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Orach Chaim

Havdalah on Tisha B'Av

by Rabbi Gil Student

I. Havdalah Options

Havdalah separates between the sanctity of Shabbos and the regular nature of the week. We must observe the prohibitions of Shabbos until we say Havdalah. Additionally, we may not eat until we recite Havdalah on a cup of wine or its equivalent. When Tisha B'Av falls or is observed on Saturday night through Sunday, we go straight from Shabbos into the fast. If we fail to say Havdalah, we cannot perform any of the forbidden labors. But because of the fast, we cannot drink wine or anything at all.

One option is to recite Havdalah before sunset. In that way, you can say it on a cup of wine — although you cannot light a candle. Another option is to recite Havdalah at night and give the wine to a child to drink. Rabbeinu Asher (Rosh; 14th cen., Germany-Spain; *Ta'anis*, ch. 4, no. 40) quotes *Bahag* who rejects the possibility of saying Havdalah before sunset because once you say Havdalah, you accept Tisha B'Av, begin the fast immediately and cannot drink the wine. Instead, *Bahag* recommends delaying Havdalah until Sunday night, when Tisha B'Av is over and you can drink wine and eat a meal after Havdalah. Before then, immediately when Shabbos is over, you should say the Havdalah passage in the prayers or recite the blessing of “*Baruch ha-mavdil bein kodesh le-chol*” (without G-d's name). This passage or blessing allows you to perform forbidden labor after Shabbos is over, although you must still recite Havdalah on a cup in order to eat.

Rosh quotes Ramban who rejects the proposal to say Havdalah on Tisha B'Av night and give the wine to a child to drink. We are concerned that children will get confused and later in life, as adults, will drink Havdalah wine on Tisha B'Av. Rather, Ramban says that since we cannot say Havdalah at the proper time, we are exempt from the requirement and do not need to say Havdalah on a cup at all.

Rosh follows Bahag, that we say Havdalah on a cup after Tisha B'Av. His son concludes likewise in *Tur* (*Orach Chaim* 556) and *Shulchan Aruch* (ad loc.) rules accordingly. All agree that you must recite the Havdalah passage in prayers or the blessing when Shabbos is over so you can perform otherwise forbidden labor on Tisha B'Av. Additionally, you

recite a blessing on fire after Shabbos is over, on Tisha B'Av, and do not recite a blessing on spices at all, even after Tisha B'Av.

II. Eating on Tisha B'Av

All this addresses the Havdalah problem from the perspective of someone fasting on Tisha B'Av. What about someone who for some reason does not fast?

Rav Chaim Yosef David Azulai (Chida, 18th cen., Israel; *Birkei Yosef, Orach Chaim* 556) quotes Rav Chaim Benbeniste (17th cen., Turkey) who rules that someone who is not fasting on Tisha B'Av due to illness should recite Havdalah on a cup of wine or equivalent after Shabbos. Rav Ya'akov Chaim Sofer (20th cen., Iraq-Israel; *Kaf Ha-Chaim* 556:9) writes that you should wait to say Havdalah until you need to eat, even if it is later morning or afternoon. Chida (ibid.) also says that preferably you should say Havdalah on a cup of wine. However, Rav Shmuel Wosner (20th cen., Israel; *Shevet Ha-Levi*, 7:77) says that, if possible, you should say Havdalah on an acceptable beverage other than wine, such as beer or, according to Rav Yosef Shalom Elyashiv (21st cen., Israel; *Kovetz Teshuvos* 1:57), grape juice if beer is unavailable.

Rav Shlomo Zalman Auerbach (20th cen., Israel; quoted in *Shemiras Shabbos Ke-Hilchasah*, ch. 52, n. 37) suggests that someone who will eat less than a minimum amount at a time (*kezayis bi-chdei achilas peras*), should eat without saying Havdalah. However, he leaves this as an open question because he does not see any authorities mention this qualification.

In the last 150 years, the question was raised whether a child must recite Havdalah before eating on Tisha B'Av that is observed Saturday night through Sunday. It seems difficult to understand why an older child, who is fully capable of reciting Havdalah, would not. I believe that the first to suggest such an obligation is Rav Yehoshua Leib Diskin (19th cen., Israel; *Responso Maharil Diskin, Kuntres Acharon* 5:72) and his reasoning is clear. Similarly, Rav Yekusiel Yehudah Halberstam (20th cen., Israel; *Divrei Yatziv, Orach Chaim* 2:243) rules that if a child can easily recite Havdalah, he must do so. Rav Shmuel Wosner (21st cen., Israel; *Shevet Ha-Levi* 7:77) defends this view although he later says that he is only explaining it, not agreeing with it (vol. 10, no. 177).

However, it seems strange that this obligation was never mentioned by authorities before the late nineteenth century. Every child in history has faced this situation multiple times. The omission is glaring. Rav Shlomo Zalman Auerbach (quoted in *Shemiras Shabbos Ke-Hilchasah*, ch. 62 n. 105) says that since in general a child may eat before Havdalah, he need not say Havdalah on Tisha B'Av and may wait for his father to say it after the fast. Rav Moshe Sternbuch (cont., Israel; *Mo'adim U-Zemanim* 7:255) suggests a different approach. He quotes the Brisker Rav, Rav Yitzchak Ze'ev Soloveitchik (20th cen., Israel), as saying that the mitzvah to teach a child consists of training him to act as he would when he is an adult. Therefore, explains Rav Sternbuch, since when a child is an

adult he will say Havdalah only after Tisha B'Av is over, he should do likewise when he is young.

Rabbi Gil Student runs the website TorahMusings.com and serves as the Director of the Halacha Commission of the Rabbinical Alliance of America.

Ashrei

by Rabbi Yaakov Klass

Question: What is the proper position (standing or sitting) during the recitation of the prayer *Ashrei* and more specifically at its recitation after *keriat haTorah* during the morning prayers? Is this affected by the requirement to show *kovod*, or respect, to the Torah scroll? It seems that since many people sit when they recite *Ashrei*, but stand until the Torah is covered with the mantel, there is a built-in conflict, especially for the one honored with *hagba* and *gelilah*, because that is when the congregation recites *Ashrei*. I know a rav at a Nusach Ashkenaz *minyán* who takes the Torah from the *shaliach tzibur* on *Shabbos Mevarchim* and sits down, so that his congregants may sit without conflicts. I am also interested in how the placement of the second *Ashrei* came about.

Also, a man honored with *hagba*, or lifting the Torah after it was read, at a Nusach Sfarad *minyán*, complained he was improperly rushed through *Ashrei* when the gabbai sent the next person to the *amud* to pray the *Musaf* of *rosh chodesh*. What is the correct way during the transition?

