

# Halachic Discussions

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# Pesach Section

## Preparing Home and ‘Kashering’ Utensils for Passover

by Rabbi Yaakov Klass

Question: Must one spend great sums of money and invest much effort in making one’s home kosher for Passover? Not all of us have such unlimited funds.

Name withheld  
Via email

Answer: I am sorry to say, there IS a certain degree of effort that one must expend in the course of readying the house for Passover. However, one need not fall into a never-ending spring-cleaning quicksand to accomplish this. Remember, dust is not *chametz* (leaven).

Yet as we note further, it is imperative that one’s entire focus in the course of this effort is to arrive at a home that is truly *chametz*-free.

The Mechaber (*Orach Chayyim* 433:11) states that one who cleans his rooms on the eve of the 13th of Nissan at night and has the intention of searching for *chametz* and destroying it, and is also careful not to bring in any more *chametz*, must still search for *chametz* by candlelight on the eve of the 14th of Nissan. There are many views regarding the requirement to search by candlelight. Some authorities state that if one is worried about the danger of causing a fire, then an electric lamp [with a long extension cord] or a flashlight [there are many that are LED that provide a strong focused light or even the flashlight app on many cell phones] would suffice to satisfy the Mishnah’s requirement (*Pesachim* 2a) that the *bedikat chametz* on the eve of the 14th [this year the eve of the 13<sup>th</sup> Wednesday night] be conducted with a candle.

The Rema (*O.C. ad loc.*) adds that before the final search, everyone is required to clean all their rooms thoroughly, and also check the pockets and sleeves of garments in which they occasionally put *chametz*. (Likewise, one is required to check trouser cuffs where *chametz* might also be found.)

In actuality, our practice is to do a thorough household cleaning prior to *Pesach*, even with today’s harried lifestyles, particularly where there are young children. It is not beyond the realm of possibility to find that a small child, after being warned for weeks in

advance that his favorite *chametz* candy will be verboten for eight full days (actually, more – from *Erev Pesach*), has hidden his little treat in his drawer or under his mattress for safekeeping. Thus even a thorough cleaning seems not to suffice, as it is crucial that one teach the young the importance of ridding the house of all *chametz*.

Ironically the cleaning is so thorough – combined with the *chametz* being disposed of or sold to a gentile through one's rabbi – that there is no available *chametz* left for performance of *bedikat chametz*. The Rema (*O.C.* 432:2) cites an age-old custom of putting pieces of *chametz* in various places throughout the house so that the accompanying blessing we utter on the search would not be in vain.

The Mishnah Berurah (*ad loc.*) cites opinions that are critical of this practice, as some might substitute it for an actual, comprehensive cleaning and thorough search. However, he notes that the Havvot Ya'ir (in *Sha'ar Hatziyyun*, this is credited to the *Emek HaMelech*) states that we should not void a *minhag Yisrael*, a custom practiced by Jews. The Mishnah Berurah agrees that if one cleans everything thoroughly before Passover, then when one conducts the search on the eve of the 14th of Nissan the blessing would be problematic.

Therefore, the Mishnah Berurah cites the Arizal, who also says that one is to place ten pieces of *chametz* around the house, taking care to note where they are placed in order not to lose track and accidentally leave *chametz* lying around on Passover.

These ten pieces are subsequently destroyed through burning the following day, taking care to do so before the designated time at which a person may no longer have *chametz* in his possession.

Preparing the kitchen properly is most crucial if one is to have a truly kosher for Passover home. All *chametz* in cabinets that are being disposed must be removed, and afterwards the cabinets are thoroughly cleaned and lined with any type of shelving material – paper or plastic. Countertops (formica) and sinks (porcelain) are washed down thoroughly and covered. Exceptions to the above are granite countertops and stainless steel sinks, which can be cleansed via purging, as we explain further.

The refrigerator is cleaned and lined in much the same manner. Many gas or electric ranges and ovens are quite easy to *kasher* (make kosher), which is done by turning on the self-clean cycle; however, it must be cleaned first and visually inspected for any *chametz* that might be therein. Ovens and ranges without this feature should be thoroughly scrubbed and then heated at the highest temperature for an hour. The use of blow torches present many serious problems and only one trained properly in their use should consider this option. Specific details about your appliances should be discussed with your rabbi.

*Chametz* that is sold via *mechirat chametz* to a gentile, traditionally done through a rabbi, must be removed from the cabinets that will be used on Passover and stored in other sealed cabinets. It is only the *chametz* that is sold to the gentile and not the actual

utensils, dishes, pots and pans. Thus it is best that all utensils be thoroughly cleaned prior to their storage.

Regarding the *kashering* of utensils that one wishes to use on Passover, there are numerous English publications available at most Hebrew bookstores that are quite helpful with the numerous details. The Orthodox Union in New York publishes the very helpful *OU Guide to Passover* every year. The fine work of Rabbi Avrohom Blumenkrantz *zt"l* (now edited by his children) *Kovetz Hilchot Pesach – The Laws of Pesach, a Digest* is also popular. These are updated yearly and list all the Passover preparation procedures in great detail. Of course, your greatest resource is your rabbi, who I am sure will be ready and willing to help you in your quest.

My uncle HaRav Sholom Klass *zt"l* discussed this matter in his *Responsa of Modern Judaism, Vol. 1*, much of which is based on the Mechaber, *Orach Chayyim* 451 – 452, the Rema *ad loc.* and the *Kitzur Shulchan Aruch* 116. HaRav Klass writes:

“[H]ere is a brief summary of what may and may not be used and or purged:

“(1) You can purchase disposable [or inexpensive plastic] dishes and paper plates, which can solve many of your problems. The cost is nominal.

“(2) You can purge your utensils [as discussed in *Shulchan Aruch, Orach Chayyim* 451-452], which basically means, as we will explain further on, to cleanse them for Passover use by means of *hagalah* – scalding hot water. As we state further on, there are numerous means of cleansing or purging.

“Earthen vessels and chinaware [which were *chametz*] cannot be purged and may not be used [for Passover after *chametz* use. The reason is that they are too absorbent, making it impossible to remove all the *chametz*].

“Wooden [implements, for cold usage only], metal and stone utensils may be used after having been purged by means of *hagalah*, but if it is an article that will be damaged by hot water, such as a vessel [with parts that are] glued together, even if only the handle is glued on, purging is of no avail.

“Before the vessel is purged, it should be thoroughly cleansed of rust and the like, and made perfectly clean, but stains do not matter. If the vessel is dented, it should be carefully scraped. If it is made of metal, hot coals should be placed upon the dents until they glow, and the vessel should be purged thereafter. If, however, it is impossible to thoroughly cleanse the dents and cracks, or to ‘glow’ them [i.e., *libun*, making them turn white from the heat], it cannot be made valid for use. Hence it is necessary to carefully observe whether purging will avail for knives with handles. It is best, if one can afford it, to buy new knives for Passover.

“Utensils into which water is not generally placed when used over the fire (such as frying pans and the like) require *libun gamur* – heavier [higher temperature] glowing. One

should glow them to the extent of making them emit sparks. A wooden spoon cannot be made valid for [such] use.

“Any article that requires purging by means of *hagalah* cannot be made valid by [merely] scraping, but must be purged. A vessel that cannot be thoroughly cleansed, such as a sieve, the receptacle of a mill, a basket used for leaven, and a grater, as well as any vessel that has a narrow neck which makes it impossible to cleanse it from within, e.g., tubes, cannot be made valid by purging.

“Purging is done only in boiling water and nothing should be mixed therewith, not even ashes and the like. If one has purged many vessels in one boiler [i.e., a large pot with sufficient room to immerse the utensils], so that the water becomes turbid [murky], no more purging should be done therein.

“One should not purge a vessel unless 24 hours have passed since leaven was cooked therein. Likewise, the boiler in which the purging is done should not have been used for leaven that same day [this means that regarding the boiler, as well, a full 24-hour period must elapse before it is used for the purpose of purging]. Also, carefully observe each time you put a vessel in the boiler [to be sure] that the water comes up boiling hot. If it is necessary to purge the boiler, then it must be full when the water is boiling therein and hot stones should be thrown therein in order that the boiling water should overflow its edge. Purging should only be done until noon on Passover eve.

“After the purging it is customary to wash the vessels with cold water.”

We must make note of the fact that drinking or measuring vessels are also in need of purging. As far as glass vessels, even if their main use is with hot liquids, according to the Mechaber (*Orach Chayyim* 451:26) they are not in need of any type of purging because [in his view] they do not absorb, and mere rinsing [after they have been cleaned of any *chametz* residue on their surface] suffices. However, Rema notes that there are those who are stricter and opine that even purging by means of *hagalah* will not suffice. He notes that this is the custom in the Ashkenaz lands [Ashkenazic – European Jewry].

On the other hand, vessels that are used for cold liquid or non-heated storage may be purged via *iruy* – soaking for three days – i.e., pouring in water and letting it stand for 24 hours, then pouring it out, refilling and letting it stand again for 24 hours, and repeating the same procedure a third time. This method of purging is applicable as well to glassware [i.e. drinking glasses] that is not used with heat. However, glass cooking utensils or those used to serve hot foods may not be purged.

[If one finds it too difficult to purge on his/her own, in many communities the rabbi or other functionaries in the synagogue perform this function. One quick call will determine who and where in your community.]

Rabbi Sholom Klass continues:

“(3) No Israelite is permitted to have leaven in his home on Passover, whether intentionally or unintentionally. Every moment he possesses the leaven he is transgressing the law of ‘[*Chametz*] shall not be seen and shall not be found.’

“Thus, to avoid this prohibition, he must sell his leaven to a non-Jew. To avoid any mistakes we sell the leaven through a rabbi who becomes our agent in disposing of the leaven to a non-Jew. The rabbi is experienced in drawing the proper bill of sale and is well versed in all the necessary requirements of the sale.”

May I take this opportunity to wish you and yours a joyous and kosher Passover, and may this *Pesach* bring with it the ultimate redemption.

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## A Goblet Full Of Wine

by Rabbi Yaakov Klass

Question: I've noticed that some people when making *Kiddush/Havdallah* fill it to the point of overflowing the *Becher* – the wine goblet over its sides. Does this not involve *Bal Tashchit* – unnecessary waste? Is this Halachically sanctioned and if so what is its source?

Bernard Gold

Via email

Answer: Not only does this seem to be Halachically sanctioned but the Rema in his emendations to the Shulchan Aruch cites this practice. We are careful to use the word practice so as not to confuse it with a steadfast Halacha, as we will see. I actually discussed this matter in my own synagogue on a recent Friday night. My late *Chaver* and Jewish Press columnist, Horav Yaakov Simcha Cohen Zt'l also discussed this matter with me a number of years ago as one that is quite enigmatic in its being cited in the Shulchan Aruch and no less by the Rema not once but twice. We unusually quote from the Rema before we quote from the Mechaber, simply because this discussion centers more on the words of the Rema.

