number. 1 stole similar computers from 3 and 4. 2 is a go-between who offered to sell a computer on behalf of 1 to 3 for 1,500 shekels. 3 apparently thought he was paying to get his old computer back, but it was really 4's computer. 4 found out and demanded his computer from 3, but 3 says he will give it back only if 4 pays him the 1,500 shekels he paid for it. If 3 will not go to a rabbinical court, can 4 go to the police?

Answer: 4 may go to the police in regard to 1, the alleged thief. Apparently he is reluctant to do that for some reason, which is not our business. It would be wrong to go to the police concerning 3, who is a victim, not a culprit, even though we have yet to determine if 3 reacted correctly or not. As we always point out in cases like this, we cannot make any determinations to obligate someone who has not had the opportunity to present his side formally before *beit din*. We can only tell someone how to act, according to his version of the story, until there is an agreement between the sides or a *din Torah*.

When an object is stolen, it is normally incumbent on the thief to return it.¹ For that matter, anyone who has access to the object has a *mitzva* to return it as a lost item. However, situations may occur that remove the original owner's control over the object. One factor is *yei'ush*, when the original owner gives up real hope of recovering the object. If there was *yei'ush* and the thief subsequently sold it to someone else, the buyer acquires the object and does not need to return it to the original owner.² If that is

1. *Vayikra* 5:23.

2. *Shulchan Aruch, Choshen Mishpat* 356:3.

the case here, then 3 can either keep the computer or offer it sell it back to 4 at whatever fair price he likes.

There are rules that help determine whether *yei'ush* can be presumed. The general rule is that when one Jew steals from another Jew, whether forcefully or unobtrusively, there is a presumption of *yei'ush*.³ However, the Rama contends that the proper custom is to return the stolen article to its original owner in any case, a practice that apparently began because of the law of the land.⁴

From the sound of your description, it seems likely that there were special circumstances under which there might not have been *yei'ush*. Let us investigate the *halacha* in that case. When a third party buys a stolen object from the thief and there was no *yei'ush*, basic legal principles dictate that the buyer has wasted his money, and the victim receives the object back without having to reimburse the buyer. Nevertheless, there is a rabbinical provision (*takanat hashuk*) to reimburse the buyer for the amount that he spent on the object. This was instituted out of concern that people would be overly nervous that they would lose money by buying stolen objects.⁵ However, the Rabbis realized that this is fair only if the buyer did not have reason to believe he was buying a stolen object. However, if the seller was a known thief⁶ or at least if the buyer knew it was a stolen object,⁷ he does not deserve reimbursement.

In this case, the buyer knew he was buying a stolen object and so it differs from the standard case for which the *takanat hashuk* was instituted. On the other hand, perhaps the *takanat hashuk* was a broad one, applying to any case where the buyer cannot be accused of foul play, of knowingly or semi-knowingly buying a stolen object for his own benefit. Your depiction implies that the

3. Ibid. 368:1.

4. See Rama, *ibid.* 356:7.

5. *Shulchan Aruch* *ibid.* 2.

6. Ibid.

7. See Rama, *ad loc.*

buyer's intention seems to have been reasonable. From the general approach of the *poskim*, it appears that the more inclusive outlook on the *takana* is correct. Thus, we believe (bearing the caveat above in mind) that 3 has a right to demand the 1,500 shekels from 4, whether or not the latter had experienced *yei'ush*.

J-7: Allocation of Partial Payment between a Principal Professional and Subcontractors

Question: I am an architect who routinely hires consultants (structural engineers, etc.) in order to draw up safe, complete plans. I did a rather small plan for a client that required, as stated in the contract, consultation with engineers. The engineers' fees, which could not have been determined before work commenced, were not specified. In the end, the fee for the engineers' work, which turned out to be crucial, was close to my own charge for the plans. The client paid only for the stated architectural fees and has refused to pay for the engineers' work, saying he does not believe that a simple job should require such elaborate consultation, and he suspects we are grossly overcharging.

Usually, an architect does not pay his consultants until the money comes in, a practice about which I have some qualms. Should I pay the engineers out of my own pocket? They (devout, ethical non-Jews) have kindly told me that they want me to be paid before they are, but I want to do the right thing. On the other hand, at this stage in my career, the loss I would incur by paying them would be a sizable chunk of my earnings, money I need for my family.

Interim Response: We salute you in the most enthusiastic terms for your resolve to do the right thing. According to *halacha*, you certainly are not *required* to pay someone who is willing to forgo payment, at least for now. However, business ethics is a matter that needs strengthening, and it is important to conduct oneself properly even when there is an excuse not to, including that the money can be used for good things. If more people would think like you (hopefully, many already do and/or will soon), we could look forward to having Jewish businessmen referred to as “devout,

ethical Jews.” We trust HaShem to enable us to support our families despite, or actually, because of the fact that we do not work on Shabbat, we pay for Jewish education, and we make other financial sacrifices in order to live by the Torah. In the same spirit, we should sanctify His Name by doing the morally right thing and trust Him to enable us to survive and even prosper in this world and receive our ultimate reward in the World to Come. Pragmatically speaking, as well, a reputation for integrity is a good asset, which you deserve.

We need to clarify the following before answering:

Do you serve as a middleman between clients and consultants, or do you hire the consultants on your own and include their charges in your total fee?

Do you make any stipulations with your consultants about payment conditions?

Are there clear standards among architects and engineers regarding cases of partial payment or non-payment by a client?

Do you feel you were at all negligent in your handling of the work done by the engineers and the preparation of the client for the possibility of a larger than expected charge? If so, how?

Question (Part II): The engineers and I have no written or even detailed oral agreement, but we both assume to be working within the accepted practice. The American Institute of Architects (AIA) told me that their standard contract states that the architect should pay the consultants according to the percentage of money received from the client and diligently pursue the remainder of the payment. They provided no information to fit this exact case.

Answer (Part II): Your responsibility to subcontractors is as an agent and, thus, you are not required to compensate them out of your pocket when a client refuses to pay. This is confirmed by professional practice and by the AIA standard contract.

The client was required to pay you, partly on your own behalf and partly on the engineers’ behalf. When one receives partial

payment in such an arrangement, how is the money to be allocated? The *Shulchan Aruch*¹ rules that a creditor who receives payment which suffices only for one of two debts from a single debtor has the authority to determine to which debt the payment relates, even if the determination differs from the intention of the debtor. The Rama² applies this even to a case where someone else was the creditor of the second debt. Thus, halachically, in the absence of pertinent accepted practice, you would have been *able* to keep the entire payment for your architectural services. However, this is not always the right thing to do.

Furthermore, your case differs from the standard one in the following way: An agent who arranges that A will work for B can obligate himself to pay A personally for the work done.³ While this is not fully the case in your situation, it is so partially. The AIA contract obligates the architect to give his consultants a proportional share of the funds received. As you accept this contract as the fair industry standard, it is as if you agreed explicitly to forgo your right to keep all of the payment.

There is another element to consider. Although we learned that the collecting creditor can determine the complex payment's nature, the debtor's stated preference is relevant to the desired, ethical determination. Specifically, although convention does not allow you to demand payment for yourself first, if it is the client who refuses to pay the consultants, it seems logical that you could accept payment for yourself in the meantime. (A clear, public ruling of the AIA to the contrary would overrule our logic.)

At first glance, this is your situation, as your client feels that he has gained from your work but not significantly from the engineers' work. However, upon further consideration [*Editor's Note – the description of the case is abridged*], this seems to be an oversimplified perspective. The client does not seem to question

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1. *Choshen Mishpat* 58:4.
 2. *Choshen Mishpat* 83:2.
 3. *Bava Metzia* 76a.

the quality of the engineers' work, rather the broad mandate they were given or took upon themselves to investigate engineering issues beyond the client's interest, and he blames you at least partially for this.

For our purposes, it is important to know how the client would answer the following questions, regardless of whether he is right in his thinking:

Did you intend that the payment should go to the architect and that the engineers should receive little or nothing?

Alternatively, do you feel that the total amount paid represents the value of services rendered, that neither the architect nor the engineers acted properly, and so they should be left to figure out how to divide the money?

If the latter is true, as it sounds, then the AIA standard that the architect should not take a proportionally higher percentage of the payment than the engineers is again pertinent; you would essentially be splitting the loss and, while you both might be disappointed, you would both receive some compensation for your efforts. If the client's refusal to pay in full is simply a disingenuous excuse, then the AIA standard again applies, as the supposed payment for only one service is actually a partial payment for both.