An Observer
(Via E-mail)

Answer: There are many elements to your question that demand a more in-depth discussion rather than a simple answer. We begin with a review of the beautiful prayer that begins with “*Ashrei yoshvei [b]eitecha ...*”

Part I

Rabbi Yosef Grossman, *zt”l*, in *Otzar Erchei Hayahadus* (p. 72) discusses the *Ashrei* prayer in detail. He explains, “The *Ashrei* prayer’s main component is from *Tehillim*, the Book of Psalms (Ch. 145), except that in *Tehillim* one will find that this psalm begins with [the phrase] ‘*Tehilla l’Dovid ...* [lit. a praise of David ...]. However, in our prayer, we find two additional verses at its beginning: ‘*Ashrei yoshvei [b]eitecha ...* – Praised [or how fortunate] are those who dwell in Your house ...’ (Psalm 84:5), followed by ‘*Ashrei ha’am shekacha lo ...* – Praised is the people for whom this is so ...’ ([from] Psalm 144:15 – the verse that immediately precedes its main component, Psalm 145.)

He states further: “The verses are organized in the order of the Aleph Bet, and it is said three times daily – twice as part of the *Shacharit* prayer, once in *pesukei d’zimra* [a series of prayers before *Birkat Keriat Shema* and the *Amida*] and [afterwards] right before *u’va letzion*, and in the evening [afternoon] before [the] *Mincha* [*Amida*].”

Rabbi Grossman also notes that when reciting the verse in *Ashrei*, “*Po’te’ach et yadecha u’masbia l’chol chai ratzon* – You open Your hand and satisfy the desire of every living

thing," it is customary to place a hand, first on the *tefillin shel rosh*, the phylactery of the head, and then on the *tefillin shel yad*, the phylactery of the hand (others reverse the order – see Rabbi Eichenstein's *Otzar Dinim u'Minhagim*, p. 32).

Although Rabbi Grossman doesn't say this, we are taught by the *Mechaber* (*Orach Chayyim* 28:1), "One is required to touch the *tefillin* at all times in order not to become unaware of [his wearing] them. And he is [always] to first touch the *tefillin shel yad*. When he recites [in the *Keriat Shema*] 'U'keshartem l'ot al yadecha ... – you shall bind them as a sign on your hand [i.e. arm] ..., he is to touch the *shel yad*, and when he recites, '... ve'hayu l'totafot bein einecha – ... and they shall be as frontlets between your eyes,' he is to touch the *tefillin shel rosh*."

Similarly, when one recites, "Po'te'ach et yadecha ... – You open Your hand ..." – he should touch the *shel yad*, and when one recites "... u'masbia l'chol chai ratzon" (which infers that amongst other needs, *Hashem* feeds them), it is proper to touch the *shel rosh*. (We thus, symbolically, elevate our mundane need for eating to a higher level of sanctity.)

In seeking to explain the great importance our sages attached to the *Ashrei* prayer, Rabbi Grossman cites the Gemara (*Berachot* 4b): "R. Elazar b. Abina says, Whoever recites *Tehilla l'Dovid* three times every day assures his share in the world to come."

He continues (citing *Berachot* 32b), "And they [the sages] enacted to first recite *Ashrei* (*Psalm* 84:5), before reciting *Tehilla l'Dovid*, in accord with the teaching of our sages (supra mishna 30b), 'The pious men of old would wait an hour, and would then pray...'" The Gemara (32b) asks, "From where do we know this? R. Yehoshua b. Levi [responds] from the [following] verse: '*Ashrei yoshvei [b]eitecha ... – Praised are those who dwell in Your house ...*' [and Rashi *ad. loc.* s.v. "yoshvei [b]eitecha" explains that the verse then concludes, '... od yehalelucha selah – continually will they praise You, *selah*.' " From Rashi (s.v. "teisha sha'ot") we see an allusion to the three recitals of *Ashrei* – as these recitals correspond to the three daily *tefillot*.

Aruch HaShulchan (*Orach Chayyim* 132:1) explains the placement of these three recitals, twice during *Shacharit* and once at *Mincha* and why it is not recited at *Maariv*. *Ashrei* precedes the three daily *Kedusha* recitals, namely the *Kedusha* in the *Shacharit Amida*, the *Kedusha* in *u'va letzion* and the *Kedusha* in the *Mincha Amida*. The fourth *Kedusha* recited daily in *Birkat Keri'at She'ma*, he explains, is not included because it is only a narrative as to how the angels in Heaven recite their *Kedusha*, and regarding the *Maariv* prayer it does not contain a *Kedusha* recital at all.

Rabbi Grossman offers yet another reason for reciting this prayer three times a day. Perhaps the three recitals allude to the three times that the word "*Ashrei*" is repeated in this prayer.

He adds a reference from the *Tur* (*Orach Chayyim* 51:10, citing Rabbenu Amram Gaon), that a verse was added to the prayer's conclusion ("Va'anachnu nevarech kah... – And we

will bless G-d ... Halleluka – Praise the L-rd” (*Psalms* 115:18) in order to connect one *Halleluka* to another *Halleluka* (as we see in the following Psalm 146 and all the ensuing Psalms until the concluding Psalm 150).

Finally, citing the Gemara (*Shabbos* 118b), Rabbi Grossman concludes, “In regard to them [who recite this prayer as well as the entire *pesukei d’zimra*] R. Yosi stated, ‘Let my portion be amongst those who recite the entire *Hallel* each and every day.’ ” Here the Gemara explains that the term “*Hallel*” refers to the *pesukei d’zimra* (lit. verses of song), which are praises to G-d that are recited every day as part of the *Shacharit* prayer.

Part II

Crucial to the *Ashrei* prayer is the requirement of *kavana* – concentration, particularly while reciting the verse “*poteach et yadecha u’masbia l’chol chai ratzon* – You open Your hand and satisfy the desire of every living thing.” The scope of this requirement sets this prayer (Psalm 145) apart from all the others in the *pesukei d’zimra*. In fact, it is a unique requirement distinguished from practically every other prayer that we recite daily.

The *Mechaber* (*Orach Chayyim* 51:7) states in this regard, “And it is a requirement to concentrate when one recites the verse “*poteach et yadecha..*” (*Psalms* 145:16) and if one did not have proper concentration, “he is required to repeat that verse again [with concentration].”

Aruch Hashulchan (*ad loc Orach Chayyim* 51:sk1) refers to the Gemara (*Berachot* 4b) that one who recites *Tehila L’Dovid* thrice daily is destined for *Olam Habah* – the [reward of the] next world. Why? because it was composed [by King David] according to the *aleph bet* and more importantly it contains the verse *Poteach at yadecha*. Thus the entire focus of the *Pesukei D’zimra* is this one verse.