The Rema (*Orach Chayyim* 296:1, citing *Eruvin* 65a) records an ancient custom of actually pouring some of the wine from the *Havdala* goblet onto the ground. He states that one is to pour some wine from the goblet before he completes the blessing *Borei Pri Ha'gafen*, in order that the [wine in the] goblet is not deemed deficient. Rema offers the following reason for this practice “any home where wine is not poured like water is lacking a sign of a blessing – a *siman berachah*” (see *op cit Eruvin* 65a). The custom, says the Rema, takes place [on Saturday night] at the beginning of the [on-coming] week as a sign of a blessing for the new week. We also spill from the goblet after [we recite] *Havdala* as we extinguish the candle and we take of that spill and anoint our eyes in a sign of endearment for the mitzvah [of *Havdala*].

The Magen Avraham (*Orach Chayyim* 296:sk11) citing numerous authorities rules that the above-noted custom of pouring wine onto the ground [obviously because it is not a halachic practice, but rather a *minhag* – a custom] should be abolished, for it would be a form of repudiating and disgracing the *Havdala* blessing. He suggests that the proper custom is to fill the goblet only to the brim and as for the little bit that overflows we are not that meticulous.

Indeed, from the Mechaber who is citing the Gemara (*Pesachim* 105b – 106a) we simply see that the goblet is not to be deficient and he makes no mention of spilling. Thus if it is filled to the top – its brim, even if none actually spills over or even if a little bit spills over that would serve *l'chatchila* – *ab initio* to satisfy the need to have a full non-deficient goblet. Now what will the Mechaber do with the Gemara (*Eruvin* 65a) cited by Rema. I believe the answer would be that if we carefully examine that Gemara it does not

state anywhere that one is to spill on the ground, rather there is a blessing in some overflow – meaning that if it flows over one receives extra blessing.

Taz (end of 296:sk1) explains that this practice basically came about in order that people not emote anger in the event wine did spill. People generally become very perturbed when someone spills wine [or perhaps any liquid as well]. In such an event, he notes that our sages (First Perek Sota) said that anger is a terrible sin, for a house where there is found anger there will be found poverty. And indeed if one spills and so doing will be cause for anger then for sure there won't be any blessing in that house. Indeed, he notes that pouring a lot of wine over the brim is a form of wasteful destruction of food. Therefore, the amount spilled over the rim should be minimal so as not to waste food and drink.

Mishneh Berurah (*Orach Chayyim* 206:sk4, sk5) cites the above practice of overflowing the goblet with a minimal amount of wine so as not to waste drink. He explains that one is not to spill any of the wine before he begins to recite the blessing, but rather just as he is concluding the blessing. The reason being that spilling from the goblet is a disgrace to the *kos shel beracha* – the goblet of blessing. Thus when one fills the goblet it is to be filled to the top with a little overflow that will then spill on the ground.

Of course we today in our homes have other issues with this practice, would the women be happy to see wine spilled on their beautiful carpets or wood floors, even on their expensive tablecloths or napkins, surely not.

Indeed I cite from Rabbi Cohen who quotes his own grandfather, the *Minchat Shabbat* (96:19) He cites scholars who note that the common custom is not to pour [or spill on the ground] but to overflow the goblet so that it spills on the table [or in a saucer]. This would be closer to what our practice would be today. Most people have coasters that are placed under their *Becher* – Wine Goblet, so that any wine that spills over will spill onto the coaster.

The *Aruch HaShulchan* (*Orach Chayyim* 296:sk11) also cites Rema and focuses on Rema's reason for pouring [spilling] the wine on the ground that it is done in that manner in order to ensure that the [wine] goblet not be deficient. He questions this explanation, as it is a matter that is really not understandable. He goes further and cites *Levush* who states that one should not spill at the beginning of the blessing [probably meant immediately before he recites the blessing] in order that he not bless on a deficient goblet. This too he questions as so doing not deem the goblet deficient, rather only when one drinks from the goblet [prior to its use] would be the cause of deficiency.

Even more difficult is that *Levush* opines that one is to spill as he begins to utter the blessing, if so the goblet will, indeed, be deficient when he concludes the blessing, according to his logic. Further is there any disgracing the mitzvah greater than that when we pour [of the wine] on the ground after reciting the blessing? Thus there is disgrace either way either by spilling before the conclusion of the blessing or at the conclusion. Thus what to do?

*Aruch Hashulchan* further states that the commentaries to the *Shulchan Aruch* [*Magen Avraham* and *Taz*, as we noted earlier] write not to follow his [the *Rema* as well as *Levush*] words. Rather they suggest that the following is the proper procedure. At the time one fills the goblet it should be filled to the very top in a manner that it will be inevitable that some will spill on the ground, this they say is the widespread practice. There are those who are critical of this solution as well and they write that this whole idea of spilling should be abolished because it engenders disgrace to the drink [the wine]. However possibly if it is only a small amount we are not that strict.

*Aruch Hashulchan* explains that perhaps *Rema* opines like this as well and therefore he issued stipulations to pour only in such manner that one not come to disgrace the drink. On the other hand he did not wish to *completely* abolish the custom. Therefore he suggested doing in the following manner, which is that when he wrote to spill he did not mean to spill intentionally with one's hands. First one should take care not to pour such a quantity up to the goblet's brim [and over] that it spills over onto the ground thus disgracing the mitzvah. Rather the goblet should be filled as are all goblets used for blessing. Now when one just moves his hand ever so slightly [and we are all aware that there is a tendency when one holds a full cup in hand for the hand to shake and this natural hand movement generates] that some wine will spill. This small amount will not cause deficiency in the goblet thus still being considered as full, as we cannot be so exacting. When *Rema* writes that the goblet should not be deficient he is referring to where one spilled a larger amount.

Now, I would hasten to add that this interpretation would seem to close the gap between the *Mechaber* and *Rema*. As the wine that pours over would be so slight as just a consequence of holding the goblet in one's hand according to the *Mechaber*. While according to the *Rema* that slight spill satisfies a halachic sanctioned need for a *Kos Shel Beracha* – a Cup of Blessing.

On the other hand regarding *Havdala* that we recite at the conclusion of the Sabbath, there we intentionally pour wine in a vessel but for a specific purpose to extinguish the lights – the *Havdala* candle and to place on our eyes and within our pockets as an omen for a blessed [and financially successful] week. Everything seems to serve a specific need.

From the above it is obvious that the Halachic authorities looked with disfavor upon those who would simply waste good wine through a major overflow where it serves absolutely no purpose (*Magen Avraham* and *Mishneh Berurah*).

We note that though the *Rama* noted the “wine pouring custom” to be specifically a *Motza'ei Shabbat* procedure as a good sign for the coming week, many follow the same custom even for Friday night or *Yom Tov Kiddush*.

The *Matteh Moshe* (504), a compilation of customs by a disciple of the *Maharshah*, offers that the spilling of wine is a custom that is limited to *Motza'ei Shabbat*. And he explains:

“From *Esau* and *Ishmael* emanate 70 powers that are dormant on *Shabbat* but on *Motza’ei Shabbat* are revived and seek to castigate *Israel*. The Hebrew word for wine is *yayin*, which has a numerical value of 70. The wine [symbolizing the 70 “antagonists – the angels assigned to each of the 70 nations”] is allowed to spill to the ground right after *Shabbat* to weaken their powers.” Additionally at *Havdala* we must formally separate ourselves from the children of *Korach* [those that did not repent] by pouring wine on the ground...” Accordingly, such mystical – *kabalistic* reasons are simply irrelevant on *Shabbat* or *Yom Tov*.

On the other hand, there is the popular centuries old *zemer*, a staple of the Sabbath Friday night *seuda*, *Tzur Mi’Shelo* whose origins in some form or other are cited by some to go back to the time of *Tanaim*, others connect it to the Ari’zal [Rabbi Isaac Luria]. The song was composed to correspond to the three blessings in the *Birkat Hamazon* – the grace after meals – that are Biblically mandated; *Birkat Ha’Zan*, *Birkat Ha’aretz*, and *Birkat Yerushalayim*. The final stanza corresponding to the *Birkat Kos Ha’yayin*, we are instructed to praise Hashem with a *Kos Maleh* – a full cup of wine like the blessings of Hashem.

Now if we understand that all of Hashem’s blessings are complete and in fact brimming with great munificence then the cup at *Birkat Hamazon* should be brimming and as such thus possibly the cup at *Kiddush* as well.

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## Mechiras Chametz

by Rabbi Yehoshua Grunwald

As part of the obligation to rid ourselves of all chametz before Pesach it is customary to perform the mechiras chametz in which we appoint the local rabbi to sell our chametz to a non-Jew for Pesach.

### THE MINHAG OF A COMMUNAL SALE

The *minhag* of selling one's Chametz is an old one. The *Shu"t Bigdei Yesha* (2-15) tells us that he instituted the selling of Chametz in his locale through the local *Bais Din*. Similarly, other Poskim inform us of the custom of the local Rav or *Bais Din* supervising the sale of Chametz. Due to the intricacies involved in employing many types of *kinyonim*, modes of acquisition, by the gentile purchasing the Chametz, which the average layman was not familiar with, as well as the severity of the Chametz prohibition, the *minhag* evolved for the local Halachic authority to administer the sale. This custom has been in effect for 150 years. (See more on this topic in the *Sdei Chemed Ma'areches Chametz U'Matza* 9:6)

There were some Poskim who questioned the custom of the Rav selling all the city's or congregation's Chametz to one *Akum*, which made it appear as a *Ha'arama*, a trick. However, the vast majority of Poskim felt that when handled by a competent Halachic authority, this guaranteed that the sale was according to Halacha not in the Jew's possession during Pesach. This benefit far outweighed the possibility of the sale looking like a *Ha'arama*.

### HOW WE GO ABOUT PERFORMING MECHIRAS CHAMETZ

Basically, the Rav tells the individual wishing to sell his Chametz to appoint the Rav (-himself) as a *Shliach*, a representative, of the seller. In the entire Torah we are familiar with the principle of *Shlucho shel adam komoso*, that a representative of someone is like the person himself. The seller gives the authority to the Rav to sell the Chametz on his behalf and signs a *Shtar Harsha'ah* – power of attorney - to this effect.

In order to make the sale more realistic and removed from being an *Ha'arama*, the particulars of the Chametz should be detailed in the *Shtar* as to what the Chametz consists of and its approximate overall total value, as well as where the Chametz is located. Many *shtaros* contain the clause that should the gentile go through with the sale, following Pesach, an appraiser will appraise the Chametz for its actual worth at the time of sale.

The seller signs two documents. One is the above mentioned *Shtar Harshoah* and the other is a Bill of sale, a *Shtar Kinyan*, which is one of the ways the sale is being transacted.