J-8: Paid Vacation for Yom Kippur

Question: In my place of work, in addition to ten regular, paid general holidays, they also pay those who take off for Yom Kippur and a day of Rosh Hashana. The employment agreement states that if a general holiday falls during an employee's vacation, he can choose between an additional vacation day and being paid extra for not utilizing all of his vacation days. The employers feel that they do not have to give these options for Yom Kippur, even though it fell on Saturday, when the business is closed. They also say that it is forbidden for a Jew to be paid for a Jewish holiday, and that I should not have the right to extra salary or an alternative. Is it actually forbidden?

[Editor's Note – The question was shortened and does not quote verbatim the pertinent clauses from the contract.]

Answer: A Jew must not only refrain from forbidden activity on Shabbat and Yom Tov, but also may not receive direct pay for permitted work he performs on those days. The commercialization of permitted activities causes them to be included in the prohibition of commerce on these days.¹ One may not receive payment even for renting out utensils for Shabbat, even if no Jew uses them for any type of work.²

It is possible to circumvent the prohibition in most cases. If the pay relates not only to Shabbat or *Yom Tov* but also includes work or rental during the week, then the problematic payment is “swallowed up” in the permitted payment.³ There is much to say about when a payment is deemed directly linked to Shabbat

1. Rashi, *Ketubot* 64a.
2. *Shulchan Aruch, Orach Chayim* 246:1.
3. *Ibid.*

and when not, but we will see that there is no need to elaborate further in this case.

In truth, one is not really paid for vacation days. Rather, one is paid for the work that he does during the period of a year (usually), with the payment dispersed throughout. The employer realizes that his workers need time off for recreation, family needs, and religious and/or civil observances. He thus pays his employee for a year's work, taking into account that out of 365 days, he allows him not to work on vacation days. Thus, in reality, you are simply not being penalized for the day off, whether it is the civil New Year, the Jewish New Year, or Yom Kippur. Even if you did get paid extra for Yom Kippur falling on Shabbat, it would be because of an additional benefit that some employers give. The rationale is that one who has less leisure time than he "deserves" is compensated for his expanded work schedule by an increased salary. You are not being paid for doing something on Yom Kippur, and there is no halachic problem to receive payment. There would be a serious question if a Jewish worker asked his Jewish employer to pay him overtime for work he did on Yom Kippur. That sensitive issue is not included in the question you raised.

However, the following consideration is crucial to keep in mind. (Because several items are unclear in your question, we respond provisionally.) Not only are you not being docked pay for Rosh Hashana and Yom Kippur, but these days are not even deducted from your general vacation time. You are not even being asked to come in on gentile or civil holidays to make up for your extra absences. This is a generous arrangement, which not all observant Jews are awarded. Thus, it seems highly inappropriate to attempt to turn this special privilege, which is intended not to interfere with your religious observances, into an opportunity to make extra money or get extra days off that others cannot. Please realize that less than 100 years ago, Jewish employees were forced, sometimes sadistically, to choose between keeping Shabbat and Jewish holidays and being fired. We should be thankful that many elements of society are as accommodating

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to us as they are, especially in your case. If our understanding of your situation is correct, then it is wrong and likely a desecration of HaShem's Name and a debasement of our people's character to try to enforce the wording of the contract⁴ to take advantage of your employers' good will.

4. We do not intend to serve as legal counsels to analyze its language.

J-9: Keeping Money That Was Returned in Anger

Question: I went to a private beach with friends during the off-season, and the proprietor told us that the area was for men only. We paid 70 shekels for the whole day. After two hours of swimming, a group of women arrived. We left the water and went to the office to find out what was happening. The proprietor denied having said it was a separate swimming beach. (I know he was lying.) Instead of apologizing, he angrily returned our money in full, which we had not demanded, and told us to leave. Do I have to find a way to return part of the money, corresponding to the amount of time we enjoyed ourselves?

Answer: This question involves many complicated halachic issues. In this forum, we can only outline the basis for our ruling. Our analysis presumes your description of the events, as you need to know what to do from your perspective, and this does not constitute a ruling of a *din Torah*.

Certainly, your agreement to pay was a *mekach ta'ut* (a transaction based on misrepresentation) and does not bind you. However, even without an agreement, when one uses another's property for his benefit, it sometimes obligates him financially. Your presence at the beach did not cause the proprietor any loss, and there is a concept that one who benefits from his friend's property under such conditions is exempt from paying.¹ However, since the proprietor clearly disallows use of his beach without payment, and since you agreed to pay for its use, it is logical that you be expected to pay for the benefits you received.² How to appraise the value of those two hours, taking into account the upsetting circumstances of having to leave the beach abruptly, is subjective;

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1. *Shulchan Aruch, Choshen Mishpat* 363:6.
 2. Based on *ibid.* 6 and 8.

you can evaluate it better than we can. The subsequent unpleasantness in the office does not factor in because it occurred after the possible obligation took hold, just as, generally, the trouble and expense of adjudication is not factored in.

The next question is whether the return of the money was a valid *mechilla* (relinquishment of rights), a present, or neither. (We are operating under your assumption that the person you dealt with was the proprietor; otherwise, it is even less clear that the *mechilla* would be valid under these circumstances.) The Rama³ cites Rabbeinu Yerucham's *suggestion* that *mechilla* out of anger is invalid, as it is not done in a thought-out manner. From the halachic discussion on the matter, it appears that the application of this position depends on the particulars of the case.⁴ Here, *mechilla* occurred with an action⁵ by someone who realized that he would not be able to subsequently retrieve the money. In addition, despite his anger, the proprietor probably understood that, after deceiving you, the honorable thing was to refund all the money. Therefore, there is a strong case for assuming that this angry *mechilla* was valid.

Even if you technically owe the money, the matter is not simple. The *K'tzot HaChoshen*⁶ says that when one owes money but the creditor has not asked for it, there is no practical obligation to pay. Admittedly, some disagree,⁷ and his reasoning does not seem to apply to a case where the creditor cannot request the money (e.g., he does not have contact information). However, even if we say that the *mechilla* is invalid, it just means that he can reverse his refusal to receive payment. The status quo, though, is that until then, one is not obligated to pay. Thus, you may be able to rely on the likelihood that he has not actively decided that he desires

3. Ibid. 333:8.

4. See *Pitchei Teshuva* ad loc. 17.

5. Returning the money, which is more convincing than a simple declaration.

6. 104:2.

7. *Netivot HaMishpat* ad loc. 1.

payment. Since contacting him might reignite hard feelings, it is not necessarily a good idea to try to find out.

When one is holding someone else's money, he does not have to go to the other person's location to return it unless the money came to him as a favor or through a promise to pay.⁸ Therefore, even if you decide to pay, you can at least wait until you pass by the beach again.

Due to a combination of the factors we mentioned (and a couple, possible others that we omitted), we do not feel that you are required to make efforts to return any part of the fee.

8. Compare *Shulchan Aruch, Choshen Mishpat* 74:1 and *ibid.* 293:1–2, and see *S'ma* 74:1.

Section K:
Hashkafa
(Jewish Outlook)

K-1: A Choice of Professions

Question: Is it proper according to *halacha* and *hashkafa*¹ to be a professor of secular subjects such as political science or language? Is such a profession *bitul Torah*?²

Answer: We have to discuss this matter on different planes. Your question about *bitul Torah* indicates an approach that one should occupy himself professionally only with the study and/or teaching of the Torah or some other *mitzva*.

In fact, the *gemara*³ states clearly that a father is commanded to teach his son a vocation; obviously, then, having a vocation is considered positive. The *mishna* in *Avot*⁴ warns of the danger of learning Torah without taking natural steps to support oneself. (Accepting financial assistance to intensively engage in the important *mitzva* of study Torah for an extended period without working is beyond our present scope. Indeed, it is problematic to be paid for performing *mitzvot*.⁵) It is evident from the *gemara*'s discussion of recommended occupations⁶ that they need not be *mitzva*-related. Rather, they should enable one to live honestly without compromising moral or religious values.

It is important to keep priorities straight and make the study and fulfillment of Torah one's primary concern qualitatively and, to the degree possible, quantitatively.⁷ Few succeed in fulfilling this important directive optimally. However, the failure to achieve perfection does not mandate discarding the system that *Chazal* foresaw for the average person.

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1. Jewish philosophy.
 2. Taking time away from Torah study.
 3. *Kiddushin* 29a.
 4. 2:2.
 5. *Kiddushin* 58b.
 6. See *ibid.* 82a.
 7. See *Berachot* 35b; *Shulchan Aruch, Orach Chayim* 156:1.