Ba’er Heitev (*ad loc.*) refers us to another *halacha* of the *Mechaber* (*infra, Orach Chayyim* 91:1) which relates to the *Amida*: “When one prays [the *Amida*], one must concentrate in all of the [19] blessings. If, however, one is unable to concentrate for all of them, minimally one must concentrate when reciting [the first blessing of] *Avot*. If one did not concentrate during [the recitation of] *Avot*, even though he had concentrated when reciting all the other blessings, he nevertheless must again recite *Avot* [obviously with proper concentration, followed by all the other blessings].”

Rema (in his glosses *ad loc.*) states, what is now a steadfast rule: “And in our time, we do not repeat [the blessing of *Avot*] due to lack of concentration, for even when one will repeat it, it is quite likely that he will again lack proper concentration, therefore, why repeat [the blessing].”

Now if such a rule exists that we need not repeat *Avot*, the most important blessing of the *Amida*, itself the primary focal point of all our prayers, due to lack of concentration, then why the absolute requirement to repeat the verse “*poteach et yadecha*”, a prayer of lesser significance, in the event that one did not concentrate during its recitation?

Therefore, *Ba'er Heitev* explains that being that the requirement relates only to a single verse, it is more likely that the second time around he will easily be able to concentrate on that one verse.

Another similar situation involves *Keri'at Shema*. The *Mechaber* (*supra*, *Orach Chayyim* 60:5) states, "If one recited the *Shema* and did not concentrate while reciting the first verse of *Shema Yisrael* [*Deuteronomy* 6:4], he has not discharged his obligation. As for all the subsequent verses of *Shema*, if one did not concentrate, we have the following rule that even if one was in the midst of reading [that *Parasha*] in the Torah scroll, or he was repairing those *parshiot* [*Shema*] at the time prescribed to recite the *Shema* [where his intention was clearly not to recite the *Keri'at Shema*], he nevertheless discharges his obligation, albeit where he, minimally, concentrated during the first verse."

The *Mechaber* elaborates further (*Orach Chayyim* 63:4), "The main requirement of concentration is for the first verse, therefore, where he recited [the *Shema*] but did not concentrate, minimally, when reciting the first verse, he has not discharged his obligation. Therefore he must repeat and recite [the *Shema*], for even according to those authorities who rule that the performance of *mitzvot* does not require concentration, in this instance they too would agree that there is a need to repeat."

Mishnah Berurah (*ad loc.*) explains that the requirement of repeating, in this instance, is not for lack of simple concentration, but for the sake of the central purpose of *Keri'at Shema*, which is accepting the yoke of the Kingship of Heaven, "*Oi Malchut Shamayim*."

Thus, we see that the first verse of *Keri'at Shema* and "*poteach et yadecha*" in *Ashrei* are both similar in that they have the unique and absolute requirement for one to repeat their recitation if one lacked concentration during the first reading.

Mishnah Berurah (*Orach Chayyim* 101:s.k. 2) clarifies the extent of the requirement of concentration to mean that one is to understand the meaning of the words, "*pirush hamilot*." Thus, regarding the verse "*poteach et yadecha*," if one understands the simple translation of the words, (lit.), "You open Your hand and satisfy the desire of every living thing," he has discharged his obligation with this recitation. Similarly, regarding the *Shema* and *Avot*, a priori, one discharges his obligation if there is a clear understanding of the translation of the words.

Obviously, today it is within everyone's grasp to attain such an understanding by using an ArtScroll *Siddur*, where one will find an excellent English translation. One who wishes to enhance his prayer experience even further and thus seeks to delve into the deeper meaning of these verses, would do well to study the commentaries to both the *Siddur Beit Yaakov* (by Rabbi Yaakov Emden) and the *Siddur HaShelah* (by Rabbi Yeshaya Halevi Horowitz), for *Avot*, *Ashrei*, *Keri'at Shema* and all the other *Tefillot*.

Part III

In reference to sitting for *Ashrei*, there are numerous proofs. First, there is the simple understanding of its text, “*Ashrei yoshvei veitecha ...*,” which we previously translated as “Praised [or, how fortunate] are those who dwell in Your house.” We might translate it as well as, “Praised are those who *sit* in Your house.”

We find a solid proof from Rambam (*Hilchot Tefillah* 9:1-2) who states, “This is the order of the communal prayer [in the presence of at least a quorum of ten men]. At *Shacharit* the entire congregation sit and the *shaliach tzibbur* [*chazzan*] descends before the Ark and stands in the midst of the people ... [when they conclude *Pesukei D’Zimra* and *Birkat Keri’at Shema*] they all arise and stand to pray the *Amida* [*Shemoneh Esreh*].”

Furthermore, Rambam states (9:8), “At *Mincha*, the *shaliach tzibbur* recites *Ashrei ... Tehillah L’Dovid*, he reads and the congregation sits. The *shaliach tzibbur* then rises to recite the *Kaddish* and the congregation then rises as well and answers the proper responses [to the *Kaddish*], and all then recite the silent *Amida* prayer, following which the *shaliach tzibbur* repeats the *Amida* aloud [*chazarat hashatz*], similar to the morning *Shacharit* prayer, until its conclusion. They then fall on their faces for the *Tachanun* prayer and then raise their heads, both the *shaliach tzibbur* and the congregation. They then say a few *techinot* [supplications] while sitting, similar to the *Shacharit* prayer. They then rise for the *Kaddish*, and at its conclusion all depart [the synagogue] to attend to their affairs.”

Chayyei Adam (Topic 18) in discussing *Pesukei D’Zimra*, elaborates that both *Baruch She’amar* and *Vayevarech David* are to be said while standing. The obvious inference is that the rest of the *Pesukei D’Zimra* are to be recited while sitting. Yet *G’ra* rules that one may sit for the entire *Pesukei D’Zimra* which seems to infer the opposite, that one may stand if he so wishes.

The *Mishna Berurah* (*Orach Chayyim* 131:s.k. 9) commenting on *Rema*’s statement (*ad loc.*) that “it is a widespread custom to recite ‘*V’anachnu lo neda* – [lit.] We do not know’ [at the conclusion of *Tachanun*],” explains in the name of *Shela* and other *Acharonim* that “we do not know” refers to the fact that we have prayed in every manner possible – sitting, standing and prostration – as Moses did, as it states (*Deuteronomy* 9:9), “... *Va’eshev ba’har arba’im yom ...* – ... And I sat [dwelled] on that mountain for forty days ...” It states yet further (10:10), “*Ve’amadeti ba’har ...* – And I stood on that mountain ...” It also states (9:18, 25), “*Va’esnapel lifnei Hashem ...* – I prostrated myself before *Hashem ...*”

Thus *Mishna Berurah* concludes that since we have utilized every means available and have no further way available, we simply state, “we do not know,” and it is proper to say “*ve’anachnu lo neda*” while sitting, and “*lo na’aseh*” while standing.