The *Shtar Harsha'ah* is a *Shtar Rayah*, a document of proof that the seller has appointed the Rav to sell the Chametz on his behalf. This prevents the gentile from claiming that the Rav had no authority to sell the Chametz. (See *Sefer Mechiras Chametz Kehilchaso* 17, footnote 18 and *Alon HaMishpat # 72 Heoroh 11* for other reasons it is preferable that a *Shtar Harsha'ah* be signed by the seller.)

If the seller appointed the Rav to be his *Shliach*, for example two weeks before Pesach, and subsequently purchased more Chametz which he now wishes to sell, it is best to sign a new *Shtar Harshoah* since one cannot make someone a *Shliach* for future purchases. In the event that it is difficult to do so, it is preferable that the Rav be informed of the new purchases and verbally appointed to sell the newly purchased items. Where neither of the above two options were done, the general consensus of the poskim is that, nevertheless, the sale is valid for that chametz, as well. Some harshaos include a clause to specifically include chametz that was purchased after the harshoa was signed, which validates the sale of such chametz, perhaps, according to all opinions. This is an added benefit of signing a harshoa, [when it contains such a clause.]

Together with signing the *Shtar Harsha'ah*, a *Kinyan Sudar* is performed to strengthen the authority given to the Rav by the seller. The Rav gives the seller a personal item such as a *yarmulke* and the seller lifts up the *yarmulke*. By acquiring the *yarmulke* through this act of *Hagba'ah*, he helps strengthen the authority of the Rav to sell the Chametz on his behalf.

This custom is based on a *Rambam (Hilchos Mechira Perek 5, Hal. 11-13)* and codified in *Choshen Mishpat (182:1)* that although a *Kinyan Sudar* is not required when making someone a *shliach*, the custom is to make one, showing the seriousness of the person appointing the *shliach*.

## SELLING UTENSILS

Although not widely known, a component of the mechiras chametz contract includes the sale of any chametz that might have adhered to the walls of our food utensils. It is unnecessary to sell the actual utensil itself or even to sell any chametz 'taste' that might be absorbed within the walls of the utensils, though some mechiras chametz contracts include the latter, as well. It is interesting to note that in the event that one mistakenly sold the actual utensils one might be obligated to immerse them into a mikva when one buys them back from the non-Jew at the conclusion of Pesach. As such, one should be sure never to include one's utensils in the mechiras chametz procedure.

## OVER THE PHONE OR ONLINE

Contemporary Poskim permit a person to appoint his Rav to sell his Chametz over the phone. (See *Sefer Mechiras Chametz Kehilchaso* 17;11 and *Kovetz Kol HaTora* vol. 54 pg. 25) This verbal communication is sufficient to make the Rav a *Shliach* to sell the Chametz. Since the seller is not selling the Chametz directly to the Rav no formal *kinyan* is absolutely required. The Rav can write down the details of the chametz i.e. value, location etc. as reported over the phone.

There is one issue to be concerned with when appointing the Rav as a *Shliach* over the phone. Since no *Shtar Harsha'ah* is being signed there is no proof that the Rav was actually appointed as a representative of the seller. This could possibly invalidate the entire sale. A remedy to this issue would be to sign a *Shtar Harsha'ah* and fax it to the Rav.

The *Shu"t Chasam Sofer (Even HaEzer 1-43)* approves of sending a letter by the mail system of his day and not worrying about possible forgery. As such, an email or online registration in the contemporary digital world would seem to be acceptable for sending a *Shtar Harshoah* to the Rav.

In truth not only through a phone call, but rather any electronic communication such as a web message, an email or a text would be acceptable for appointing the Rav. In fact, when it is setup properly, the web offers, a secure line where a record can be kept which is legally accepted as proof, a better system for this purpose than over the phone.

The only issue with a phone or online appointment of the Rav as a *Shliach* is the absence of the *kinyan sudar* with the Rav to strengthen his authority. Some have suggested that a *kinyan sudar* be made between the seller and a third party. Rav Zalman Nechemia Goldberg Zt"l paskened that although it is preferable, as the *Rambam* stated, to make a *kinyan sudar* when appointing a *Shliach*, if it is difficult it is not required, and the sale of the chametz is nevertheless valid.

## **OTHER CONSIDERATIONS**

We know that when selling chametz to a goy, as standardly known as *mechiras chametz*, one must also rent out the premises of the chametz to a goy as well, so how can a renter sublease his apartment that he doesn't own, but only rents, when in fact the renters agreement/lease contract states that he can't sublease? The answer is that pertaining to the sale of chametz one can sublease even against the contract, because the landlord certainly permits this type of subleasing. Nonetheless, one should *lechatchila*, where possible, get explicit permission (can even be verbally) to sublease for the sale of chametz. Also, let the Rav who sells the chametz be aware that you don't own your home, but rather rent.

When the chametz for sale is from a company, the rav may advise or require selling the chametz in more civil legal way; so make sure to ask. What about if chametz was sold by a store and the seller continued operating his store as if he never sold his chametz, is the sale of chametz nevertheless valid? I was told that Rav Belsky Zt"l said as follows: The *Tevu'os Shor* and others were *machmir* not to allow the sale of chametz at all, because we do not permit *ha'arama* with an *issur d'oreisa*. As we know others argue, and the general consensus is that we do permit. However, there is a *halacha* in *Choshen Mishpat*, that if one gifts away his *nechasim*, and then continues to work them and show complete *beiy'lus* over them, which the entire intent was so that he will not be able to repay his creditors, then the contract is null and void, and we collect the debts from the *nechasim*. Similarly in our scenario, this is worse than a *ha'arama*. In this case, there is an *anan sahadi*, that the contract was fake. These types of "paper sales" in which one signs a

document knowing good and well that it will not change one thing about the way the company operates, who makes the decisions, who receives the profits, so the sale is worthless.

See a similar view from Rav Elyashiv Zt"l quoted in Sefer Yisa Yosef. See however Igros Moshe vol.1;149 and Halichos Shlomo 6;9 that seemingly aren't concerned with this issue. However, Sefer Yisa Yosef writes that even Reb Moshe was only referring to cases where a legally binding document was used, in which the sale would be enforceable in civil courts.

Does one have to sell chametz owned by someone unconscious? R' Akiva Eiger Zt"l cites the *Psicha Hakolleles* of *Pri Megadim* that is שוטה הרש של המן מסופק whether or not שוטה הרש של המן is אסור after Pesach. Accordingly, there seemingly is one position that we should sell such chametz. However, one can argue that there really is a setira in the *Pri Megadim* and two great Rabbonim from Yerushalayim, Reb Yosef Chaim Zonnefeld Zt"l (*Sefer Toras Chaim* teshuva 47) and Reb Tzvi Pesach Frank Zt"l (*Har Tzvi* OC 2;45), answered that it depends on whether the katan has no daas or a little daas, and, as such, there wouldn't be any obligation to sell the chametz from a strict halachic standpoint in our case that the owner has no daas. Nonetheless, it is strongly recommended that we sell such chametz because the owner may regain consciousness during Pesach. As such, the halachic trustee of the owner should sell the chametz on behalf of the owner. Often, the spouse or family member who is caring for the person in such state will be considered the trustee.

## EATING CHAMETZ

Q. This year with Erev Pesach on Shabbos and the burning of chametz is nevertheless done many hours before we actually stop eating chametz, is there anything I must be aware of as far as the chametz I am selling through the Rav?

- A. Yes there is something very important to be aware of. There is a great machlokes among the achronim when the rav should sell the chametz to the goy on behalf of the congregants in a year like this. Some opine that just like we perform the biur chametz before the end of the fifth halachic hour to avoid confusion in subsequent years, so too with the selling of the chametz. Others are of the opinion that it is unnecessary to sell at the same time as other years, since the one who sells is a rav who is knowledgeable, and the rav could sell the chametz right before Shabbos. Seemingly the minhag follows the opinion to sell before the end of the fifth hour as that is the majority.

The rav can only sell chametz that you own and as such if you buy chametz after that point there is no way it can be included in the sale. You may wonder if that is the case, that the sale actually takes place so early, and also one appoints the rav to sell all the chametz one owns, if so how does one eat his challos on Shabbos, weren't they sold already to the goy? The answer is that the rav does one out two things to avoid an issue with this. Either, he excludes the challos one will eat from the sale, or he makes an agreement with the goy that such chametz the goy is willing to sell it back.

It is worth noting that in truth it isn't simple that the sale will cover any chametz that one bought between when one appointed the rav and when the rav sells it to the goy. For example, if one appoints his rav to sell his chametz on Tues, then the congregant buys more chametz which he stores in his freezer over Pesach, then the rav sells the chametz on Friday, there are many opinions that the newly bought chametz isn't included. The reason being that according to Tosfos (Nazir 12) one can't appoint a shliach on something that one doesn't yet own. According to these opinions even in a regular year one must be careful about what is getting covered in the sale of chametz. It is actually very advisable that one is conscious to avoid this issue. However, there is an easy way to fix this problem. All one needs to do is to contact his rav and let him know that he is appointing him on the newly bought chametz as well. This can be done verbally, or through a text or email. And one can rely on the verbal call, text, or email, without filling out a whole new shtar. However, this year, if one buys chametz after the sale was done there is no way the Rav can later include that chametz.

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# How Much Holiday Preparation?

by Rabbi Gil Student

## I. Thirty Days Before A Holiday

Holidays are much like other things in life in the sense that the more you put into it, the more you get out of it. We are instructed to study the laws of a holiday thirty days in advance. The Gemara (*Pesachim* 6a-b) learns this from Moshe, who taught the laws of Pesach Sheini on Pesach Rishon. If we examine the precise reason for this rule, we can see important practical ramifications for today.

Rabbenu Nissim of Gerona (Ran, 14th cen., Spain; Commentary to Rif, *Megillah* 2b s.v. Moshe) points out that the Gemara (*Megillah* 4a) seems to disagree with the thirty day rule. It says that Moshe issued an enactment that we should learn the laws of a holiday on the day of the holiday. Ran explains that on the holiday itself we must speak about and learn the laws. Thirty days in advance, the rabbis must be prepared to answer any questions people might have. According to Ran, a regular Jew does not have to start reviewing the laws of a holiday thirty days in advance.

However, Rav Yisrael Meir Kagan (20th cen., Poland; *Mishnah Berurah*, *Bi'ur Halachah* 429:1 s.v. *sho'alin*) argues that the vast majority of Medieval authorities disagree with Ran and believe that there are two obligations — to study the laws beginning thirty days in advance on the holiday and to study them on the holiday itself (for example, see Tosafos, *Megillah* 4a s.v. *mai*).

Ran's argument seems to be that it would be redundant to have two obligations to study the laws of a holiday. If you review the laws thirty days in advance, you should know them very well by the time the holiday arrives. What would Tosafos and the other authorities answer to this question?