The deterioration of Torah values in Jewish communities throughout the world requires one to make efforts to strengthen his own and his surroundings' commitment to these sacred values. This includes considering to what extent one's choice of a profession strengthens not only himself and his family (no small feat) but also other Jews. The most direct way is by choosing some sort of Torah or community related occupation. However, the possibilities for bringing about a *kiddush Hashem*⁸ are vast. The fields one might teach could be of value and open doors for a variety of important contributions. The impression that a God-fearing Jew makes in the eyes of Jewish and non-Jewish students and colleagues can have untold value.

It is unwise for one who does not know your setting, options, and strengths to suggest a field that maximizes the use of your God-given potential. You should discuss the matter with idealistic yet realistic people who know you, and you should give it serious deliberation. In any event, the fields you mentioned need not cause significant problems of *halacha* or *hashkafa*.

8. Sanctification of God's Name.

K-2: Knowing How to Lovingly Disagree

Question: Throughout the millennia, we have awaited the coming of *Mashiach*. Of late, people who are Torah observant are talking about hastening the *geula* (redemption). I heard that Rav Kook wrote that this requires *ahavat chinam* (love without a specific reason) among all members of *Klal Yisrael* (the Jewish Nation). How can each of us cultivate *ahavat chinam* and learn to disagree as Hillel and Shammai¹ did?

Answer: Our inclination is to agree with you wholeheartedly and unconditionally. However, to be intellectually honest, we can agree only wholeheartedly, but not unconditionally, as we will explain.

There is little question that *ahavat chinam* is an extremely important concept to implement. This phrase was adapted from *sinat chinam* (baseless hatred), which, according to the *gemara*,² was responsible for the destruction of the second *Beit HaMikdash*. Hatred of our brethren may be baseless. However, love for our fellow is not without foundation. The Torah requires it,³ and it is logical to love one who shares with us history, destiny, and (hopefully) values.

Rav Kook apparently (coined or) popularized the phrase, expressing his conviction that just as *sinat chinam* caused destruction, *ahavat chinam* is the antidote that will promote healing and rebuilding.⁴ This forecast certainly gives us the impetus to demonstrate *ahavat chinam*. However, we trust that love for members of *Klal Yisrael* also exists for its own sake, as a *mitzva* and as the natural feelings of one with the right mind-set, which

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1. Two prominent early *Tanna'im*, who disputed many critical issues but maintained respect for and good relations with one another.
 2. *Yoma* 9b.
 3. *Vayikra* 19:18.
 4. *Orot HaKodesh*, III, p. 324.

Rav Kook certainly intended. Rav Kook epitomized *ahavat Yisrael* and showed much love even to his ideological opponents (to the “right” and the “left”), even while many of his colleagues took a more combative approach.

Nevertheless, we would be doing Rav Kook and ourselves a disservice if we thought that he never had harsh words to say about a fellow Jew. As a leader, he at times spoke out sternly in public against those who had gone over the line, thus warranting such a response.⁵ He certainly retained his love even as he rebuked.⁶ The same is true of Shammai, Hillel, and their academies. The *mishna*⁷ relates that despite their far-reaching disagreements regarding family status, they cooperated with each other so that their children would be permitted to marry *those not in question* within the other camp. The *gemara*⁸ attributes the *pasuk* of “the truth and the peace you shall love”⁹ to the affection between the two. However, there are sources¹⁰ that speak about harsh tactics that one side took against the other when they thought the consequences were pressing.

How does one know when to employ the tolerant approach and when the forceful one? We do not know fully, but allow us to share some guidelines. 1. One should not hypocritically take a harsh approach when it affects a personal interest and a mild one when it affects “only” HaShem’s interests.¹¹ 2. One should take into consideration the possibility that his views are not necessarily 100% correct or that the other side is 100% wrong. 3. One should exhaust other options and pray that he will not need to take steps that can trigger conflicts and for the wisdom to act effectively and sensitively. 4. One should weigh the damage that

5. See, for example, *Otzrot HaR'iyah*, p. 1137.

6. Also, see the Ramban’s introduction to his commentary on the Torah.

7. *Yevamot* 13b.

8. *Ibid.* 14b.

9. *Zecharya* 8:19.

10. Including *Yerushalmi Shabbat* 1:4.

11. See the strong words of admonition in *Sanhedrin* 103b.

conflict might cause, which is usually far greater than the average person realizes. 5. As is attributed to Rav Kook, it is better to err on the side of *ahavat chinam* than on the side of *sinat chinam*.

We hope that these principles help (or at least do not hurt) and that we will soon be able to hear *Eliyahu HaNavi*'s solution to the dilemma of balancing the aspiration for peace with the need to "fight" for ideals.

K-3: Can Divine Decrees Be Changed?

Question: I have heard that the length of a person's life, whom he will marry, and other things are decreed before birth, but that the Divine decrees can be changed. Please clarify the Talmud's view on this issue.

Answer: In such a broad subject, we can only get you started with talmudic references. The *gemara*¹ does state that forty days before the creation of a child, a Divine voice announces: "The daughter of such-and-such will be the wife of so-and-so." Yet, the Talmud² also rules that one may betroth a woman during the intermediate days of a festival out of concern that if he delays, someone else will betroth her first. The *gemara* asks: Since the matter is predetermined, why should one fear losing his predestined wife? It answers that he can be concerned that someone will preempt him by asking for Divine mercy.

The Talmud in *Yevamot* 50a mentions a dispute on the explanation of the verse "I will fill the number of your days."³ Rabbi Akiva explains that each person has a maximum life span, which can be reduced or completed. The Rabbis say that the set life span can even be increased. *Tosafot* point out that whereas one's maximum life span is strongly predetermined,⁴ it can be changed (on rare occasions) by a particularly meritorious act.

Regarding wealth, *Nida* 16b states that it is indeed determined before birth. On the other hand, *Beitza* 16a states that a person's income for the year is set on Rosh Hashana, which implies that it depends on his merits at that time. (How HaShem correlates between merit and dollars is certainly beyond our comprehension).

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1. *Sota* 2a.
 2. *Mo'ed Katan* 18b.
 3. *Shemot* 23:26.
 4. *Mo'ed Katan* 28a.

However, even that can be changed. Otherwise we would not ask for economic success three times a day in *Shemoneh Esrei*.⁵

Berachot 10a tells an incredible story, which impacts our discussion. The prophet Yeshayahu informed the great king Chizkiyahu that he would die prematurely because he refused to have children. Chizkiyahu justified himself by saying that he foresaw with Divine inspiration that the child he was to have would be wicked. Yeshayahu rejected the excuse, saying, “What business do you have with HaShem’s secrets? That which you are commanded (to have children) you should do, and what HaShem wants He will do.” The *gemara* continues with the king’s response that he was willing to have children but wanted to marry Yeshayahu’s daughter so that their combined merit might override the predetermination that his son would be wicked. He rejected Yeshayahu’s claim that it was too late to undo the decree of death by citing a family tradition from King David that even when a sharp sword is placed on one’s neck, he should continue to pray for rescue. Indeed, Chizkiyahu did live and marry (and have a wicked son). We see here the complex interrelationship between decrees and the ability to change them. Certainly, on the point of wickedness, no one is forced by decree to sin, as the Talmud⁶ states, “All is in the hands of HaShem except for the fear of HaShem.” However, a prophet may be able to foresee what a person will chose.

We do not know with any certainty why HaShem makes a given decision. We also do not know exactly which of our actions will alter which aspects of our life for better or for worse. However, we do know the direction needed. As we say on the High Holy Days, “On Rosh Hashana our decree is written, and on Yom Kippur it is sealed: ...who will live, who will die...repentance, prayer, and charity can remove a harsh decree.”

5. See *Rosh Hashana* 16a and *Tosafot* ad loc.

6. *Berachot* 33b.

K-4: Reconciling Modesty With Self-Promotion

Question: I am a young rabbi, and I have begun looking for rabbinical positions. I have tried to work on my *anava*,¹ but now people advise me to write an impressive résumé and stress my talents to potential employers. Wouldn't doing that make me be leading a double life, or is there some fallacy in my thinking?

Answer: The *midda*² of *anava* is extremely important and, according to some, is the most important *midda*.³ Going through the classical sources⁴ on *anava* and its opposite, *ga'ava*, one finds clearly that humility relates primarily to what one thinks and feels, rather than what he says. Speech is just one way by which a person makes his feelings known to others. The offense of haughtiness is in not only the way it makes others feel but also, philosophically, in how one views himself within HaShem's world. The perfect God created a world in which each person has the potential to leave his mark, but he should not view himself as the ruler or the center of the little world around him. Failure to understand this is an affront to the Creator and Ruler who commanded man to consider other individuals and the community.