As far as the Torah is concerned, in relation to its being read publicly, the reader must stand (*Mechaber*, *Orach Chayyim* 141:1). *Rema* in his glosses adds that even the “*chazzan*” [meaning the *gabbai*] is to stand. *Aruch HaShulchan* (*ad loc.*) adds that this obviously includes the one who received an *aliyah* and who is also required to stand during the reading.

The *Mechaber* states further (*Orach Chayyim* 146:4), “It is not necessary for [the rest of the congregation] to stand during the Torah reading.” *Rema* (citing *M’haram* of Rottenberg, *Taz* and *Sha’arei Ephrayim*) adds, “But there are those who are more stringent and indeed do stand [during the Torah readings].” *Mishna Berurah* (*ad loc.* s.k. 17) explains that the only requirement for the rest of the congregation to stand is when the Torah scroll is being carried, but when it is in its place [on the *bima*] or when someone is sitting and holding it while the *Haftara* is being read, there is no requirement to stand, even for those who are within four cubits of the Torah.

However, when it is being carried (from the Ark to the *bima* or the *bima* to the Ark), there is a requirement to stand.

Pri Megadim (cited in *Sha’ar HaTziyyun ad loc.*) rules that even if the *chazzan* stands and holds the scroll, i.e., to recite *Kel Moleh*, there is no requirement for the congregation to stand.

Further, he notes that even when the Ark is opened (when removing or returning the Torah), since the Torah is standing in its place, there is also no requirement to stand [as long as it remains in place]. Nevertheless, there is a widespread custom to stand even in such a situation for the purpose of *hiddur l’Torah* – honoring the Torah.

Obviously, we note the difficulty when the Torah is returned too quickly, while some have not yet concluded *Ashrei* and *U’va l’Tziyyon*. This is due to our unfortunate rushed lifestyle where hurrying is the norm for many.

Indeed the rabbi who you cite is a *chacham*. He knows the statement of Rava (*Makkot* 22b) very well, “How foolish are *those* people who stand before a *Sefer Torah* but do not stand before a Torah scholar, [Rashi (*ad loc.*), in reference to Rava’s statement “those” people, goes so far to say that he really means *most* people,] for the Torah states (*Deuteronomy* 25:3), ‘*Arba'im yakenu ... – Forty lashes shall we strike him ...,*’ but the Sages decreased it by one, and we only administer 39 lashes.” This obviously refers to such a rabbi, a scholar, who, through his keen intellect, is able to properly seize the moment and thus resolve many conflicts. If only we were to take the time to both appreciate and learn from such an individual’s actions.

Yet, as we noted from the *G’ra*, there really is no, absolute, steadfast rule that requires one to sit for *Ashrei* or for the entire *Pesukei D’zimra*. Likewise, as we noted, there is no absolute rule requiring one to stand for *Keri’at ha’Torah* or while the Torah is either on the *bima*, being held (by someone) in one place or while the Torah ark is open with the Torah scroll in its place. Obviously, the wisest course of action in almost any situation is to adhere to the *minhag hamakom* – the prevailing local custom of the synagogue. In this way one diminishes, to a great degree, the chance for conflict.

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Bimah In the Center

by Rabbi Yaakov Klass

Question: Where I live, in a small out of town community, we have only one orthodox synagogue, but the bima is in the front on the stage with the Aron Hakodesh. My question: May one *daven* in a synagogue in which the *bimah* is not in the center?

Y.S.

Via email

Answer: The *Gemara* (*Sukkah* 51b) describes the great synagogue in Alexandria, Egypt, where the bimah, the *almemar*, was located in the center of the synagogue. *Tosafot* (*ibid.*) explain that the wooden bimah was in the center of the synagogue.

The *Tur* (*Orach Chayyim* 150) explains that the bimah was placed in the center so that everyone could hear the cantor pray. The Rambam (*Hilchot Tefilla* 11:3) concurs and explains that the bimah was specifically placed in the center for that reason in order that the congregation may hear well [especially as the great synagogue in Alexandria was of such enormous dimensions].

Therefore, Rabbenu Caro (*bid.*, *Kesef Mishneh*) expresses the view that in our times, when synagogues are small, it is not necessary that the bimah be placed in the center and one may follow the custom of each place.

The *Rema*, however, states the steadfast rule is that it should be in the center of the synagogue and all the congregants facing forward toward the Aron Hakodesh, with the exception of the elders who face the congregation (*Orach Chayyim* 150:5).

The *Chatam Sofer* (*Responsa*, *Orach Chayyim*, 26) explains that the bimah is compared to the altar on which we offered the incense, which was located in the center of the Temple. Today we offer our prayers on the bimah and we march around it on Sukkot. Therefore we must place it in the center and it is prohibited to change its location.

The *Aruch HaShulchan* (*Orach Chayyim* 150:9) considers it a grave sin to change the customs of old, for it would appear that we are intentionally trying to infuriate the Rabbis if we change the place of the bimah.

The *Chofetz Chaim* (*ibid.*, *Bi'ur Halacha*) claims that the modern people who change the location of the bimah are trying to follow the Gentiles who place their altar up front, and we quote to them the verse in Scripture (*Hosea* 8:14) “*Vayishkach Yisrael et oseihu vayiven heichalot* – And Israel forgot its maker and they built temples...”

In the year 1810, a Reform group built a synagogue and placed the bimah near the Ark. It raised a furor amongst the rabbis of that generation who prohibited anyone to pray in that synagogue.

Rabbi Akiva Joseph Schlesinger, author of *Lev Ivri*, who was a follower of the Chatam Sofer, was in the forefront of the fight. He convened an assembly of 71 rabbis who placed a ban (excommunication) upon that synagogue.

In short we present his very sharp argument: “Those people who change the customs of our fathers who for thousands of years have placed the bimah in the center of the synagogue, are considered as apostates who intend to provoke and not to satisfy their appetite...” [*l'hashchit ve'lo l'te'avon*]

“What benefit do they derive from changing the location of the bimah? It is simply that they attempt to follow the custom of the Gentiles.”

This battle has raged on until our own times when, thank G-d, we see more and more of the larger synagogues that originally were constructed with the bima in the front on a platform with Ark – Aron Hakodesh move the bimah to the center of the synagogue. I remember growing up in Boro Park [Brooklyn, NY] where many of the larger synagogues all had the Bima either on the pulpit platform right in front of the Aron Hakodesh or adjacent to it in the front of the sanctuary. Within time one by one each of these larger congregations [some at great expense] moved their bima back to the center of their sanctuary.