## II. Why Study In Advance?

We can ask what the nature is of this obligation to study the laws thirty days in advance. Is the base obligation to prepare for the holiday? You need to be able to enter the holiday fully ready to observe all its practices. Study in advance enables this. In this view, studying the laws is a *hechsher mitzvah*, preparation to fulfill a mitzvah. Or is it a universal obligation to study the laws before the holiday? By enforcing a standard period of study, we will all be prepared for the holiday and we enter the holiday spiritually prepared for it because we have been thinking about it for a full thirty days. In this view, studying the laws is a mitzvah in itself, a taste of the holiday before it arrives. Tosafos (*Bechoros* 57b s.v. *bi-fros*) say that we need thirty days to learn the laws of the holiday sacrifices. However, even today when we have no sacrifices, we still must learn the laws of the holiday.

One of the practical differences that emerge from these two views is if you already know the laws intimately. If the obligation is to prepare then if you already know the laws, you do not need to study them. But if the obligation is to study the laws before the holiday, then whether you already know them or not you must study them.

It seems that Ran believes that the obligation is to know the laws, not necessarily to study them. Therefore, the rabbis need to answer holiday-related questions thirty days in advance if anyone is uncertain about the details. Otherwise, there is no independent obligation to study what you already know. The majority view seems to accept that the obligation is to study the laws every year beginning thirty days before the holiday.

### III. How Much Advance Study?

According to Ran, for thirty days scholars are available to help you but on the holiday itself, you have to study. Some people might need more time and help. They have thirty days. But everyone needs one day of review and that is on the holiday itself. According to others, what is the point of studying the laws on the holiday when you just spent thirty days reviewing those laws? We must say that the study of the laws on the holiday itself is not a preparation but a fulfillment of the holiday itself. Part of a holiday's practices is study of the holiday. This study facilitates a deeper understanding of the day you are celebrating. Holidays should not be days merely of celebration but also of contemplation, of intellectual discussion about the holiday.

If the obligation is to study in advance of a holiday, then this might apply only to Pesach (which is the view of Rav Yosef Karo (16th cen., Israel) *Beis Yosef, Orach Chaim* 429). There seems to be a run-up to the holiday of Pesach. We see a suggestion in the Haggadah that we might have thought that we could recite the story of the Exodus in advance of the holiday, perhaps even on Rosh Chodesh. We cannot do so but even the suggestion makes the point that the weeks before Pesach have a connection to the holiday. Maybe learning the laws is also part of this unique aspect of Pesach. But if, on the other hand, this study is just preparation for practicing the rituals of the holiday, it should apply to any holiday that has complicated laws, including Sukkos and Purim and really all of them (Rav Avraham Gombiner (17th cen., Poland), *Magen Avraham*, 429:1 approvingly quotes authorities who say that the obligation applies to all holidays).

If the obligation is specifically to study the laws beginning thirty days before the holiday, then the time period falls exactly on thirty days before the holiday (as cited in *Shulchan Aruch, Orach Chaim* 429:1). However, if the obligation is to prepare for the holiday, then the time period is less important than the result — people must be fully prepared when the holiday begins. *Magen Avraham* (ibid.) says that the custom in his day (and today) is to give a practical sermon on Shabbos Ha-Gadol and Shabbos Shuvah, the Shabbos before Pesach and before Yom Kippur, to fulfill this obligation of studying before the holiday. *Magen Avraham* explains, “the main point is to instruct the people of G-d in the ways of G-d, to teach the practice that they should do.” *Mishnah Berurah* (429:1) says that for Pesach we need thirty days because the laws are so complex but other holidays require fewer days of study. He also seems to hold that the main point is preparation for

the holiday. Similarly, Rambam (12th cen., Egypt; *Mishneh Torah, Hilchos Ishus* 8:5) says that the custom in his time was to teach publicly the basics of the holiday laws close to the holiday so everyone would be proficient in them. It seems that even those who disagree with Ran agree with him in practice that the thirty day period is for preparing for the holiday.

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# Chametz in Garbage Cans

by Rabbi Gil Student

When we prepare for Pesach, we get rid of all of our *chametz*, either by selling it or destroying it. However, what about *chametz* in your garbage can? Is that considered destroyed or do we need to sell or destroy it also? For example, if you have leftover food from the night or morning before Pesach, can you just throw it in the garbage if it contains *chametz*?

## I. For the Birds

Rav Yosef Karo (16th cen., Israel) seems to contradict himself on a related subject. In *Shulchan Aruch (Orach Chaim 445:3)*, Rav Karo writes that before the time when we are forbidden to own *chametz*, you can throw *chametz* to the birds in a courtyard but you cannot leave it there once the time comes when you may not own *chametz*. At that time, if there is any *chametz* left, you must burn it.

Earlier, Rav Karo (433:6) says that if you might have *chametz* in a courtyard, you do not have to check because the birds will eat it. But if you definitely have *chametz* there, you must check and remove it. In the prior passage, Rav Karo says that you definitely may place *chametz* in a courtyard until the time it becomes forbidden to own. Here, Rav Karo says that you may only leave possible *chametz*, but not definite *chametz*.

Rav Moshe Isserles (Rema, 16th cen., Poland; Glosses, *Orach Chaim 433:6*) points out this contradiction and seems to side with the later comment allowing definite *chametz* in such a situation. Later commentators offer various suggestions to reconcile the two rulings so Rav Karo is not contradicting himself. For example, Rav David Ha-Levy Segal (17th cen., Poland; *Taz, Orach Chaim 533:5*) suggests that Rav Karo allows throwing *chametz* into a public area but only allows possible *chametz* in a private courtyard. Rav Avraham Gombiner (17th cen., Poland; *Magen Avraham 533:10*) rejects this suggestion and assumes both cases involve private courtyards. We allow throwing definite *chametz* to birds in a courtyard before the time when it is forbidden to own it and only allow leaving possible *chametz* for the birds before that time.

## II. Public and Private

This discussion affects the question of whether we may put *chametz* in garbage cans and leave it out for sanitation workers to collect the garbage. You are not allowed to keep *chametz* that you own on your property over Pesach. In theory, if you declared the *chametz* ownerless, you could avoid the prohibition. However, there is a rabbinic requirement to rid ourselves of *chametz* from our property even if we declare it ownerless (and if it belongs to someone else, we have to segregate it). Even if you recite “*bitul chametz*” and mean it, and thereby declare the *chametz* in your property ownerless, rabbinically you still have to check for and destroy the *chametz* in your possession.

What if the sanitation workers will definitely (or almost definitely) take the garbage? Do they serve in a similar role to birds, and thereby allow you to put your garbage in your courtyard for pickup? According to the above *Taz*, you may put the garbage into a public area. According to the above *Magen Avraham*, you may even put it in a private area. But both agree that if it is not picked up by the time it is forbidden to own *chametz*, you must burn or otherwise destroy the *chametz* in the garbage. Additionally, while the curb is public property, your garbage cans belong to you. Therefore, any *chametz* inside the garbage cans remains within your private property, and not on public property, which would be forbidden according to the *Taz* even before the time at which *chametz* becomes forbidden.

### III. Disposing of Garbage

Rav Mordechai Ya'akov Breisch (20th cen., Switzerland; *Chelkas Ya'akov, Orach Chaim* 1:196, 3:165) suggests selling your garbage cans to a gentile as part of the normal communal sale of *chametz* before Pesach. In this way, you are rendering your garbage ownerless and placing it in a gentile's cans. However, Rav Breisch's *mechutan*, Rav Moshe Stern (20th cen., US; *Be'er Moshe*, vol. 1 no. 41) argues that such a sale does not work because people continue using those garbage cans throughout Pesach. Even before Pesach begins, you continue using the cans. Your actions prove that you did not really intend to sell the garbage cans.

Rav Stern points out that garbage inside a garbage can is often edible, even if unpleasant. Even that which becomes inedible to a human is still edible to a dog. Therefore, it is prohibited to own that garbage on Pesach. However, this offers us a solution. If we render the garbage inedible even to a dog, then we have no problem placing it on the curb for sanitation workers to pick up. If you pour bleach into your garbage bag, you render the *chametz* permissible to own. Rav Yitzchak Ya'akov Weiss (20th cen., Israel; *Minchas Yitzchak* 4:56) and Rav Shmuel Vosner (21st cen., Israel; *Shevet Ha-Levi* 1:137) offer the same suggestion.

Rav Tuviah Goldstein (20th cen., US; *Responsa Emek Halachah* 2:33) offers a simpler solution that does not require bleach. You can put garbage bags directly on the curb, without garbage cans (or inside a cardboard box). In this way, you no longer have the problem that the effectively ownerless *chametz* in the garbage remains on your property because it is on public property. While the *Taz* would not allow this after the time *chametz* becomes forbidden, the *Magen Avraham* and others consider it perfectly permissible.

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# Purim Section

## *Matanot La'evyonim*

by Rabbi Yaakov Klass

To Whom Does One Give On Purim? I have encountered people who wait for my charity only to later see that they are not really poor. Their whole posture is a charade. Is there a minimal amount one is to give? Also what about boys collecting for yeshivot or other institutions, may one discharge his obligation via such giving?

Menachem  
Via email

The mitzvah at hand is as the Mechaber (*Orach Chayyim* 694:1, based on *Megilla* 7a) states: “Everyone is obligated to give minimally two matanot – gifts to two poor people.

Aruch Hashulchan (ad loc sk1-8) states: “It is a *mitzvat aseh* as found in Megillat Esther to give *Matanot La'evyonim* as the verse (*Esther* 9:22) states “*u'mishloach manot ish l'rei'eihu u'matanot la'evyonim.*” Now since it says *matanot la'evyonim* – gifts to the poor – in the plural it is therefore an obligation to distribute to the poor, and on the day of Purim, to not less than two poor people and to give minimally one gift to each. This may be given either in the form of money or by giving types of cooked food, or [any] foods [that one may use on that day].

He continues: “And one need not be exacting with *Ma'ot Purim* – the money [or foods] one distributes on Purim, to say this individual is proper [to give to] and this one is a schemer and thus there is no need to give to him, rather any who extends his hand to take, we give him and one is not to check after him.

He notes: “It is far better for one to engage in the giving of *Matanot La'evyonim* than to overly engage in one's own seuda, or sending out many *Mishlo'ach Manot*, for there is no more splendid and greater joy as when one imparts joy in the hearts of the poor, the orphans and the widows. For one who gladdens the hearts of these unfortunates is compared to the *Shechina* – the Divine Presence as it states (*Isaiah* 57:15) “*l'hachayot ruach shefalim, u'l'hachayot lev nidka'im* – to revive the spirit of the lowly and to revive the heart of the despondent.” [Sometimes, we don't realize the limitless possibilities that we possess with just one heartfelt charitable gift to a poor soul, imagine if we give even more.]