Let us give two of many sources that illustrate some of these ideas. R. Yochanan says⁵ that whoever is haughty is as if he denies the existence of HaShem, as is written, "Your heart will be high, and you will forget HaShem, your God." This places haughtiness in the theological realm, as we have posited. The *gemara*⁶ says, "Wherever you see HaShem's greatness, you see His humility." It

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1. Humility.
 2. Attribute.
 3. Avoda Zara 20b.
 4. Such as in the Maharal's *Netivot Olam* and *Orchot Tzadikim*.
 5. *Sota* 4b.
 6. *Megilla* 31a.

then cites *p'sukim* that extol HaShem's greatness, followed by a *pasuk* that says that HaShem loves and helps the stranger. If humility depends on what one says about himself, this is contradictory. How is HaShem humble if He says in His Torah that not only is He great, but He also cares for the weak? Rather, the *gemara* means that HaShem does not use His greatness to build Himself up but to help others. *Ga'ava*, then, is about being self-centered. To think just about oneself and look down upon others, on one hand, but speak humbly, on the other, is hypocrisy, not humility.

There are complex guidelines for speech as well. It says in *Mishlei*,⁷ "Others should praise you, but not your mouth." However, there are exceptions to the rule. The *gemara*⁸ says that in a place where a Torah scholar is not known, he may identify himself as such. *Tosafot*⁹ raise an apparent contradiction between two *gemarot*: *Bava Metzia* 23b says that one can/should lie rather than tell how much Torah he has learned. *Kiddushin* 30a says that when one is asked a question, he should answer with confidence, not hesitantly. This implies that he should display his greatness in Torah. *Tosafot* answer that when there is no purpose for others to know of his scholarship, he should hide it. When others should know that one is a *talmid chacham*, he should let it be known. If one is fortunate, he will not have to say so himself, which would be uncomfortable for one with internal humility. If he needs to, he should find an appropriate way to make the information available.

Using a résumé and a confident (not haughty) presentation of one's accomplishments and qualifications is appropriate to secure a job. It is better to offer hints or to cite facts than to make a self-appraisal. Keep in mind that a rabbi must ensure that his class or congregation knows it can rely on his expertise.

This approach is true not just for job interviews. For example,

7. 27:2.

8. *Nedarim* 62a.

9. *Kiddushin* 30a.

LIVING THE HALACHIC PROCESS

the head of an institution that needs money to continue its work has an obligation to its projects and dependents to convince potential donors that it is a wise philanthropic choice to support its operations. If he does so too openly, he will be viewed as lacking *anava*. If he does not feel uncomfortable doing so, he may have lost their internal *anava*. In summary, in your case, we suggest that you articulate your qualifications, as *necessary*, now and in the future – and continue to feel uncomfortable about it.

Glossary/Index

A

- Acharonim** – the Talmudic and halachic scholars who lived from the 16th century until our days.
- Adar** D-13, H-12 – the month in the Jewish calendar that is repeated in a leap year and in which the holiday of Purim falls.
- agorot** G-6 – the smallest currency denomination in the State of Israel. 100 agorot equal one shekel.
- ahavat chinam** K-2 – love of another person without any specific agenda or known reason.
- ahavat Yisrael** K-2 – love of one's fellow Jew or the nation as a whole.
- Al HaMichya** C-3 – the blessing recited after eating grains not prepared as bread.
- aliya** (pl. – **aliyot**) A-3, A-10, A-12, A-13, A-15, A-16, H-7, H-12 – when a man is called up to the Torah to bless before and after a section of its public reading; D-8 – Jewish immigration to the Land of Israel.
- alot hashachar** D-1, D-19, D-20 – the halachic beginning of the morning, somewhat more than an hour before sunrise.
- Amalek** D-13 – the arch-enemies of the Jewish People.
- amen** A-6, B-7, H-13 – the response to a blessing, expressing agreement with its content.
- amira p'nochri** C-22 – telling a non-Jew to do something that is forbidden for a Jew to do.
- Amora** (pl. – **Amora'im**) – a rabbinic scholar of the Amoraic period, from approximately 200 – 500 CE.
- amot** (sing. – **amah**) C-12, H-7 – cubits; a measurement with applications in several halachic contexts. The standard

opinion is that each is approximately a foot and a half (45 centimeters).

anava K-4 – humility.

Aneinu A-1 – a prayer recited on fast days.

ani Pdodi... G-4 – a famous verse (*Song of Songs* 6:3) expressing one's love for his beloved. In the original context, it refers to the love between Israel and God.

Anshei K'nesset HaGedola A-1 – lit. “Men of the Great Assembly”, a body of the leading Torah sages at the beginning of the Second Temple era.

aravot D-6 – willow branches, which serve as one of the four species that a Jewish man is obligated to hold daily during the holiday of Sukkot.

arel I-3 – a Jewish male who has not been circumcised.

aron (kodesh) G-6, H-6 – the closet-like chest in which Torah scrolls are kept.

arvut D-2 – the mutual obligation that one has for his fellow.

Asher Yatzar D-20, H-10 – the blessing one recites after using the bathroom.

Ashkenazi a Jew of Eastern European origin.

Ashrei A-15 – an important prayer, recited three times a day.

aveida J-5 – a lost object.

aveil (pl. – **aveilim**) I-2 – a mourner.

aveilut I-2 – the period of mourning and the laws and atmosphere that apply at that time.

aveira (pl. – **aveirot**) D-4, E-3 – sin.

B

ba'al korei A-7, A-12, A-13, A-15, A-16 – one who publicly reads the Torah for the congregation.

ba'al kerī G-3 – a man who became impure from a seminal discharge.

ba'al tokei'a (pl. – **ba'alei tokei'a**) D-2 – one who blows the shofar.

- baraita** a Talmudic text from the time of the *Tanna'im* that was not incorporated into the *Mishna* or the *Tosefta*.
- bar mitzva** D-22, G-12, H-12, J-5 – one who is old enough and competent to be obligated to perform *mitzvot*. It also refers to the point at which one reaches that stage and the celebration that accompanies it.
- Barchu** A-2, A-12, A-14, D-24 – a responsive declaration of praise.
- baruch HaShem** thank God.
- Baruch k'vod...** A-2 – a verse that is recited during the prayer of *Kedusha*.
- batel** D-5, E-9 – the status of a [forbidden] object being nullified and thereby losing its halachic status.
- batel b'shishim** E-9 – the state of an object's halachic status being nullified when it is overpowered by 60 times more of another object.
- Bavel** A-11 – Babylonia, where the most important Jewish community of the Diaspora existed in Talmudic times.
- b'di'eved** A-6, A-7, A-11, A-16, D-6, E-7 – after the fact; a situation that one is supposed to avoid, but after the situation has already occurred, it may be halachically acceptable under the circumstances.
- bedikat chametz** D-14 – the *mitzva* to check one's house for *chametz* before the Pesach holiday.
- bein hashemashot** C-2, I-4 – twilight; the time that is halachically considered neither definite daytime nor definite nighttime.
- Behab** D-21 – the practice of fasting on Monday, Thursday, and the subsequent Monday after Pesach or Sukkot.
- beit din** D-6, J-3, J-6, H-1 – a rabbinical court, which may rule on a variety of matters, often on monetary disputes.
- beit k'nesset** (pl. – **batei k'nesset**) A-2, D-7, G-1, H-8 – Hebrew for the Yiddish, *shul* – a synagogue, where Jews assemble to pray.
- Beit HaMikdash** A-4, C-2, C-17, D-3, D-11, E-11, H-3, H-9, I-2 – the Holy Temple in Jerusalem. The first one was destroyed

c. 2600 years ago; the second one c. 2,000 years ago. We pray for the building of the third and final one.

bentch B-5, I-4 – Yiddish for reciting *Birkat HaMazon*.

beracha (pl. – **berachot**) (see table of contents for section B on *berachot*) A-1, A-2, A-4, A-5, A-6, A-8, A-9, A-14, A-15, A-16, C-3, C-8, C-9, C-22, D-4, D-10, D-11, D-18, D-19, D-20, D-24, E-3, G-5, G-10, G-11, H-9, H-10, H-11, H-13, I-4) – a blessing. There are a few categories of *berachot*, and they may be recited periodically or under certain circumstances.

beracha acharona (pl. – **berachot acharonot**) B-3, B-4, B-5, B-6, C-3 – a blessing recited after one eats.

beracha l'vatala (pl. – **berachot l'vatala**) A-6, B-6, G-3 – a blessing that was recited in such a manner that it was of no value. It is forbidden to do so.

beracha rishona B-3, B-4, C-3 – a blessing recited before one eats.

berya E-9 – an object that constitutes a full unit, giving it a special halachic status regarding such things as *bitul* (nullification).

besamim D-24 – fragrant herbs or branches. One smells them after Shabbat to “revive” the soul after the passing of Shabbat.