Yet, even today, as Synagogues slowly move to correct these deviations, if the synagogue is, otherwise, strict in its practice, regarding all other matters such as separate sections for men and women and strict adherence to the proper Orthodox liturgy without any deviations, then by all means by joining such a Synagogue you and others will hasten the completion of the synagogue's conformity to proper tradition.

The Talmud (Sukkah 51b, that we cited at the outset) tells us of the beauty of the Basilica of Alexandria in Egypt as something *almost* beyond compare, yet (supra 51b) the description of the *Simchat Beit Ha'sho'eva* – the joyous water drawing celebration in the Beit Hamikdash – our Holy Temple in Jerusalem is described as *truly* beyond compare. Let us hope that we merit experiencing that beauty shortly in our days with the coming of Moshiach, and the restored Davidic reign. Then may the word of Hashem spread forth, to the entire world, from Zion and Jerusalem, speedily in our days.

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Which Shoe First?

by Rabbi Yaakov Klass

Question: The Kitzur Shulchan Aruch states that one is to put on shoes in this order: First put on the right shoe, then the left, tie the laces of the left shoe, and only then return to tie the right shoe. The reason for this sequence is that the right side is generally considered of primary importance, except regarding tying, where the left side is primary (as Tefillin are wrapped onto the left arm, I assume that this means that wrapping and tying are considered to be the same). My question is that since the actual wrapping of the Tefillin is accomplished by the right hand, perhaps the reason to dress as directed by the Kitzur is still because the right is more important. Since both hands are engaged in tying shoes, should we tie the right shoe first?

Y. Malinsky
Via e-mail

Answer: The ruling in question that you cite is in the Kitzur Shulchan Aruch (3:4), based on the Mechaber (*Orach Chayyim* 2:4) in turn based on the ruling of R. Nachman b. Yitzchak (*Shabbos* 61a), which is really a compromise of two views stated in the Gemara (*supra* 61a) as to whether one is to first put on the left shoe or first put on the right shoe. R. Nachman b. Yitzchak concludes, “One who fears Heaven should satisfy both [opinions],” and he brings forth a proof from just such a person, Mar b. Rabina, who was actually observed putting on his shoes. “He first put on the right shoe, but did not tie it, and then put on the left shoe and tied it and *then* returned to the right shoe and tied it.” Rema (*O.C.* 2:4 *citing Tosafot, Shabbos* 61a *s.v.* “*Ve’seyam d’sma’ileih ve’katar*”) is careful to add that as regards shoes that have no laces [slip-ons] the steadfast rule remains that the right shoe is to be put on first and in such a situation there is no comparison to Tefillin. We must assume that this ruling is necessary in light of the earlier dispute as to which shoe to put on first. Despite your good point regarding the right hand doing the wrapping, nevertheless, as we will see from the discussion that follows, the Halacha remains as we cited.

Let us examine numerous sources throughout our Talmud that delineate both the importance of the right side as well as actual practice in regard to the performance of mitzvot.

The Mishnah (*Yoma* 43b) describes the entry of the Kohanim to the altar – mizbe’ach. They would go up the ramp on its east side – to the right, and return on the west side – again a right turn. We find as well another Mishnah (*Sotah* 15b) that states that the earth put into the water that a Sotah was given to drink was taken from the ground of the Heichal (the Hall) of the Beth Hamikdash. The Kohen entered the Heichal and turned to his right to take this earth. He turned specifically in this direction, as the Gemara (*infra Yoma* 45a) explains, because of the principle, “Any turn you make shall be to the right.”

As to a scriptural source for the primacy of the right, the Gemara (*Zevachim* 62b) infers this from the following verse (*II Chronicles* 4:4) “*Omed al shenayim asar bakar, shelosha ponim tzofona, u’shlosa ponim yama, u’shlosa ponim negba, u’shlosa ponim mizracha ve’hayam omed aleihem...* - it [the pool or sea of Solomon] stood upon twelve [brazen] oxen, three facing north, three facing west, three facing south and three facing east, the sea was on top of them...” [These twelve represented each of the twelve tribes.] Therefore all turns one makes are to be to the right. Rashi (*op cit. s.v. “lo yehu elah derech yemin”*) explains that a person standing and turning in the cited directions will be constantly turning in a rightward motion. Based on this Gemara, Rambam (*Hilchot Tefillah* 14:13) rules that during the Priestly Blessing, when the Kohanim turn to face the people to bless them as well as when they conclude their blessing, they are to turn to the right. From here we see that simply put, in regard to physical turning, the right side is always primary.

Initially, the above-cited Gemara, which derives the primacy of the right from a scriptural source, would seem to be at odds with the earlier Gemara (*supra* 24b) that cites a Biblical source from Parashat Metzora (*Leviticus* 14:16). “*Ve’taval ha’kohen et etzba’o ha’yemanit...*- And the Kohen shall dip using his right forefinger...” This verse is quoted to prove primacy of the right. In actuality the two Gemarot focus on different matters. One Gemara is simply discussing the primacy of the right, while the [latter] Gemara cited above is discussing ‘turning to the right’.

More conclusive to our question is the following Gemara (*Yoma* 58b-59a) where in question is whether the Kohen, facing the Golden Altar to perform the sprinkling of the blood of the sacrifices, should do so with a turn of his hand or with a turn of his leg going toward the right from one corner of the altar to the other. The question is whether turning to the right applies only when the entire body [a turn of the leg] is involved in an action, or perhaps even the when the turn involves just a movement of the hand. Therefore Chatam Sofer (*Responsa Orach Chayyim* 187) concludes that the Halacha based on our Gemara – that when the matter involves a mitzvah that only requires the hand then the turn would be initially to the left so that it concludes at the right. The perfect example is the kindling of the Chanukah lights.

Similarly, as you point out, the right hand is the one totally active in the mitzvah of putting on the Tefillin on the left hand. When the Tefillin are being wound, we start from the top of the arm, which from the angle of our vision would seem to be to the left and work our way down to the hand and its fingers that appear to be to the right. Thus even in the wrapping of the Tefillin on the left hand there would appear to be an element of primacy of the right.

But this is not so, as the final result is that the Tefillin, even after their having been wrapped by the right hand, are worn on the left hand. Thus in the matter of tying this becomes the one exception to the rule of primacy of the right. This now becomes a matter of giving equal consideration to each rule – the primacy of the right as a general rule and the primacy of the left in regard to tying. Mishna Berurah (*O.C.* 2:sk6) is careful to note the steadfastness of this quid pro quo, as he states that one who is left handed – an itur yad [meaning all his basic functions are performed primarily with his left hand] wraps the

Tefillin in the reverse manner, not on his left hand but on his right hand. Similarly, when putting on his shoes, a 'lefty' is to reverse the order - first putting on the left shoe, then the right one and tying the right one first before returning to the left one.