The obligation to give, according to Aruch Hashulchan, does not discriminate between male and female. “And one discharges his obligation whether he gave to men or whether he gave to women, and even where he gave to minor males and females because they too need financial support. But he notes, “In my view, where he gave to a husband and a wife, or a father and his son or daughter, who are dependant on his support [lit. ‘They are all on one table’] he does not discharge the obligation of giving to two poor, as they are considered as one [he must then give again to another needy person]. And he is quick to add that the mitzvah of *Matanot La’evyonim* is equally incumbent on women and in answer to the fact that women are generally absolved of any timely mitzvah – *mitzvot she’hazman garma*, thus how are they obligated here, he notes because all the mitzvot of Purim apply equally to women [because they too were miraculously saved].

He cautions that one may not take from his *ma’aser* – tithe moneys or from other designated charity funds for the purpose of *Matanot La’evyonim* these are to be monies that are exclusively designated for this purpose..

Further Aruch Hashulchan makes note of the *klei kodesh* – ‘the members of the cloth,’ who labor on behalf of the sanctified needs of the community, such as Rabbis, Chazzanim and Shamashim, that they correctly look to the communities support at that time. However as he explains, there are two separate collections, the one is *Matanot La’evyonim* and the other is *D’mei Purim*. While they may benefit from the latter, only *Aniyyim* – those who are truly indigent, may benefit from *Matanot La’evyonim*.

He further strengthens the above by citing a Tosefta (1<sup>st</sup> Chapter *Megillah*): *Magvat Purim* – the Purim charity collection is exclusively for Purim but *Magvat Ha’ir* – the [general] city charity collection is for that city. Thus we see that as relates to collections on Purim they are to be used for the exclusive holiday needs.

As to whether *Matanot La’evyonim* must be given only on Purim [and by day] or may be given even before Purim, *Biur Halacha (Orach Chayyim 694, s.v ‘l’shnei aniyyim’)* cites Magen Avraham in the name of Ba’al HaMa’or who rules that one should not give before Purim lest they eat it before Purim [thus invalidating the donors mitzvah]. On the other hand he cites *Machtzit Hashekel* who explains that the widespread custom is give to the poor even in advance of Purim, yet there is a caveat that he must give again on Purim as there are many poor who are going from door to door [in search of their needs] on Purim.

Yet should there be leftover funds these may be placed in the general charity fund according to the Mordechai, however, this approach is not universal as the Tur dissents.

Now as to your last question, we must assume that the boys’ collection for a yeshiva or other institution is not for the purpose of *Matanot La’evyonim* but rather might be considered akin to the general city collection and as such is surely permitted only that through such giving obviously one will not discharge his/her obligation of *Matanot La’evyonim*. On the other hand if, indeed, the boys are collecting for poor individuals, to

whom they will dispense the money on Purim for the needs of the day, then one may obviously discharge his *Matanot La'evyonim* obligation.

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## Is There a Mitzvah to Rejoice in Adar?

by Rabbi Gil Student

The Gemara (*Ta'anis* 29a) famously says that when Adar begins, we increase joy. While this saying is often quoted, standard codes omit it. Rambam (12th cen., Egypt) does not mention it in *Mishneh Torah* nor do Rav Yosef Karo (16th cen., Israel) and Rav Moshe Isserles (16th cen., Poland) in *Shulchan Aruch*. It is only Rav Avraham Gombiner (17th cen., Poland; *Magen Avraham* 686:5) who brings this idea into the codes, which then becomes standard (e.g. *Chayei Adam* 155:1; *Kitzur Shulchan Aruch* 141:1). Is it possible that there is no mitzvah to be happy in Adar?

One indication that there is no such mitzvah is that we say *Tachanun* prayers and the *Tziduk Ha-Din* formula throughout Adar, except on Purim and Shushan Purim (and Rosh Chodesh and Shabbos). We say it during Adar even though we usually omit *Tachanun* on joyous days. During the entire month of Nisan, we do not say *Tachanun*, but during most of Adar we do.

Making the matter more perplexing, the Gemara says: "Just like when (the month of) Av begins we decrease our joy, so too when (the month of) Adar begins we increase our joy." Therefore, continues the Gemara, you should avoid a financial litigation with a gentile during Av and schedule it for Adar, because the *mazal* for Av is bad but for Adar is good. Rambam (*Mishneh Torah, Hilchos Ta'anis* 5:6) says that we decrease joy in Av and *Shulchan Aruch (Orach Chaim* 551:1) adds the idea about not litigating during Av but neither mention these ideas regarding Adar. Why would they include the decreasing of joy in Av but not the increasing of joy in Adar?

Rav Moshe Sofer (19th cen., Hungary; *Responsa Chasam Sofer, Orach Chaim* 160) offers two possible explanations. There is a three-way debate regarding the length of the mourning during the month of Av: 1) from Rosh Chodesh until the fast, 2) the entire month, 3) only the week of the fast (*Ta'anis* 29b). Rav Sofer suggests that the above passage follows the middle view, that the mourning of Av lasts the whole month. Similarly, the joy of Adar begins with Rosh Chodesh. However, we follow the third view. Therefore, the above passage is rejected as well. Despite this, there is other reason to reduce our joyful activity at the beginning of Av. This is why Rambam and *Shulchan Aruch* mention decreasing joy at the beginning of Av but not increasing joy at the beginning of Adar.

Alternately, Rav Sofer points out that there is a debate whether Jews are subject to *mazal*, to the astrological implications of the constellations (*Shabbos* 156a). According to R. Chanina, we are. According to R. Yochanan, we are not subject to *mazal*. Rav Sofer suggests that the passage above about Av and Adar follows the view that Jews are subject to *mazal*. However, Rambam and *Shulchan Aruch* follow the view that we are not subject to *mazal* and therefore omit the related rules about increasing and decreasing joy.

Rav Chaim Elazar Shapiro (20th cen., Hungary; *Nimukei Orach Chaim* 696:1) finds both these explanations lacking. Primarily, if Rambam and *Shulchan Aruch* reject this Gemara because they believe it is contradicted by a more authoritative view in a different Gemara, why do they quote the rule about decreasing joy in Av? Rav Sofer cannot adequately explain that. Rather, he suggests that Rambam and *Shulchan Aruch* quote the rule about decreasing joy in Av because it manifests in specific practices. When there are concrete rules, they quote the idea of decreasing joy. However, the increase in joy during Adar is not reflected in specific practices but rather joy in the heart. Since there are no rules about the joy in Adar, these codes omit the idea.

However, as Rav Shapiro himself notes, this explanation is quite difficult. Many times, Rambam quotes ideas that are expressed in the heart without specific practices. For example, Rambam describes what the mitzvah of joy in Yom Tov is and is not: “we were not commanded to indulge in frivolity or foolishness, but rather in rejoicing that involves the service of the Creator of all existence” (*Mishneh Torah, Hilchos Yom Tov* 6:20). Ultimately, I have not yet found a satisfying explanation for the omission of the rule regarding Adar in conjunction with inclusion of the rule regarding Av.

In practice, how do we fulfill this idea to increase joy during Adar? Rav Shlomo Zalman Auerbach (20th cen., Israel; *Halichos Shlomo, Mo'adim*, vol. 1, p. 328 n. 36) is quoted as saying that the mitzvah is not to rejoice actively during Adar but to relax and reduce your anxieties. Rav Chaim Kanievsky (cont., Israel; *Derech Sichah*, vol. 1, p. 188) is quoted as saying that the idea of increasing joy during Adar is not an obligation but merely advice. He adds that the proper way to fulfill this during Adar is by learning more Torah, which rejoices the heart. During Av, you learn the laws of mourning to decrease joy. (I saw the preceding two sources quoted by Rav Mordechai Tzion in his editorial notes to Rav Shlomo Aviner's *Piskei Shlomo*, vol. 1, p. 287.)

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## Four Special Torah Readings

by Rabbi Yaakov Klass

Question: I would like to know why there are four special readings of the Torah during the period from the month of *Adar* until *Pesach*. Also, why do we call each of those four *Shabbatot* by a special name, such as *Shabbat Shekalim*, *Shabbat Zachor* etc., which we don't do otherwise? And our weekly Torah reading, itself, how did that come about?

Celia Gluck  
(via e-mail)

Answer: The four readings to which you refer take place after the reading of the week's Torah portion that we read following Sabbath *Shacharit* prayer from the Sabbath usually preceding the first of *Adar* through the Sabbath preceding the first of *Nissan*. This year, the second day of *Rosh Chodesh Adar* [1<sup>st</sup> of *Adar*], *Shabbat Parashat Mishpatim*, was Shabbat Shekalim; *Shabbat Parashat Terumah* on the 8<sup>th</sup> of *Adar* was *Shabbat Zachor*; the 22<sup>nd</sup> of *Adar*, *Shabbat Parashat Ki Tisa*, will be *Shabbat Parah*; and the 29<sup>th</sup> of *Adar*, *Shabbat Parashat Vayakhel Pikudei*, will be *Shabbat HaChodesh*. These four special Sabbath readings, collectively, are referred to as the "*Arba Parashiyot*."

In truth these four *Shabbatot* are not the only ones referred to with a special name, as in fact there are other Sabbaths that are also referred to by special names, such as *Shabbat Nachamu*, the Sabbath after *Tisha B'Av*; *Shabbat Shuva* [also known as *Shabbat Teshuva*], between *Rosh Hashanah* and *Yom Kippur*; *Shabbat Shira*, the name given to the Sabbath on which we read *Parashat Beshalach* [and the *Shira* – the song at the Red Sea, found therein which this year was two days after *Tu BiShevat*]; and finally *Shabbat Hagadol*, which is always the Sabbath preceding *Pesach*.

The difference is that on those *Shabbatot* we do not have any special extra Torah reading in addition to *Parashat HaShavua*, but their special names denote another significant factor that distinguishes them from a "regular" week. For example, on *Parashat Beshalach* the week's Torah portion includes *Shirat Hayam*, lit., the songs or praises at the [Red] Sea, sung by Moses, Miriam, and the men and women of Israel; thus its special name, though no special additional reading. Likewise, the other *Shabbatot* we mentioned have some significant factor to denote their special status and name and again as we noted no special additional reading.

However, the *Arba Parshiyot* are different in that they have special Torah readings in addition to the regular weekly reading, as you noted. We will now address why we have these special Torah readings at this particular time of year.

The Gaon Rabbi Shlomo Yosef Zevin, Zt"l, discusses this very matter in his work *HaMoadim B'Halacha* (Jerusalem, 1956, p. 188), stating as follows:

“The unique importance of these Parashiyot is found in rabbinic literature. Even before the *Parashiyot* of the Torah were divided among the Shabbatot of the year, the requirement [to read] the *Arba Parashiyot* was already noted (*Megilla* 29a, *Mishna*). However, in both the *Mishna* and the *Tosefta* we find no mention of the names of the weekly *Parashiyot* [nor the requirement to read *Parashat HaShavua* – the weekly Torah reading].