Beshalach D-13 – the name of one of the Torah portions.

bikur cholim D-2 – visiting the sick, which is a *mitzva*.

bima G-1, H-6 – the platform and/or the table in the middle of the synagogue upon which the Torah is read.

bimheira b'yameinu D-8 – quickly, in our days. This is used to express the fundamental wish that the final redemption will come soon.

Birkat HaGomel A-15, B-7 – the blessing recited publicly (usually during Torah reading) after emerging safely from a potentially dangerous situation.

Birkat HaMazon A-8, B-1, B-2, B-5, G-3 – the series of blessings recited after eating a meal that includes bread.

Birkat Kohanim A-8 – the priestly blessing, recited by the descendants of Aaron during the repetition of *Shemoneh Esrei*.

Birkot HaShachar D-20 – the series of blessings recited before morning prayers, thanking God for providing the basic necessities of life.

birkot haTorah A-8, D-20 – the blessings recited before the study of Torah each new day or before and after the formal public reading of the Torah.

bishul akum E-6, E-10, H-9 – food that is forbidden because it was cooked by a non-Jew.

bitul D-5, E-9 – the process by which something is rendered *batel* (see entry).

bitul b'shishim E-2, E-3 – the process by which something is rendered *batel b'shishim* (see entry).

bitul Torah K-1 – the wasting of time that should have been spent on Torah study.

bizuy mitzva G-8 – a disgrace done to a *mitzva* or an object connected to it.

blech C-18 – a sheet of metal used to cover a flame on Shabbat to solve certain halachic problems.

bnei chutz la'aretz A-10 – people whose halachic status is of permanent residents of the Diaspora.

bnei Eretz Yisrael (sing. – **ben Eretz Yisrael**) A-11, D-7, D-8 – people whose halachic status is of a permanent resident of Israel.

boneh C-13 – the prohibition of building on Shabbat.

brit see *brit mila*

brit mila D-2, I-3 – the *mitzva* of circumcision of Jewish males.

C

chabura I-5 – wound.

chag D-8 – a holiday or festival.

chakira C-18, H-9 – an analytical dilemma.

chamar medina C-7 – an important drink in a certain locale.

chametz D-16, D-14, D-17 – leavened bread or other grain-based food, forbidden on the holiday of Pesach (Passover).

chametz she'avar alav haPesach D-16 – *chametz* that was in

Jewish possession over the Pesach (Passover) holiday and, thereby, became forbidden.

Chanuka A-12, C-9, D-9, D-10, D-11 – the eight-day holiday in the early winter that commemorates the Hasmoneans' triumph over the Greeks, over 2,000 years ago, and the subsequent miracle that a small amount of oil lasted eight days.

chasser D-4 – missing; the situation whereby part of an *etrog* has somehow been removed.

chatzitza E-12 – an obstruction between the object or person being immersed and the *mikveh's* water.

chatzot D-1 – the astronomical middle of either the day or the night. It has halachic significance in a number of contexts.

Chazal a generic term for the Jewish scholars at the time of the Talmud (approximately 1–500 CE).

chazan A-4, A-6, A-7, A-8, A-9, A-11, A-15, H-12 – cantor.

chazarat hashatz A-2, A-6, A-11 – the repetition of the *Shemoneh Esrei* prayer by the cantor.

cherem H-1 – a ban.

cheresh H-13 – a deaf-mute.

chesed D-2 – an act of kindness.

Cheshvan A-11 – a month in the Jewish calendar, which falls in the autumn.

chillul HaShem A-13 – a desecration of HaShem, especially through the inappropriate behavior of a religious adherent.

chillul Shabbat C-1 – the desecration of the sanctity of Shabbat by violating its negative commandments. This is one of the most serious violations of halacha.

chinuch H-13 – the obligation to educate a child; the field of Jewish education.

Chol HaMoed D-8, D-16 – literally, the mundane of the festival; the intermediate days of the holidays of Pesach and Sukkot. These days contain some, but not all, of the halachic elements of the main days of the festival (*Yom Tov*).

chulent C-14, C-18 – a traditional Jewish food, especially for the Shabbat day meal.

chumra E-4 – stringency.

chutz la'aretz A-10, A-11, D-7, D-18, H-7 – the Diaspora (lands outside the Land of Israel).

D

dash C-11 – the prohibition of threshing on Shabbat.

davar charif E-7 – a food with a sharp taste.

daven/ing A-2, A-5, A-9, A-14, A-16, C-2, C-3, C-4, D-1, D-3, D-11, I-2 – Yiddish for pray/ing. The term '*davening*' can also refer to the liturgy as a whole.

dayan H-1 – a rabbinical court judge.

derech eretz C-3– lit. “the way of the world”; the proper behavior expected of a refined person.

din Torah J-4, J-9 – a monetary court case that is held before a rabbinical court.

d'var Torah (pl. – **divrei Torah**) D-11, D-22, G-4, G-7– an idea of Torah that is shared, formally or informally, between Jews.

E

Eicha D-24 – the book of *Lamentations*, dealing with the destruction of the First Holy Temple.

eiruv (pl. – **eiruvim**) C-12, C-16 – one of a series of rabbinic mechanisms that make it permissible to do what would have been a rabbinic prohibition had the mechanism not been implemented.

eiruv chatzeirot C-12 – a series of walls, poles, and strings, as well as an amount of food set aside, to make it possible for people to carry on Shabbat in the enclosed area.

eiruv tavshilin D-7 – the food prepared before a *Yom Tov* that allows people to cook from *Yom Tov* that falls on Friday for Shabbat.

eiruv techumin C-12 – the food placed in a certain location to enable one to walk a radius of 2,000 *amot* from that location instead of the place the person is found when Shabbat begins.

Eliyahu HaNavi K-2 – Elijah the prophet, who, we believe, will return at the dawn of the messianic era.

Elokai Neshama D-20 – one of the first blessings of the morning.

Elokai Netzor A-1 – the prayer that is said at the end of *Shemoneh Esrei*.

Eretz Yisrael D-7, D-8, H-7 – the Land of Israel. This can refer to the boundaries at various times in Jewish history, from biblical times till today. It is noteworthy that the current boundaries of the State of Israel are similar to the boundaries described in the Bible.

Erev... D-17, D-21, I-3 – eve of...

etrog D-4, D-6, C-17, F-1 – a specific citrus fruit (citron) that one is obligated to hold on the holiday of Sukkot.

even maskit D-3 – a stone upon which it is forbidden to bow down.

F

fleishig E-4, E-5, E-7, E-8 – Yiddish for a food that comes from or has absorbed taste from meat. It is forbidden to eat such a food together with milk products.

G

ga'ava K-4 – haughtiness.

gabbai A-6, A-7, A-12, F-2, F-4 – a person in charge of something (e.g. synagogue services, charitable funds).

gelila A-15 – the rolling up of the Torah scrolls after the Torah reading has been completed.

gerama G-7 – an indirect manner of something occurring.

gemara the section of the Babylonian Talmud that contains the discussions of the *Amora'im*.

geniza G-6, G-7, G-8 – the burial of sacred scrolls and objects.

geula K-2 – redemption.

gezeira (pl. – **gezeirot**) E-4, E-6 – a rabbinical injunction, created to minimize the chances that one will violate a Torah law.

gezeira l'gezeira E-4 – a rabbinical injunction whose purpose is to minimize the chances that one will violate a rabbinic law.

gud oh agud J-3 – the system of one partner challenging another to either purchase the other's portion or allow the former to do so.

H

hachana D-24 – the rabbinic prohibition of preparing on a holy day for the needs of a different day.

hachzara C-18 – returning a pot of food onto a fire on Shabbat.

hadar D-4 – the element of minimum beauty that must exist in the four species used on Sukkot.

hadasim D-4 – the myrtle branches that serve as one of the four species that a Jewish man is obligated to hold daily during the holiday of Sukkot.

haftara (pl. – **haftarot**) A-3 – the reading of a portion from the Prophets after the Torah reading.

hagba A-12, A-15 – the lifting of the Torah scrolls.

HaGefen B-3 – the blessing recited before drinking wine.

HaGomel see Birkat HaGomel

halacha (pl. – **halachot**) – the field of Jewish law; an operative Jewish law; the halachic opinion that is accepted as practically binding in the case of a rabbinic dispute.

Hallel A-15 – the series of psalms that are recited joyously on festivals.

HaMa'avir Sheina D-20 – one of the first blessings of the morning.

HaMavdil C-8, D-24 – the short, semi-formal declaration made at the end of Shabbat that allows one to do actions that are forbidden on Shabbat.