Aruch Hashulchan (*O.C. 2:sk7*) notes that the Mechaber addresses 'our' shoes that do not have laces and that the proper procedure upon their removal is to first remove the left shoe then remove the right shoe. This keeps with the proper quid pro quo even though there is no tying involved in this action.

May the *right* time for Moshiach be imminent so we can *return* to a rebuilt Jerusalem with peace and tranquility in our beloved land of Israel, speedily in our days.

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When the Chazzan Shleps

by Rabbi Gil Student

I. Chazzanim Shlep

Rabbinic literature is full of rabbis complaining about *chazzanim* (cantors) who sing too much, whether to enhance the prayers from their perspective or to show off their voices. Sometimes *chazzanim* sing the words at a steady pace. Other times they lengthen words in tune or sing tunes in between words. There is a practical difference between these different practices. What do you do if you don't enjoy the singing? A great 15th century rabbi offers surprising advice. I saw an overlooked source, published only relatively recently from manuscript, that takes it even further.

Rav Yosef Karo (*Shulchan Aruch, Orach Chaim* 53:11) expresses the overall concern: "A *chazzan* who lengthens his prayer so people hear his pleasant voice, if it is because he is happy in his heart for praising G-d pleasantly, he should be blessed... But if he intends to show off his voice and enjoy his voice, this is disgusting. Either way, whoever lengthens his prayer is not doing good because of the burden on the congregation." Some *chazzanim* sing to show off, which is bad. Some sing out of joy for prayer, which is good in theory but bad because when the *chazzan* takes too long, he burdens everyone else.

II. Learning From A Sefer

Boring a congregation is disrespectful but also causes talking and possibly eating and drinking. Rav Ya'akov Moelin (Maharil, 15th cen., Germany; *Sefer Maharil, Hilchos Tefillah*) found a solution for his own boredom. He would bring with him to shul a copy of the *Tur*, from which he would learn if the *chazzan* took too long, including during *Kaddish* and *Kedushah*. In other words, if the *chazzan* shleps, learn Torah from a *sefer*, a book.

Rav Avraham Horowitz (16th cen., Prague), father of the famous author of the *Shelah*, published a *sefer* titled *Yesh Nochalin*. In [the section on prayer](#), Rav Horowitz emphasizes the importance of learning Torah in shul. He recommends keeping a *Tur* or Mishnah handy in shul so that when the *chazzan* sings *Kaddish*, *Kedushah*, "Ana," "Hodu," or anything else that *chazzanim* tend to sing at length, you can learn Torah at that time. He cautions to only learn Torah non-verbally, by reading and not saying the words out loud, because saying words unrelated to the prayer would be considered an interruption. However, if at this time you learn Torah by reading, then you have prayer and Torah in the same place. This is a beautiful combination as long as you are careful not to allow this to detract from your prayer.

Rav Avraham Horowitz's son, Rav Ya'akov Horowitz, brother of the *Shelah*, published notes (*hagahos*) to his father's *Yesh Nochalin*. In his note 14 to the above passage, Rav

Ya'akov adds an important caveat. He says that you may only learn Torah when the *chazzan* sings a wordless melody. However, when the *chazzan* says the words of the prayer (*Kaddish*, *Kedushah*, etc.), the congregation must listen carefully. Rav Ya'akov limits the essential text of *Kedushah* so that you may learn during any Shabbos (and presumably Yom Tov) additions to *Kedushah*. Significantly, Rav Avraham Gombiner (17th cen., Poland; *Magen Avraham* 125:1) quotes Rav Ya'akov Horowitz's note.

III. Learning Even More

Through the *Magen Avraham's* citation, this note gained widespread awareness and acceptance. *Mishnah Berurah* (125:1) expands the permission somewhat. Since many have adopted the custom to recite the entire *Kedushah* before the *chazzan*, rather than leave certain parts for only the *chazzan* to say, according to *Mishnah Berurah* you may learn from a *sefer* when the *chazzan* sings even the words within those passages. *Mishnah Berurah* even suggests that according to some opinions, the passages beginning with the words "Yimloch," "Le-umasam," and "U-ve-divrei" are not essential parts of *Kedushah*. If so, you would be allowed to learn when the *chazzan* sings those passages also.

More recently, Rav Yitzchak Fuchs (contemp., Israel; *Tefillah Ke-Hilchasah* 13:61) follows *Mishnah Berurah*. In contrast, Rav Simcha Rabinowitz (cont., Israel; *Piskei Teshuvos*, ch. 125 notes 19-20), who lives in the Chasidic community where song is valued as a part of prayer, steps back a bit from *Mishnah Berurah's* ruling and encourages people to sing along with the *chazzan*. My personal preference is to follow the practice of the Maharil and learn from a *sefer* whenever the *chazzan* shleps.

I saw that Rav Yehoshua Falk (*Sema*, 17th cen., Poland) received a copy of *Yesh Nochalin* from Rav Ya'akov Horowitz. Rav Falk wrote a letter to the younger Rav Horowitz with comments on the publication. This letter remained in manuscript until its publication in a memorial volume in the twentieth century. It was included in *Asifas Ha-Ge'onim He-Chadash*, published by Zichron Aharon Publications in 2010 (*Responsa Sema*, no. 20). Rav Falk disagrees with Rav Ya'akov Horowitz's limitation of learning only when the *chazzan* sings a wordless melody. There is no mention in *Sefer Maharil* of this limitation. Rather, Rav Falk suggests that you only have to listen to the beginning of each word. If the *chazzan* sings the word at length, as *chazzanim* sometimes do, you are free to learn Torah silently until the next word. If we extend Rav Falk's responsum like *Mishnah Berurah* extends the gloss to *Yesh Nochalin*, you can learn Torah during all the non-essential parts of *Kedushah* and even during the essential parts, if you pay attention to the beginning of each word.

However, this responsum was lost to history and has not (yet?) made it into normative halachic literature.

Rabbi Gil Student runs the website TorahMusings.com and serves as the Director of the Halacha Commission of the Rabbinical Alliance of America.

Yoreh Deah

Consoling Mourners

by Rabbi Ya'akov Klass

Question: Before leaving a mourner who is sitting *shiva*, one says, “*HaMakom yenachem et'chem betoch she'ar aveilei Tziyyon ViYerushalayim* — May you be comforted among the mourners of Zion and Jerusalem. What is the source of this *pasuk*?

Zelig Aronson

Via email

Answer: You are not the first to ask this question, there is indeed much discussion of this matter. The “*pasuk*” you quote is in actuality not a verse from Scripture, but a *tikkun chachamim*, an enactment of the Rabbis issued in response to a need.