“The requirement to read the Torah every Shabbat [in the synagogue where at least a minimum quorum of ten adult males are present] actually dates back to the time of Moses” (*Bava Kamma* 82a).

The Gemara (*ibid.*) enumerates the 10 enactments of the prophet Ezra; among them was the public reading of the Torah on Shabbat at Mincha, as well as on the following Monday and Thursday, a cycle repeated every week. The Gemara then questions whether this was an enactment of Ezra and proves that the enactment to read the Torah on Shabbat as well as on Monday and on Thursday, dates back to Moses’ time, derived from the verse [“*Vayasa moshe et yisrael miyam suf vayetz’u el midbar shur*] *vayelchu sheloshet yomim bamidbar ve’lo motz’u mayim* — [Moses brought the Children of Israel from the Red Sea and they went out toward the Desert of Shur] and they traveled three days in the desert and they did not find water” (*Exodus* 15:22).

The Gemara cites another verse (*Isaiah* 55:1), “*Hoy kol tzamei le’chu lemayim. . .* — Everyone who is thirsty, go for water...” Water is a term often used to refer to the Torah. Thus the Gemara is inferring that just as one cannot go three days without thirsting for water similarly one cannot go three days without Torah and therefore we have a Torah reading three times during the week (Monday, Thursday, Sabbath) in a constantly recurring cycle.

The Gemara resolves the apparent inconsistency by explaining that Ezra’s enactment was to upgrade from reading a total of three verses to reading ten verses, and calling up three people — a Kohen, a Levi, and a Yisrael, each reading a minimum of three verses of the Torah.]

Rabbi Zevin continues, “But the dividing of the Torah reading into 54 [weekly] Parashiyot [each read on a Shabbat] came at a much later time. We find (*Megilla* 29b) that the *Bnei Ma’arava*, [a reference to those in *Eretz Yisrael*, which is west of Babylonia, then the heart of the Diaspora – the *Bnei Bavel*], used to conclude a Torah reading cycle every three years.”

The Mechaber (*Orach Chayyim* 669:1) clearly states that on the second day of *Shemini Atzeret*, we in the Diaspora read in the first Torah scroll *Ve’zot Haberacha*, the last *Parasha* of the 54 in the Torah, until the conclusion. Then we read in the second scroll from *Parashat Bereishit*, the beginning of the Torah, until “*Asher bara Elokim la’asot*,” and in the third scroll we read the *Maftir*, “*Bayom hashemini atzeret*,” as on the first day.

It is obvious that since the Gemara states that the *Bnei Ma'arava* [those in the West – the Land of Israel] would complete the Torah once every three years, we might infer that the *Bnei Bavel* [in the Diaspora] completed the Torah every year. Indeed Rashi (30b sv “*d’maski oraysa*”) in his explanation of the Gemara is emphatic as he could be, that what the *Bnei Ma'arava* do is not like what we today do [this applies to *Eretz Yisrael* as well], which is that we finish the entire Torah reading every year, additionally the Gemara (infra 31a) states that on the last day [of the *Chag – Shemini Atzeret – Simchat Torah* in the Diaspora] they would read “*Ve’zot Haberacha*” (Deuteronomy 33:1 – 34:12) Thus, these *Gemarot* serve as the source for the Mechaber and the Rema regarding that Halacha.

Thus we have answered your second and third questions [first], we see that the division into *Parashiyot* that we have today is inferred from these two statements in the Gemara. The *Arba Parashiyot* [which each serve as the *Maftir* of that week’s reading], however, and the time we read them, is clearly mentioned in the *Mishna* (*Megilla* 29a) by name. Therefore the Shabbat, on which one of them is read, as the *Mishna* delineates, is referred to by that specific *Maftir*’s name.

Let us examine each of the *Arba Parshiyot*, the verses in the Torah that apply to them, and what our Sages have said in their regard.

The first of the Four *Parshiyot* is *Parashat Shekalim*, which deals with the half-shekel coin. The Torah (*Parashat Ki Tisa*, *Exodus* 30:11-16) states that this served two purposes. First, it was to count the Children of Israel in a census, as heads were not to be counted so that the evil eye would not plague them (Rashi ad loc). Instead, they were counted with coins valued at half a shekel. The verse explains that these coins were then to be used for a second purpose – for *kappara* – for atonement. Rashi (ad loc.) explains that some of that money was used for the communal sacrifices to be offered on the altar throughout the year.

The first Mishna in J.T. *Shekalim* (1:1) states, “On the first day [Rosh Chodesh] of Adar, they [the Beit Din would] announce the *Shekalim* contribution...” The Gemara asks, “Why on the first day of Adar?” The Gemara answers, “So that they will bring their *Shekalim* in the proper time.”

The Riv’van [Rabbenu Yehuda b. Binyamin HaRofeh] explains in his commentary (ad loc.) that the *proper time* referred to is *Rosh Chodesh Nissan*, as the Gemara (*B.T. Megilla* 29b) explains concerning the verse (*Numbers* 28:14), “*Zot olat chodesh bechodsho* — This is the *Olah* [burnt offering] sacrifice of each month in its month,” meaning the first of the month. Additionally it also infers that at this time, “*chaddesh* – renew – “ from a new *Terumah* [collection], the *Tamid* and *Mussaf* sacrifices which were brought on Rosh Chodesh Nissan. They were acquired with the new *Shekalim* coins [collected at that time].”

Riv’van then compares this announcement to the laws of *Pesach*. The Gemara (*Pesachim* 6a) states that we are to query and expound on the laws of *Pesach* 30 days before *Pesach*

commences, beginning with the 15th of Adar. Thus, we understand that all announcements are always made 30 days prior to an event. As the *Shekalim* collection was scheduled for *Rosh Chodesh Nissan*, it was announced 30 days prior, on *Rosh Chodesh Adar*. Therefore, *Parashat Shekalim* is read on, or immediately prior to, *Rosh Chodesh Adar*.

Now, since we are bereft of the Holy Temple and we have no *Korbanot* or *Shekalim* collection, we read *Parashat Shekalim* to commemorate both.

Second on the calendar is *Parashat Zachor*, based on the verses in *Parashat Ki Tetze* dealing with Amalek (*Deuteronomy* 25:17-19), “*Zachor et asher asah lecha Amalek baderech betzet’chem mimitzrayim* — Remember what Amalek did to you on the way as you were departing Egypt.” The verse then spells out, “*Asher karcha baderech va’yezanev becha kol ha’nechshalim acharecha ve’ata ayef ve’yage’a, velo yarei Elokim* — How he met you on the way, and he struck those of you who were hindmost, all the weak ones at your rear, when you were faint and exhausted, and he did not fear G-d”.

The verse then instructs, “*Vehaya behani’ach Hashem Elokecha lecha mikol oy’vecha misaviv ba’aretz asher Hashem Elokecha noten lecha nachala lerishtah, timcheh et zecher Amalek mitachat hashamayim, lo tishkach* — It shall be when Hashem your G-d has given you rest from all your enemies all around, in the land that Hashem your G-d gives you for an inheritance to possess it, you shall blot out the memory of Amalek from under heaven, you shall not forget.” Tosafot (*Berachot* 13a s.v. “*b’lashon hakodesh ne’emra*”), rules that the [public] reading of *Parashat Zachor* is a biblical requirement. Indeed, the Mechaber (*Orach Chayyim* 685:7 citing “*yesh omrim*” – some authorities say,) codifies this as Halacha.

One might ask why Amalek is deserving of such unique and severe punishment? Were there not other mortal enemies who fell upon our people and not a single other one has engendered such a harsh punishment – the requirement to be totally eradicated at our hands? The answer is rather simple. Other nations that fought with us, in the course of our entry into the land of Canaan, were nations of the land we were commanded to inherit. They fought us, though to no avail, because they viewed their battles as a matter of survival. However, Amalek, a grandson of Edom [Esav], had no need to attack us. We had been forewarned [and foresworn] that Edom, Moab and Ammon were not to be conquered or harmed in any way as they are the children of Esav [Abraham’s grandson] and Lot [Abraham’s nephew] and their own lands are their own inheritances by right. Notwithstanding, Amalek came out in treacherous and gratuitous battle with Israel, and thus they sealed their destiny – for eventual destruction and obliteration.

The Mishna (*Megilla* 29a) explains that if *Rosh Chodesh Adar* falls on a Sabbath, we read *Parashat Shekalim* on that Sabbath. However, if *Rosh Chodesh* falls in the middle of the week, we read *Parashat Shekalim* on the Sabbath preceding *Rosh Chodesh*; we then interrupt the normally consecutive reading of the *Arba Parshiyot*, and resume with *Parashat Zachor* on the Sabbath after that.

Rashi s.v. “*Umafsikin le’shabbat haba’ah*” explains that we endeavor to read *Parashat Zachor* on the Sabbath just before Purim in order to connect the eradication of Amalek with the downfall of Haman who is descended from Amalek [via Agag, King of Amalek]. This serves to strengthen the connection between *Parashat Zachor* to this time of year.

The third of the *Arba Parshiyot* is *Parashat Parah*, and its reading is the section found at the beginning of *Parashat Chukkat* (*Numbers* 19:1-22) that discusses the unblemished red heifer, the *Para Aduma*, that Moses was commanded to hand to Eleazar the priest for sacrificial purposes. The verses detail the entire procedure, which the Torah refers to as a *Chok* – a law for which we do not know the reason.

Rashi (*Megilla* 29a s.v. “*para aduma*”) explains that the red heifer was sacrificed to warn the Jews to purify themselves of any ritual defilement so as to be able to participate in the upcoming Pascal sacrifice in a ritually pure state.

Thus we see that this Parasha is timely to the weeks before Pesach, which is why we read it at this time. (Rashi ad loc. s.v. “*Ba’revi’it hachodesh hazeh lachem*” quotes the Jerusalem Talmud, stating that in actuality this should be the fourth Parasha, because on the first of Nissan the Mishkan was erected (*Parashat Pikudei*, *Exodus* 40:2) and on the second [of Nissan] they burnt the red heifer (cf. *Gitin* 60a-b and Rashi 60b s.v. “*u’parashat para aduma*”). However, it was given precedence because it is crucial to the purification of Israel.

According to the Mechaber (*Orach Chayyim* 685:7, in the name of “*yesh omrim*”), the reading of this Parasha is also a biblical requirement.

Finally, the last of the *Arba Parshiyot* is *Parashat HaChodesh* (*Exodus* 12:1-20). This reading contains the concept of Rosh Chodesh, the first commandment given to the Children of Israel, upon which our Jewish calendar is based, including the festivals. The first festival celebrated as a nation was Passover. This section also contains the commandment of the paschal sacrifice and its laws.