HaMotzi B-1 – the blessing recited before eating bread.

hana'a E-8 – benefit.

harba'a H-7 – the forbidden cross-breeding of animals.

hashavat aveida J-5 – returning a lost object.

- HaShem** – literally, the name. Common practice is to use this word to refer to God in order to avoid using His Name in inappropriate settings.
- hashkama minyan** A-14 – a group prayer done earlier than usual.
- hashgacha** (pl. – **hashgachot**) B-3 – supervision to ensure that halachic standards are being upheld.
- hashkafa** (see table of contents for section κ on *hashkafa*) – Jewish outlook.
- hatarat nedarim** D-2, F-2 – the process of annulling oaths, also used by those who want to stop adhering to a commendable religious practice that they accepted explicitly or implicitly.
- hatmana** C-14 – insulating hot food, which can be problematic on or before Shabbat.
- Havdala** C-8, C-22, C-20, D-24 – the blessing recited over wine at the end of Shabbat, which acknowledges God’s part in the transition from Shabbat to the weekdays.
- havla’a** C-20, D-6 – “swallowing up” of a problematic payment by including it in a not problematic one.
- hechsher** E-9 – certification that attests that halachic standards have been upheld.
- hefsek** B-1, D-18 – an interruption, often in the performance of a *mitzva* or between a blessing and that which it relates to.
- hesech hada’at** B-2, G-10 – removal of thought from an object or activity. This is a factor in ending the efficacy of a blessing.
- heter** (pl. – **heterim**) F-5, H-10 – the basis for halachic permission to engage in potentially problematic activity.
- hidur mitzva** D-9 – a preferred manner of performing a *mitzva*.
- im eshkachech...** G-4 – the verse (*Tehillim* 137:5) referring to the conviction never to forget Jerusalem.
- ishto k’gufo** D-10 – the talmudic concept that one’s wife is no different than himself.

K

- Kabbala** C-2, G-11– esoteric, mystical Jewish teaching and literature related to them.
- Kaddish** A-2, A-13, A-14, A-15 – a prayer (in which we sanctify God’s Name) that is recited by a member or members of the congregation (often by mourners).
- Kaddish Shalem** A-15 – the “full” *Kaddish*, which is said at the end of a *tefilla*.
- Kaddish Yatom** A-13 – the *Kaddish* traditionally recited by mourners.
- Kadosh...** A-2 – a verse that is recited during the *Kedusha* prayer.
- Kaparot** F-1 – the custom to slaughter a chicken and donate it or to donate money in place of the possible punishment of the person for whom it is given.
- kashrut** (see table of contents for section E on *kashrut*) – the field dealing with keeping kosher.
- katzatz** C-23 – setting a price for the work a non-Jew does for profit.
- kavana** A-9 – intent and concentration.
- kavush k’mevushal** E-9 – when something soaks for twenty-four hours, it is as if it was cooked in that medium.
- k’dai achilat p’ras** D-21 – the amount of time it takes to eat half of a loaf of bread.
- kedusha** F-2, G-4, G-5, G-7, H-6 – sanctity.
- Kedusha** A-2, A-9– a prayer recited during the repetition of *Shmoneh Esrei*.
- kedushat shvi’it** D-6 – the sanctity of the produce of the sabbatical year.
- kida** D-3 – bowing down without full prostration.
- Kiddush** B-3, C-2, C-3, C-4, C-7 – the blessing through which we sanctify Shabbat. It is recited over wine before the Shabbat meal both at night and in the daytime.
- Kiddusha Rabba** C-3 – the *Kiddush* that is performed on Shabbat by day.

- kiddush HaShem** A-13, K-1 – sanctification of God’s Name, especially through the appropriate behavior of a religious adherent.
- kilayim (kilei...– kilayim of ...)** E-3, H-7 – the prohibited mixing of species.
- Kinot** D-24 – the book of sad liturgy recited on Tisha B’Av.
- kinyan sudar** C-17 – an act in which one party hands over some utensil to his counterpart and thereby acquires rights or ownership of another object.
- klal** A-14 – the community or collective.
- Klal Yisrael** K-2 – the Nation of Israel (stressing the collective).
- kli** (pl. – **keilim**; **klei...– keilim of...**) C-13, E-11, E-12 – utensils.
- kli se’uda** E-12 – a utensil used in a manner that is related to a meal.
- kli shemelachto P’issur** C-21 – a utensil whose normal use is forbidden on Shabbat or Yom Tov.
- kli shlishi** C-11 – a utensil into which food was transferred from a utensil that itself had food transferred from a utensil that had been on the flame.
- kohen** (pl. – **kohanim**) A-12, A-16, F-3 – a member of the priestly tribe (who descend from Aaron). Members of this tribe have special religious obligations, roles, and privileges.
- korim** D-3 – the practice of bowing down with one’s head touching the floor during Rosh Hashana and Yom Kippur prayers.
- Kotel** A-2, C-21 – The Western Wall, remnant of the Holy Temple in Jerusalem.
- Kri’at haTorah** A-10, A-13, A-16 – the reading of the Torah during services in the synagogue.
- Kri’at Shema** A-5, A-14, C-2, H-10 – three sections of the Torah containing basic elements of our faith. The Torah commanded us to recite these sections every morning and evening.
- kugel** C-14 – a Jewish food that resembles a casserole or soufflé.

k'zayit B-5, C-3, D-15, D-21 – the size of an olive. This measurement has many halachic ramifications.

L

lain A-10, A-12 – Yiddish for reading the Torah.

lifnei iver [lo titen michshol] C-20, C-22, E-3 – the prohibition of facilitating another's sin.

lulav C-17, D-4, D-6, F-1, G-8 – a branch of a palm tree, which is one of four species that a Jewish man is obligated to hold daily during the festival of Sukkot (Tabernacles).

M

Ma'ariv A-4, C-2, C-9, D-11 – the evening prayer.

ma'aser see ma'aser kesafim

ma'aser kesafim F-1, F-3 – the recommended practice of giving one-tenth of one's earnings to charity.

machlokot (pl. – **machlokot**) – disagreement, in our context, concerning matters of scholarship.

machmir E-5, G-11 – rules strictly; he who is strict.

maftir D-13 – the last portion of the public Torah reading.

makeh b'patish C-13, C-19 – the prohibition of completing the making of a utensil on Shabbat.

marit ayin C-22, C-23, E-8 – giving an impression that one is doing something that is forbidden.

Mashiach K-2 – the Messiah.

matanot la'veyonim D-13, F-1, F-3 – the *mitzva* on Purim of giving donations to the poor.

matza (pl. – **matzot**) C-10, D-15 – unleavened bread. We are commanded to eat *matza* on Pesach (Passover).

mayim acharonim B-1, B-2, B-5 – water used to clean the fingers at the end of a meal.

mazal D-1 – one's fortune.

mazal tov G-12 – a blessing that means “have good fortune.”

mechilla J-9 – relinquishing monetary rights; forgiveness.

- mehirat chametz** D-14, D-16, D-17 – the sale of leavened bread or related foods before Pesach.
- mehirat yud gimmel** D-14 – a sale of *chametz* done earlier than usual, on the 13th of Nisan.
- mefarek C-11** the prohibition of extracting, specifically a liquid from a solid, on Shabbat.
- megilla, Megillat Esther** D-13 – The book of *Esther*, read on Purim.
- mehadrin [min hamehadrin]** D-10 – the optimal manner of lighting Chanuka lights.
- mekach ta'ut** J-9 – a transaction based on misrepresentation.
- mekach u'memkar** C-5 – commerce; literally, buying and selling.
- melacha** C-5, C-9, D-7 – an activity that the Torah prohibits on Shabbat.
- mevatel k'li meiheichano** C-6 – doing something to a utensil that makes it unusable on Shabbat.
- mezuzah** (pl. – **mezuzot**) G-9, G-10 – a scroll containing certain fundamental Torah passages. There is a *mitzva* to attach *mezuzot* to the doorposts of one's house.
- midda** (pl. – **middot**) K-4 – attribute.
- mikveh** A-5, E-12 – a specially constructed pool that removes ritual impurity from people and objects.
- milchig** E-4, E-5 – Yiddish for a food that comes from or has absorbed taste from milk. It is forbidden to eat such a food together with meat products.
- Mincha** A-4, A-15, A-16, C-2, D-11 – the afternoon prayer.
- minhag** (pl. – **minhagim**) A-7, A-11, A-13, B-5, C-9, C-11, C-15, D-1, D-2, D-8, D-9, D-10, D-11, H-4, H-8, H-12, I-2 – a custom.
- minhag ha'olam** E-4 – the accepted practice.
- minyan** A-2, A-5, A-8, A-9, A-14, C-2, D-11, D-13, H-8, I-3 – a quorum of ten men who pray together. A *minyan* is required in order to say certain prayers.
- Mi Shebeirach** A-15 – lit. “He who blessed...”; a blessing for someone's success or health.

mishlo'ach manot D-12, D-13 – the *mitzva* to send food goods to a friend on Purim.

mishna (pl. – **mishnayot**) – the most authoritative teachings of the Tanna'im (c. 1 – 200 CE).

mitzva (pl. – **mitzvot**) – a commandment; a good deed.

mitzva haba'a b'aveira D-4 – a *mitzva* that was facilitated by the violation of a transgression.

mitzvat aseï shehaz'man gerama C-8 – a time-dependent positive *mitzva*.

m'lo lugmav B-3 – roughly, a cheek full that looks like two cheeks full, or approximately 2 fl. oz.