The Jerusalem Talmud (*Berachot* 3:2) explains the practice of the *shura*, the line the *menachamim* – the consolers would form. The consolers would stand in a line and each one would say words of consolation to the mourner. The commentary of the author of *Sefer Chareidim* states (ibid.) that they would say, “*Titnachem min hashamayim*,” “May you be comforted from heaven.”

Rabbi Yekutiel Yehuda Greenwald quotes the above source in his *Kol Bo Al Aveilut* (*Perek* 3, *siman* 4, *siman katan* 22), and states that the consolers said, “*HaMakom yenachem et'chem betoch she'ar aveilei Tziyyon ViYerushalayim*,” “May the Holy One [lit. The Place] console you among the mourners of Zion and Jerusalem.” Yet we do not find this quote in the above-mentioned Talmudic source.

The Gaon Rav Chaim Binyamin Goldberg, in his *Pnei Baruch* on the topic of mourning (*siman* 11, *se'if katan* 5) states that when one takes leave of mourners one says, “*HaMakom yenachem ...*” and the mourners answer Amen. He quotes as his source the commentary *Perisha* on the *Tur Shulchan Aruch* (*siman* 393). However, in that source the exact text is, “*Hashem yenachemcha im she'ar aveilei Tziyyon.*”

We must therefore infer that the contemporary wording might be a free adaptation of the more ancient quoted text. And we have a rule that once a custom is established we do not abandon the path that our forebears set before us, as the Talmud (*Beza* 4b) teaches: “Take heed of the customs of your forebears, which have come down to you.

Recently, at a conference of the Rabbinical Alliance, one of our members Rabbi Meir Melnicke, citing the *Pnei Menachem* [the Gerer Rebbe, Rav Pinchas Menachem Alter Zt”l] gave a beautiful explanation for the term “*Hamakom* - the place” that we use in

our consolation to mourners. The Rebbe explains that through our mitzvot we earn a makom – a place on high in Gan Eden and that is what we console the mourner, that his departed merit that place.

I would like to add my own novel explanation. That Hamakom does indeed refer to the Shechina – the Holy Spirit of Hashem which formerly rested in the Holy Temple in Jerusalem, but as we are exiled, the Shechina too has gone into exile. At such time as we experience a loss Hashem joins in with our mourning, comforting us with the hope of the imminent return of His Shechina to Zion and Jerusalem, and the return of all those dearly departed souls.

Now the question arises. In the event only one person is to be consoled [where there are no other mourners] should we change the older term “*et’chem*” [plural] to “*ot’cha*” [singular], “*otach*” [depending on gender and] depending on the number of mourners present?

The *Pnei Baruch* says that we do make such a change. However, various Chassidic sources state that we always use the plural form.

The Talmud (*Berachot* 18) would seem to support this latter wording. In a lengthy discussion involving numerous Biblical quotes, the Gemara sets out to prove that the righteous, even when they are dead, remain fully aware, whereas the wicked are compared to the dead even when they are alive. The Talmud then relates an incident that proves that the departed do, indeed, comprehend.

Thus when we comfort the mourners we comfort the departed soul as well, and this serves as a *tikkun*, a restoration for the soul, thus the need for the plural reference [etchem].

Tractate *Eiruvin* (22a) states: R. Joshua b. Levi said; What is the implication of the verse (*Deuteronomy* 7:11), “*Asher Anochi metzavecha hayom la’asotam* — That I command you this day to do them?” We deduce that “this day to do them” means “*velo lemachar la’asotam*,” that is, we cannot postpone doing them for tomorrow. However, we can infer “*Hayom la’asotam, lemachar lekabbel secharam*,” namely, today we are in a position to do them, while tomorrow is reserved for receiving a reward for having done them. Rashi explains that this refers to the time after death, when one cannot perform mitzvot anymore. This is one reason given for the need to comfort the departed as well, hence the plural form.

Another interpretation is that “*et’chem*” is considered a more formal way of address than the more familiar “*ot’cha*,” a usage option available in Yiddish and German as well as in other languages.

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Buying on Credit

by Rabbi Ephraim Glatt, Esq.

Question: Is a storekeeper obligated, pursuant to the mitzvah to lend money, to sell his wares on credit, thereby essentially "lending" the purchaser the money until he pays for the purchase?

Short Answer: The storekeeper is not obligated, pursuant to the mitzvah to lend money, to sell his wares on credit, but some poskim suggest that he fulfills this mitzvah when he does so, especially where he anyway has sufficient liquidity.

Explanation:

I. The Shmita Year

The Mishnah (Shevi'is) states that loans are forgiven during the shmita (sabbatical) year. This is the law of shmitas kesafim. The Mishnah further explains that debt owed to a store (i.e. money that a purchaser owes a store after buying on credit) is not forgiven during the shmita year unless the storekeeper turns the amount owed into a loan.

The Peirush Mishnayos of the Rambam (ibid) explains that the store debt is not forgiven because the storekeeper never intended the funds to be a loan, but simply allowed the purchaser to make numerous small purchases until the amount owed reached a certain amount at which point the purchaser must pay the entire amount owed at once. Similarly, the Bartenura (ibid) explains that the store debt is not forgiven because this is not a loan debt in the classical sense.

The Yachin (ibid) elaborates that the store debt is not forgiven because there is no set time for payment; rather, the purchaser must pay the storekeeper when the amount owed reaches a certain amount.

II. The Chofetz Chaim

The Chofetz Chaim (Ahavas Chesed, 1:2:5) writes that the mitzvah to lend money does not obligate a storekeeper to sell on credit. The Chofetz Chaim provides two reasons for this leniency. First, because the storekeeper needs the liquidity from the purchases to buy further inventory, if he would be obligated to sell on credit, his business would not survive. Second, because the selling on credit is not tantamount to providing a loan, and therefore the storekeeper does not fulfill the mitzvah of lending by selling on credit. The Chofetz Chaim cites the above mentioned Mishnah in Shevi'is as a proof to the second reason.

The Chofetz Chaim concludes, however, that if a poor person requests that the storekeeper sell a small amount on credit in order that the poor person have food to eat, the storekeeper is obligated to sell this small amount on credit. This obligation though is not part of the obligation to lend money, but is simply the mitzvah of tzedakah.

The sefer Toras Chesed (on Ahavas Chesed, *ibid*) notes that a key ramification between the two reasons of the Chofetz Chaim is whether the storekeeper's mitzvah to lend money requires him to sell on credit where he otherwise has enough money to purchase other additional inventory for the store. According to the first reason, there is a mitzvah, as the storekeeper has enough liquidity, while according to the second reason, there is no mitzvah, as selling on credit is never a loan.