This *Parasha* is read on the Sabbath preceding *Rosh Chodesh Nissan*, unless Rosh Chodesh occurs on a Sabbath, in which case it is read on that Sabbath. Rashi (*Megilla* 29a) notes that since this section contains the laws of *Pesach*, the Mishna instructs us to read it at this time.

Thus we see that all *Arba Parshiyot*, as delineated in the Mishna (*Megilla* 29a), are very appropriately, designated to be read on these four specific *Shabbatot*. May we merit the speedy arrival of the Moshiach that we may once again fulfill the actual obligations the *Arba Parshiyot* represent, speedily in our days.

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# Select Topics

## Documenting A Loan

by Rabbi Ephraim Glatt

*Question:* May a lender loan money without documenting the loan?

*Short Answer:* A lender is prohibited to lend money without either witnesses or an executed loan agreement (preferably with witnesses). However, there are many poskim who attempt to explain why people are lax with this halachah nowadays.

*Explanation:*

### I. Causing Problems

The Gemara (B"M 75b) sets forth that one who lends money without witnesses violates "lifnei iver" because he causes the borrower to deny receiving the loan in order to avoid repaying the loan. The lender also causes "curses" onto himself, as people will assume he is lying (and will thus curse him) when he tries to collect on the undocumented and private loan.

The Gemara (ibid) further relates that Ravina required R' Ashi to bring "witnesses" and execute a loan agreement before Ravina would loan money to R' Ashi, even though he was a Talmid Chacham. Ravina told R' Ashi that since R' Ashi was so engrossed in learning Torah, he might forget to repay the loan, and thus witnesses/loan agreement is certainly necessary.

The Rambam (Hil. Malveh 2:7) and the Tur (C"M 70:1) note that while loaning with witnesses is certainly sufficient, it is also sufficient to lend money without witnesses as long as collateral is given. Because a lender is automatically believed when he presents collateral and swears to the validity of the loan, there is no need for witnesses in such a scenario. However, they add, based on the story of Ravina (see Beis Yosef, ibid), that the preferred way to lend money is with a written and executed loan agreement. The Beis Yosef explains that a loan agreement is preferable to collateral because it records the precise amount of the loan.

Shulchan Aruch (C"M 70:1) poskins like the Tur and Rambam. The Shach adds that a "kesav yad" -- a handwritten IOU by the borrower -- is also sufficient, as this also lists the loan amount. However, he notes that the Maharshdam disagrees and requires an executed loan agreement (with witnesses). Indeed, the Maharshdam proves this from the fact that Ravina required R' Ashi to execute such an agreement with witnesses and didn't give him the option of writing an IOU.

## II. Who Violates The Prohibition?

Even though Shulchan Aruch (and the other poskim) appear to only prohibit the lender from loaning without a written loan agreement (or witnesses or collateral), the Kesef Hakadoshim (on S"A ibid) comments that this prohibition applies to the borrower as well. The Pischei Choshen (Halva'ah 1:6) follows the ruling of the Kesef Hakadoshim.

The sefer Darkei Mishpat (R' Nidam, 2:2) cites the Even Shoham as ruling that the prohibition is only on the lender. However, the Darkei Mishpat challenges this based on the Kesef Hakadoshim and the fact that logically there should be a prohibition on the borrower, as he certainly should not be permitted to do "lifnei iver" to himself, i.e. by putting himself in a position where he will be able to avoid paying back the loan by lying.

## III. Does It Apply Nowadays?

Based on the above, it appears that one should never lend a friend a few dollars without either witnesses or a signed written agreement, even if the friend is a trustworthy talmid chacham. Are there any leniencies nowadays?

*First*, the Pilpulah Chariftah (B"M ibid) suggests that the reason why we are not careful with this halachah nowadays is because there is no real prohibition of "lifnei iver," but rather simply a potential curse. He posits that these two opinions of the Gemara (lifnei iver & curse) are actually disagreeing, and the opinion who says that you only risk a curse for lending without witnesses understands that there is no lifnei iver here because nothing bad happens until the borrower refuses to repay the loan on the due date.

The problem with this answer, as discussed in the sefer Hayashar V'Hatov (Vol. 17, p.104), is that this presumption, that lifnei iver is not violated until the borrower refuses to pay back, is not necessarily true. Indeed, the P'ri Yitzchak (2:49) queries when a person violates lifnei iver, when he places the stumbling block or when the violator violates the prohibition (i.e. when you give the nazir the wine or when he drinks the wine). Although the Pri Yitzchak ultimately proves from the Ritva that lifnei iver is not violated until the violator violates the prohibition, he cites the Yad Malachi who disagrees.

Another problem with this answer is that Shulchan Aruch does cite the reason of lifnei iver, implying that we follow the opinion of the Gemara that one violates lifnei iver by lending without witnesses, and doesn't just risk a curse.

*Second*, the Erech Shai (cited in Hayashar V'Hatov, *ibid*) suggests that the language of the Gemara ("mi sh'yesh lo ma'os") implies that lifnei iver is only violated here if the lender typically lends without witnesses (i.e. a commercial lender or the like), thus increasing the likelihood that at least one borrower refuses to repay. A lender who only lends a few dollars here and there in an informal basis does not violate lifnei iver because the borrower will likely repay the small loan.

This distinction between a commercial loan and an informal loan, however, is not found in the Shulchan Aruch.

*Third*, the Aruch Hashulchan (C"M 70:1) suggests that nowadays the lender is usually familiar with the borrower and knows that he won't forget to repay the loan and won't deny receiving the loan.

The sefer Hayashar V'Hatov (*ibid*) challenges this answer, as it is common for borrowers nowadays to forget to repay loans, especially small loans from friends. He thus concludes that there really is no good reason why people appear to be lax in this halachah.

*Fourth*, the Gilyon Ma'adanei Asher (Mishpatim, 5770) cites the Divrei Malkiel who suggests that the leniency stems from the Ritva who understands that there is no prohibition to lend without witnesses, but rather that it is a midas chassidus to lend with witnesses. The Ritva proves this from the story of Ravina/R' Ashi (mentioned above) - if it was a real prohibition, why would R' Ashi "test" Ravina by trying to borrow money without witnesses? Rather, it is just a midas chassidus.

The S'dei Chemed (cited *ibid*) attacks this answer, as Shulchan Aruch is clear that it is a prohibition to lend without witnesses. Indeed, the Ma'adanei Asher likewise concludes that one should only lend money with witnesses (or with a loan agreement) nowadays.

*Fifth*, the Pri Yitzchak (1:48) provides a creative answer, that the real concern is that the borrower will intentionally lie ("kofer hakol") in order to delay repayment until he has the money to repay the loan. R' Nachman, who lived after Rav (who said the law in our Gemara), was the amora who established that a borrower who denies a loan needs to swear a "shvu'as hesit" (a Rabbinic oath). Thus, once R' Nachman instituted this oath, borrowers who were afraid to swear falsely became deterred from lying about the loan, and would repay the loan in a timely fashion. Thus, Rav's law of "lifnei iver" for not lending with witnesses became obsolete, as all borrowers repaid the loan.

The Ma'adanei Asher (*ibid*) cited the L'Horos Nosson (C"M 65) who challenges this answer, as the Rambam cites the rule of R' Nachman, but also cites the halachah that one must lend with witnesses.

#### **IV. Practically Speaking**

While it appears from the above discussion that ideally one should lend money in all situations with witnesses, the sefer Birur Halachah (Vol. 5, p.436) notes that the Chazon

Ish was lenient and would personally lend money without witnesses. When R' Chaim Kanievsky was asked if the Chazon Ish (his uncle) would even lend large amounts without witnesses, R' Chaim responded that he was unsure.

The Tzitz Eliezer (7:47), after citing many of the above answers, concludes by citing the Devar Mishpat who has a tremendous chiddush based on the Gemara (Yevamos 63a). The Gemara in Yevamos writes that Hashem will answer the prayers of those that lend to a pauper in his time of need. The Devar Mishpat interprets this as someone who lends to a pauper quickly and before procuring witnesses, implying that this Gemara argues with the Gemara prohibiting lending without witnesses. The Tzitz Eliezer suggests that this is the basis for lending money without witnesses to a trustworthy borrower nowadays.

To conclude, the Yabia Omer (7:7) [also cited in Birur Halachah ibid] notes that lending money via a check is considered as if you are lending with witnesses as there is a record of the loan (and loan amount) and it is easily collectable.

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## Yahrtzeit Boards and Digital Displays

by Rabbi Gil Student

When I was young, it was common for synagogues to have large boards with plaques containing the names of the deceased and small light bulbs that were turned on for the week or month of the person's yahrtzeit, the anniversary of his passing. They still exist today, although they are becoming less common. Many synagogues have removed the boards, some placing those names on a rotating basis on a digital screen. What is the significance of the yahrtzeit boards and do the digital displays offer equal merit?

### I. A Custom or a Mitzvah?

There is an old custom to light a candle on a parent's yahrtzeit. Rav Avraham Shmuel Binyamin Sofer (19th cen., Hungary; *Responsa Kesav Sofer, Orach Chaim*, no. 65) explains this practice as a sign of respect for parents, based on the verse, "The soul of a man is G-d's lamp" (Prov. 20:27). In some way, lighting the candle serves to atone for the parent's sins, similar to lighting a yahrtzeit candle before Yom Kippur (*Shulchan Aruch, Orach Chaim* 610:4).

The practice of lighting a yahrtzeit candle was so established that Rav Shlomo Luria (Maharshal, 16th cen., Poland; *Responsa*, no. 46) permits someone who forgot to light a yahrtzeit candle before Shabbos to ask a gentile to do it in the few in-between minutes after sunset (quoted in *Magen Avraham* 261:6). From Maharshal's language, he seems to see it as a long-established custom. Rav Sofer (*ibid.*) takes it further and argues that lighting a yahrtzeit candle is a mitzvah, specifically for that day of the year. Based on this, Rav Sofer permits lighting a yahrtzeit candle on Yom Tov, even though it is otherwise forbidden to kindle a flame that will not be used for cooking, heat or light. (While others disagree, the *Mishnah Berurah, Bi'ur Halachah* 514:5 s.v. *ner* seems to follow the *Kesav Sofer*.)

Most historical discussions of the yahrtzeit candle say that the practice is to light it in a synagogue or study hall. In this way, the candle enables people to pray and study Torah. Rav Sofer discusses lighting in a home or in a synagogue. On Yom Tov, he permits both but prefers the synagogue because there is always a mitzvah to light candles in the synagogue. It seems from his discussion that the custom includes the possibility of lighting a yahrtzeit candle at home. Rav Aaron Levine (cont., Canada; *Kol Bo Le-Yahrtzeit*, vol. 1, p. 312 n. 235) says that the most common practice today is to light a yahrtzeit candle at home, although he quotes Rav Moshe Sternbuch (cont., Israel) as telling him personally that it is best to light in synagogue but you can light at home if you want.