Modim A-9 – one of the blessings of *Shemoneh Esrei*.

mohel D-2, I-3 – one who performs a circumcision.

mosif hevel C-14 – a medium in which heat is being added to the system.

Motzaei Shabbat C-8, C-22 – Saturday night, after the conclusion of Shabbat.

motzi D-7 – perform a *mitzva* in a manner that enables another person to fulfill the *mitzva*.

m'sayeï'a E-3 – one who aids in the performance of an action.

muktzeh C-21, H-2 – something that does not have a function on Shabbat and, therefore, may not be moved.

Musaf A-4, A-16 – the additional prayer on special days.

N

nachat H-4 – a good feeling, especially in regard to the accomplishments of a child.

navi C-17 – a prophet.

neder D-2, F-2 – an oath.

neirot Chanuka D-10 – the candles or wicks in oil that are lit on Chanuka to commemorate the ancient miracle.

nesachim C-7 – libations poured upon the altar in the Holy Temple.

neshama F-3, H-4 – a soul.

netilat yadayim B-1, B-3, C-4, D-20, H-10 – the procedure of washing one's hands in a certain way in certain circumstances.

Nine Days D-23 – the period of national mourning leading up to and including Tisha B'Av, the anniversary of the destruction of the Holy Temple in Jerusalem.

Nisan H-12 – the month in the Jewish calendar in which the holiday of Pesach falls.

nusach H-8 – specific texts and tunes used in the synagogue services, which differ from community to community.

O

omer D-18, D-19 – the seven-week period between Pesach and Shavuot, during which it is a *mitzva* to count the days.

oneg H-3 – physical enjoyment.

oneg Shabbat C-4 – the physical enjoyment one is to experience on Shabbat.

orla H-7 – fruit from a tree that is less than three years old. One may not eat or derive benefit from these fruit.

P

pa'ot H-13 – a child of a level of development that is normal for a six-year-old.

parasha (pl. – **parshiyot**) A-10, A-16, G-7 – the weekly Torah portion read on Shabbat; a specific Shabbat day or that which relates to it.

pareve E-4, E-5 – Yiddish for a food that is neither a milk product nor a meat product and, thus, may be eaten with either.

parochet H-6 – the curtain in front of the holy ark.

pasken Yiddish for rendering a halachic ruling.

pasuk (pl. – **p'sukim**) – a biblical verse.

pasul (pl. – **p'sulim**) D-4, D-5 – unfit

pat akum E-6 – bread that is baked by a non-Jew.

pat haba'a b'kisnin C-3 – cake and the like, which have some bread-like qualities and halachic status.

pat Yisrael E-6 – bread baked by a Jew.

perek – chapter

Pesach D-17 – Passover, the festival that celebrates the liberation of the young Jewish Nation from slavery in Egypt.

pikuach nefesh C-1 – danger to one's life.

pirsumei nisa D-11 – the publicizing of a miracle.

pishut yadayim v'raglayim D-3 – prostrating oneself so that his arms and legs are spread out on the floor.

pitam D-4 – the upper stem-like tip of the *etrog*.

posek (pl. – **poskim**) – scholars who regularly render halachic rulings.

p'sak a halachic ruling.

pruzbol H-11 – a halachic device to prevent the cancelling of loans at the end of the *Shemitta* year.

p'shi'a J-4 – negligence

p'sik reishei C-10 – actions that will necessarily but unintentionally cause a forbidden result.

P'sukei D'Zimra A-2 – the psalms and other biblical passages that are recited toward the beginning of the morning prayers.

p'sukim see *pasuk*

p'sulim see *pasul*

p'tucha A-16 – a break in the Torah text until the end of the line.

Purim Meshulash D-13 – the situation that arises when the celebration of Purim must be broken up over three days.

R

rav (pl. – **rabbanim**) – rabbi

reshut harabim C-16 – the public domain

reshut hayachid C-16 – the private domain

revi'it B-4, C-3 – a measure of liquid, approximately 3–4 oz.

ribbit F-5– usury, which the Torah prohibits.

Rishon (pl. – **Rishonim**) – a Talmudic or halachic scholar who lived between 1000 and 1500 CE.

Rosh Chodesh G-3 – the beginning of a Jewish month (lunar).

Rosh Hashana H-11, J-8, K-3 – the holiday that is both the Jewish New Year and the Day of Judgment.

R'tzei I-4 – a prayer that is recited as part of *Birkat HaMazon* of Shabbat.

ruach ra'ah D-20, H-10 – some type of evil spirit, which people are susceptible to in certain circumstances, including extended sleep and entering bathrooms.

S

safek berachot l'hakel D-18 – when in doubt as to whether one should make a blessing, he should refrain.

s'chach D-5 – the special roof that one puts on his *sukka* (booth) for the festival of Sukkot.

s'char Shabbat C-20 – earnings from Shabbat.

se'ah b'se'ah F-5 – a loan of articles in a manner that obligates the borrower to return the same type and amount of those articles.

Seder C-10, D-15 – the “order” of religious observances and feast on the first night(s) of Passover.

sefer (pl. – **sefarim**) A-13, D-24, G-1, G-2, G-4, G-6, G-8, H-8, J-2 – book, in our context, one that deals with Torah topics.

sefer Torah (pl. – **sifrei Torah**) A-12, A-15, C-19, G-1, G-4, G-6, H-6 – Torah scroll

sefira D-18, D-19 – short for *sefirat ha'omer*.

sefirat ha'omer D-18 – the daily counting of forty-nine days from the second day of Pesach until Shavuot; the aforementioned period of time itself.

segula H-4 – a spiritual/mystical positive device.

Sephardim Jews from the communities of North Africa, the Middle East and the Near East.

se'uda I-3 – a meal

se'uda hamafseket D-24 – the meal immediately before a fast.

se'uda shlishit C-3, D-24 – the third meal of Shabbat.

se'udat mitzva D-22, I-3 – a meal in honor of something that the Torah deems worthy of celebration.

sha'atnez H-7 – a fabric made of wool and linen, which is forbidden to wear.

- Shabbat** (see table of contents for section C on Shabbat) A-3, A-4, A-10, A-14, A-15, A-16, D-2, D-7, D-10, D-13, D-17, D-19, D-21, D-22, D-24, E-3, F-1, G-3, H-2, H-3, H-6, I-3, I-4, J-7, J-8 – the Sabbath; the time from sundown Friday until Saturday night. This day is hallmarked by its special observances, prayers, and many restrictions on different types of work.
- Shabbat Shira** – the Shabbat when *Parashat Beshalach* is read, within which we read about the falling of the manna.
- Shacharit** A-4, A-16 – the morning prayer.
- shaliach** D-12 – an agent whose actions are halachically considered as if they were done by the person who appointed him.
- she’at hadechak** C-2 – extenuating circumstances.
- Shavuot** A-10, D-18 – Pentecost; the holiday during which we celebrate the giving of the Torah on Mount Sinai.
- Shehakol** B-6 – the blessing recited before eating any of many foods that do not fit into any special category. Animal products and most drinks are included.
- sh’eila** F-2 – the *tzedaka* equivalent of *hatarat nedarim*, in which one professes regret about having made the oath and thereby uproots it with the help of an assembled court.
- Shemoneh Esrei** A-4, A-5, A-6, A-8, A-9, A-11, A-14, A-15, D-13, K-3 – the main section of the daily prayers, during which one “stands directly before God” to praise Him and make important requests.
- Shemitta** H-11, D-6 – the sabbatical year.
- shemittat kesafim** H-11 – the cancellation of loans at the end of the *Shemitta* year.
- Shehecheyanu** D-23, E-3 – the blessing on experiencing something new or cyclical.
- Sheva Berachot** I-4 – the period (usually a week) of celebration after a wedding; the seven blessings recited at the above celebration.
- shiur** D-15 – an amount of something that has a halachic significance.