## II. Traditional Lights

In the mid-twentieth century, the question arose whether an electric light can be used as a yahrtzeit candle (for our purposes, we will discuss only an undesired incandescent lightbulb). In the first volume of Rav Betzalel Zev Shafran's *Responsa Ha-Rabaz* (20th cen., Ukraine; no. 132), originally published in 1930, the author's son, Rav Chanoch Henich Shafran, addresses this question. Rav Shafran quotes a responsum from Rav Yitzchak Isaac Shmelkes (19th cen., Ukraine; *Beis Yitzchak, Yoreh De'ah* 120:5) regarding using a gas or electric light for Shabbos candle. Rav Shmelkes says that the filament or gas flame serve as proper flames for Shabbos lights but not for Chanukah lights. Rav Shafran argues that if an electric light suffices for Shabbos lights, even moreso it can be used as a yahrtzeit light. However, he adds that based on Kabbalah, it is best to light an oil lamp because oil represents the heavenly influence on a soul.

Rav Shafran quotes the Gemara (*Kesubos* 103a) that when Rav Yehudah Ha-Nasi's death approached, he asked his family that a candle be lit in his normal place. This teaches that a Jewish soul will shine forever. Rav Bentzion Meir Chai Uziel (20th cen., Israel; *Mishpetei Uziel*, vol. 3 no. 23) disagrees with this interpretation of Rav Yehudah Ha-Nasi's candle. He explains that this was a Shabbos candle, lit in Rav Yehudah Ha-Nasi's regular place so his soul could visit every Shabbos.

Rav Uziel adds that the Sephardic custom is not to light a separate candle for the yahrtzeit but to add to the light in the synagogue. Any way you add light, whether through oil, wax, gas or electric, fulfills this custom. However, while he believes this is technically correct, he says that we should not deviate from the practice of our ancestors who used oil and wax for this light. It is a form of continuity in this practice for which continuing in our ancestors' ways is most appropriate.

## III. Electric Lights

Rav Ovadiah Yosef (21st cen., Israel; *Yechaveh Da'as*, vol. 5 no. 60) disagrees with Rav Shafran's kabbalistic preference for an oil lamp. Rav Yosef quotes Rav Chaim Yosef David Azulai (18th cen., Israel; *Chaim Sha'al*, vol. 2 no. 10 par. 3) who says that we only follow kabbalistic practices of the Arizal, and not those suggested by other kabbalists. For this reason, Rav Azulai said to stop the practice of blowing shofar on Rosh Hashanah at dawn, before praying, as suggested by an eminent kabbalist. Similarly, argues Rav Yosef, we need not be concerned with a kabbalistic argument in favor of oil or wax yahrtzeit candle over gas or electric because it does not originate from the Arizal.

Rav Yosef also quotes Rav David Tzvi Hoffmann (20th cen., Germany; *Melamed Le-Ho'il*, vol. 1 no. 22) who was asked whether you can light a kerosene lamp for a yahrtzeit. He quotes his mentor, Rav Moshe (Maharam) Schick (19th cen., Hungary; *Responsa, Orach Chaim*, no. 83) who rules that you may use a kerosene light for a synagogue's eternal lamp. Similarly, argues Rav Hoffmann, you may use a kerosene lamp for a yahrtzeit candle. Rav Yosef points to the lack of preference for oil and extends this to permit an electric light for yahrtzeit candle. Although he recommends instead

donating money to pay for the light in a study hall so the Torah learning will serve as merit for the deceased's soul.

It would seem that the old practice of yahrtzeit boards fulfilled the custom of a yahrtzeit candle by adding light to the synagogue (although most people light a candle at home anyway). When the lightbulb next to the person's plaque is turned in for his yahrtzeit, the synagogue has more light in the deceased's memory. However, the digital sign often does not add any light for the yahrtzeits and merely alternates between different synagogues messages. Additionally, the digital displays are not made of incandescent lightbulbs that constitute flames but other technologies that do not qualify as candles. Therefore, I suggest, it does not fulfill the custom. In order to retain the merit of yahrtzeit candle, those synagogues that convert yahrtzeit boards to digital displays might consider formally stating that the synagogue's electricity and lights are dedicated (at least partially) in memory of those whose yahrtzeits are observed in that week or month.

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# Walking on Graves

by Rabbi Gil Student

Graveside funerals, or visits, often generate crowds around a grave, forcing people to search for space to stand. Are you allowed to step on someone else's grave for a service or in order to get to the right place in the cemetery?

## I. Magical Cure

The Gemara (*Sanhedrin* 47b) says that people used to take dirt from Rav's grave to use as a cure for a one-day fever. Some observers told Shmuel about this practice and he said that it is permissible because they are taking from permanent dirt. Rav Ya'akov Ben Asher (14th cen., Spain; *Tur, Yoreh De'ah* 364) quotes Rav Yeshayah who explains that "permanent dirt" is undisturbed. Dirt that is removed from the ground and then used to fill in the grave is not permanent dirt. Therefore, we are forbidden to derive benefit from the dirt used to cover the coffin, what we usually call the grave. *Tur* disagrees, and says that his father Rabbenu Asher (Rosh) disagrees as well. We are allowed to derive benefit from any dirt that is intended to remain there permanently, including what we commonly call the grave.

Rav Yosef Karo (16th cen., Israel; *Shulchan Aruch, Yoreh De'ah* 364:1) follows the lenient view of Rosh and *Tur*. Rema (16th cen., Poland; Glosses, ad loc.) follows the strict view of Rav Yeshayah. According to Rema, we would not be allowed to derive any benefit from a grave. Does this mean that we cannot stand or walk on top of it?

## II. Briefly Standing

The Gemara (*Bava Basra* 101a) tries to understand the Mishnah's description of graves inside a cave, in which people are buried in holes dug into the walls of a cave. One suggestion is that two graves are dug underneath the area near the entrance to the cave. The Gemara objects that then people will stand on graves. Rashbam (ad loc., s.v. *ha*) writes that when someone is buried in other graves, people will come and stand on the graves for a long time. However, Rashbam says explicitly, there is no concern if people stand on a grave momentarily while carrying someone to be buried.

Rav David Ha-Levi Segal (17th cen., Poland; *Taz, Yoreh De'ah* 364:1) quotes Rav Yisrael of Krems (15th cen., Austria, *Hagahos Asheri, Mo'ed Katan* 3:79) as saying that you may not walk on top of a grave. But he qualifies this with Rashbam's view that we may walk on a grave briefly. Rav Avraham Eisenstadt (19th cen., Lithuania; *Pischei Teshuvah, Yoreh De'ah* 364:2) quotes *Yad Eliyahu* who argues that walking on top of a grave briefly does not constitute deriving benefit from the grave. The existence of the grave does not make your walk any easier. However, sitting on a grave constitutes deriving benefit, which is forbidden.

Rav Shlomo Zalman Braun (20th cen., America; *She'arim Metzuyanim Ba-Halachah, Bava Basra* 101a s.v. *i*) quotes Rav Nesanel Weil (18th cen., Germany; *Korban Nesanel, Ta'anis*, ch. 2 22:3) who disagrees with *Taz* and says that there is no proof from the Rashbam in *Bava Basra*. The Gemara is discussing graves within a cave. People who stand on a grave there are standing on dirt that was never disturbed, which everyone agrees is permissible. The question is about graves with dirt that was refilled.

### III. Replanting

Rav Naftali Tzvi Yehudah Berlin (Netziv, 19th cen., Lithuania; *Meishiv Davar*, vol. 2, *Aveilus* (end of volume), no. 5) quotes a debate between Rashi and Tosafos in *Avodah Zarah* (45b). The Mishnah (45a) says that the ground (e.g. a mountain) cannot be forbidden as an idol even if people worship the ground. The Mishnah says that a tree used as an idol (*asheirah*) is different because it is planted by human hands. The Gemara (45b) adds that there is a debate about whether a tree that is planted for permissible purposes and then worshipped becomes forbidden as an idol. Rashi (ad loc., s.v. *ilan*) says that the debate is about a tree that is planted from a seed because that is created in part by human hands. But taking a sapling from one place and planting it in the ground is not really planting it. *Tosafos* (ad loc., s.v. *ve-hacha*) disagrees and considers replanting a tree the same as planting it for the first time.

Netziv seems to understand Rashi as saying that a replanted tree is not fully connected to the ground because it did not originate there. Therefore, such a tree can become forbidden as an idol. *Tosafos* believe that a replanted tree is as connected to that ground as if it was planted there for the first time. *Shulchan Aruch (Yoreh De'ah 145:1)* follows *Tosafos*. *Netziv* argues that dirt that was dug up and then refilled is like a tree that was dug up and replanted. *Tosafos (Sanhedrin 46b s.v. telishah)* could be read as supporting this. Therefore, since we follow *Tosafos*, dirt that is used to refill a grave is like unmoved dirt and therefore we may receive benefit by standing on a grave. While *Rema* disagrees with this conclusion, *Netziv* argues that he only means this as a proper stringency, a *chumra*, but for any mitzvah need we may rely on the lenient view and walk on, or even stand on, a grave.

### III. Honoring the Deceased

Rav Avraham Eisenstadt (*Pischei Teshuvah*, *ibid.*) further quotes *Yad Eliyahu* as saying that while he believes that there is no prohibition of receiving benefit from a grave, there is still a concern for the deceased's honor. You may not step on a grave because that disgraces the person buried there. However, if there is no other choice, then you may do so. In his conclusion, even though not in his reasoning, he effectively agrees with *Netziv*. Similarly, Rav Nesanel Weil (*Korban Nesanel*, *ibid.*) reaches the same conclusion but for a different reason. He believes that it is forbidden to receive benefit from a grave. However, when you have no other option but to walk on a grave, you are not considered as benefiting from it.

Rav Akiva Eiger (19th cen., Poland; Responsa 1:45) suggests tentatively that only the dirt directly on top of the deceased is placed in his honor, and therefore only that dirt is forbidden for benefit. All other dirt would be permissible and therefore you would be able to walk or stand on it. However, he points out that seems to be contradicted by the ruling that on the second day of Yom Tov we fill in the grave completely (*Shulchan Aruch, Orach Chaim* 526:4 and commentaries). Rav Shalom Schwadron (19th cen., Ukraine; *Responsa Maharsham* 1:43) argues that this approach is also contradicted by the Talmud Yerushalmi (*Kilayim* 2:8).

Rav Shlomo Zalman Braun (*She'arim Metzuyanim Ba-Halachah*, *ibid.*; *Kitzur Shulchan Aruch* 199:19) adds that there is a general rule that people do not mind when their belongings are used for a mitzvah. He suggests that this might apply to the deceased also, who do not object when their graves are used for a mitzvah.

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