- shiva** I-2 – the seven-day period of mourning after the death of a close relative.
- shiyur** J-1 – the idea of holding on to certain rights when one transfers an object to someone else.
- shofar** D-2, G-8 – the ritual “musical instrument” made of a ram’s horn that is used to blow certain types of blasts on Rosh Hashana.
- shomei’a k’oneh** A-6 – listening to a text is like reciting it.
- Shomei’a Tefilla** A-1, A-11 – one of the blessings of *Shemoneh Esrei*.
- shomer** J-4 – one who is entrusted with guarding another’s object.
- shomer chinam** J-4 – one who guards another’s object without charge.
- shoteh** H-13 – a lunatic
- shul** A-6, A-9, A-14, A-16, D-11, D-20, D-24, F-4, H-6, H-8, H-12, I-2 – Yiddish for synagogue.
- sh’vuat shav** G-3 – a meaningless oath.
- siddur** (pl. – **siddurim**) A-1, A-7, D-20 – prayer book
- sifrei kodesh** G-6 – holy books
- sifrei Tanach** A-7 – books in which all of the Holy Scriptures are found.
- sifrei Torah** see sefer Torah
- siman** a chapter in some books.
- simcha** H-3 – joy
- sinat chinam** K-2 – baseless hatred
- siyum** D-21 – the completion of a large section of Torah study and the related celebration.
- sof z’man Kri’at Shema** A-14 – the latest time one can recite *Kri’at Shema* at its proper time.
- s’tuma** A-16 – a break in the Torah text, which is resumed in the same line.
- sugya** J-2 – a Talmudic discussion.
- sukka** D-5, G-8 – the booth that we sit in on Sukkot (Tabernacles)

in commemoration of the period after the Exodus when the Israelites lived in the wilderness.

Sukkot D-4, D-6, D-7 – Tabernacles, the holiday during which we celebrate the Divine protection of the Jewish people during their sojourns in the wilderness, as well as the yearly harvest.

T

ta'anit bechorot D-21 – the fast day of firstborn males on the day before Pesach.

ta'arovet E-9 – a mixture of foods or objects.

Tachanun D-3 – a prayer recited after *Shemoneh Esrei*, during which people “fall on their face” due to its particularly plaintive nature.

takana J-6 – a practice of rabbinic origin intended to improve a certain element of life within the Jewish community.

takanat hashuk J-6 – a special rabbinical implementation that enables commercial affairs to run more smoothly than they would according to the strict law.

tallit A-15, D-20, G-4, G-8, G-11, G-5 – a four-cornered garment that is worn during prayers. As required by the Torah, it has special fringes.

tallit gadol G-5 – the more complete name of a *tallit* (see entry).

tallit katan G-5, G-8 – commonly called *tzitzit*, this is the four-cornered garment with special fringes attached, worn throughout the day.

talmid J-2 – a student

talmid chacham (pl. – **talmidei chachamim**) G-1, G-3, K-4 – lit., a student of the wise; a Torah scholar.

Tanach an acronym for the three sections of the Holy Scriptures: *Torah* (*The Five Books of Moses*), *Nevi'im* (*The Prophets*), and *Ketuvim* (*The Writings*).

Tanna (pl. – **Tanna'im**) – a rabbinic scholar of the Tannaic period (approximately 1–200 CE).

- tartei d'satrei** C-2 – adoption of two mutually exclusive halachic positions.
- tashlumim** D-13 – the make-up of what should have ideally done at an earlier time.
- tashmish kedusha** (pl. – **tashmishei kedusha**) G-1, G-6, G-8, H-6 – something whose purpose is to serve a holy object.
- tashmish d'tashmish** G-6, H-6 – something whose purpose is to serve an object which in turn is to serve a holy object.
- techum Shabbat** C-12, D-7 – the confines of a city, where one is permitted to walk on Shabbat.
- tefach** (pl. – **tefachim**) H-7 – a measure used in halachic matters, approximately three inches (eight centimeters).
- tefilla** (pl. – **tefillot**) (see table of contents for section A on *tefilla*) D-1, D-13, G-3, G-5 – a prayer.
- tefilla b'tzibbur** A-9 – a prayer service that is held in a communal setting, with a quorum of ten adult males.
- tefillat nedava** A-11 – a voluntary prayer.
- tefillin** A-5, A-15, G-4, G-5, G-6, G-10, G-12, H-9 – phylacteries, specially made boxes containing hand-written scrolls upon which four sections of the Torah are written. Jewish men wear them during weekday morning prayers.
- teshuva** A-13, H-8 – repentance
- tevilla** E-11 – immersion of a person or an object in a specially constructed ritual bath known as a *mikveh* as part of a process of purification.
- tevillat keilim** E-12 – immersion of certain newly acquired utensils in a *mikveh* (see *tevilla*).
- Three Weeks** D-23 – the period of time between Shiva Asar B'Tamuz and Tisha B'Av, in which the fall of old Jerusalem and the destruction of the Holy Temple are mourned.
- tircha d'tzibbura** A-16, B-7 – the inconveniencing of the congregation.
- Tisha B'Av** D-24 – the fast day that marks the destruction of the first and second Holy Temples in Jerusalem.
- t'nai** G-6 – a condition

tokei'a C-13 – the prohibited action of firmly inserting one component of a utensil into another on Shabbat.

Torah teaching of Jewish law, bible, and ethics; the *Five Books of Moses*.

tovel E-11, E-12 – immersing something in a *mikveh*.

tum'ah G-1 – impurity

tzara'at E-2 – roughly, leprosy

tzedaka (see table of contents for section F on *tzedaka*)
J-2 – charity.

zeit hakochavim D-9 – lit., the emergence of stars; the halachic beginning of the night, which ushers in a new Jewish calendar day.

tzibbur A-7 – a community (it can refer to different sizes, depending on the context).

tzidduk hadin A-13 – acceptance of a Divine judgment, especially regarding death.

tzitzit D-20, G-5, G-8, G-10, G-11 – the special fringes that are attached to the corners of four-cornered garments. Commonly, it refers to the garments that have the fringes attached as well.

tzni'ut H-6 – modesty (either in regard to dress or personality).

U

uvdin d'chol C-5 – activity on Shabbat or a festival that is characteristic of weekday activity.

V

vatikin A-5 – a preferred time to pray, in which *Shemoneh Esrei* of the morning prayer begins at sunrise.

Y

Ya'aleh V'Yavo G-3 – an addition to *Shemoneh Esrei* and *Birkat HaMazon* for special days on the Jewish calendar.

yad soledet bo C-18 – hot enough to prompt one to withdraw his hand. Opinions range from 110°–160°F = 43°–71°C.

- yahrtzeit** D-21, E-10, H-12 – the anniversary of the death of a close relative.
- Yehoshua** D-13 – Joshua, the leader after Moses.
- yei'ush** J-2, J-6 – loss of hope about recovering an object that has been removed from his possession.
- yei'ush shelo mida'at** J-2 – a situation where one would lose hope to recover an object if he would know it was missing.
- Yerushalayim** D-13 – Jerusalem
- yeshiva** (pl. – **yeshivot**) J-2 – an academy of Torah study.
- Y'hei sh'mei rabba...** A-2, A-13, A-14 – the central response of the congregation during *Kaddish*.
- yichud** I-4 – seclusion of a man and woman, including that of a bride and a groom.
- Yiheyu l'ratzon...** A-1, A-9 – a request that the previous prayers be accepted, recited at the end of *Shemoneh Esrei*.
- Yimloch...** A-2 – a verse that is recited during the prayer of *Kedusha*.
- Yom Revi'i** D-19 – halachic Wednesday, which begins on Tuesday evening.
- Yom Chamishi** D-19 – halachic Thursday, which begins on Wednesday evening.
- Yom Tov** A-3, A-4, C-7, C-15, C-17, D-1, D-4, D-7, D-8, D-18, H-3, J-8 – the main day(s) of Jewish festivals, during which it is forbidden to engage in most of the activities that are forbidden on Shabbat.
- Yom Tov Sheni** D-7 – the second day of a festival, which is celebrated in the Diaspora because of a theoretical doubt as to the day it is to fall.
- Yom Kippur** J-8 – The Day of Atonement; the fast day, which is the holiest day of the year.
- Yom Kippur Katan** D-21 – the day before the New Moon, at which time some people fast and say special prayers.
- yotzei** D-20 – fulfill a positive commandment.

Z

zayin tuvei ha'ir G-6 – the lay leaders of a community.

zemirot G-3 – songs of praise to HaShem, especially common on Shabbat.

zimun B-5, I-4 – the introduction to *Birkat HaMazon*, recited when three men eat together.

Zohar A-1 – the main book of the Kabbala.

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