Another ramification, as suggested in the Kovetz Beis Aharaon V'Yisroel Journal (Vol. 56, p.99), is where the storekeeper knows that a particular item will not be sold until a set time (i.e. one month from now). If a person seeks to purchase the item now on credit, with payment due in one month, the storekeeper is obligated -- based on the mitzvah to lend -- to sell it to him according to the first reason, as the item will otherwise not be sold and selling on credit does not affect the storekeeper's liquidity for the month. On the other hand, according to the second reason, selling on credit is never a loan and thus there is no obligation for the storekeeper to sell on credit.

III. Exceptions to the Rule

The Toras Chesed (*ibid*) notes that the Mishnah in Shivi'is (see above) indicates that shmitas kesafim does apply to store credit when the storekeeper "turns" the sale on credit into a loan. The Mishnah, however, does not explain how a sale on credit becomes a loan. The Toras Chesed cites the Rosh (and the Tur) who explains that the sale on credit becomes a loan when the storekeeper sets a due date for payment. The Mordechai explains that the sale on credit becomes a loan when the storekeeper calculates the entire amount owed and notes the amount in his records/ledger. Presumably, at this point, the storekeeper fulfills the mitzvah of lending, as the sale is now a loan.

The Toras Chesed, however, doubts this exception, as it is possible that the storekeeper does not fulfill the mitzvah to lend money after it becomes a loan, as there is no transfer of funds at this point. Note though that the he'aros on the Toras Chessed, written by a R' Gross, disagrees, as the sale on credit is now considered a loan for ribbis purposes.

IV. The Nesivos HaMishpat

The Nesivos HaMishpat (72:8) has a different opinion than the Chofetz Chaim. He holds that store credit is, by definition, a loan, and thus the storekeeper does fulfill the mitzvah to lend money by selling on credit. Specifically, the Nesivos refers to the sale of a common item as a "favor" to the purchaser and calls the sale on credit a "mitzvah," thereby exempting the storekeeper from having to give tzedakah (or perform other mitzvos) at the time the sale on credit is taking place.

However, the Kovetz Beis Aharaon V'Yisroel Journal notes that one can argue that even the Nesivos is not ruling that the storekeeper *must* sell on credit, but rather that he fulfills a mitzvah of lending money *if* he chooses to sell on credit.

The Pela Yoetz (cited in the sefer Nesiv Yosher 12:2, n.1) also rules that selling on credit fulfills the mitzvah of lending money.

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The Shaving of a Ba'al Teshuvah

by Rabbi Gil Student

During many eras in Jewish history, Jews converted to other religions, whether due to physical, financial or social pressure or otherwise. Many of these wayward Jews returned to the Jewish community, sometimes after escaping the country. While a Jew who sins remains Jewish (*Sanhedrin* 44a), he might still have to undergo a return ritual in order to become a community member in good standing.

I. Return Rituals

We find three or four views on the subject:

1) Rav Shlomo Ben Shimon Duran (Rashbash, 15th cen., Algeria; Responsa, no. 89) says that not only apostates who grew up Jewish but even their descendants who are halachically Jewish may return to the Jewish community without any ritual.

2) Rav Yosef Ibn Chaviva (15th cen., Spain; *Nimukei Yosef*, to Rif on *Yevamos* 47b, s.v. *kiddushav*) says that while technically a returnee does not have to do any ritual, he should immerse in a mikveh like a freed slave. A freed slave immerses as a rabbinic requirement so the returnee similarly immerses as a rabbinic requirement, at most. *Nimukei Yosef* isn't entirely clear and may mean that this is merely a proper practice and not a rabbinic obligation. Based on this, Rav Avraham Gombiner (17th cen., Poland; *Magen Avraham* 326:8) permits a returnee to immerse in a mikveh on Shabbos. If the immersion would change his status, he would not be allowed to do so on Shabbos. However, since it is merely a custom, it does not change his status and therefore is allowed on Shabbos.

3) Rav Dov Ber Travis (18th cen., Lithuania; *Revid Ha-Zahav*, Be-ha'alosecha, s.v. *ve-he'eviru*) says that it is a biblical obligation to immerse in a mikveh after worshipping idolatry. He points to Ya'akov's command to his family while fleeing Lavan, "Put away the strange gods that are among you, and purify yourselves" (Gen. 35:2). If they have to purify themselves after just carrying idols, someone who worships the idols must certainly do likewise. Based on this, Rav Travis disagrees with the *Magen Avraham* quoted above and forbids a returnee from immersing in a mikveh on Shabbos in order to join the community.

4) Rav Yisrael Isserlein (15th cen., Austria; *Terumas Ha-Deshen* 1:86) describes an Ashkenazic practice that a returned apostate must shave all his hair and then immerse in a mikveh before returning to the community. He compares such a person to the Levites in the desert, who were inaugurated into their position with shaving all hair (Num. 8:7). Rashi (ad loc.) quotes Rav Moshe Ha-Darshan who explains that the Levites served as an atonement for the firstborns who worshipped the Golden Calf. Since this returnee worshipped idolatry, he must go through a similar process of shaving all his hair. Rav

Isserlein goes so far as to permit the shaving on Chol Ha-Mo'ed, when shaving and cutting hair is usually forbidden. Rav David Ha-Levi Segal (Taz, 17th cen., Poland) mentions this custom twice in his *Taz* commentary to *Shulchan Aruch (Orach Chaim 531:7* as the custom in some places; *Yoreh De'ah 267:5*).

II. Shaving Peyos

Rav Ya'akov Reischer (18th cen., Germany; *Shevus Ya'akov 3:90*) was asked how far we take this comparison. A *metzora* and Levite were shaved with a razor, despite the general prohibition against shaving a man's beard and the corners of his head (*peyos*) with a razor. Should a *ba'al teshuvah*, someone had become a worshipping Christian and then returned to Judaism, completely shave off even his beard and *peyos*? Rav Reischer responds in puzzlement. How could anyone think that a Jew returning to observance should have to sin, by shaving with a razor his beard and *peyos*? The Torah commanded a *metzora* and — at that one point in history — the Levites. Absent that command, shaving with a razor is forbidden. Rather, this practice is a custom and cannot be done with a razor or in any way that violates a prohibition.

Rav Chaim Yosef David Azulai (Chida, 18th cen., Israel; *Yosef Ometz 45*) was asked the same question. Chida responds in frustration about people who take homiletic explanations overly literally and end up violating prohibitions. Those who require a returnee from idolatry to shave all his hair, due to the comparison to a *metzora*, intend this as a custom. No one claims that this is a Torah obligation. Therefore, it cannot override the prohibitions related to shaving.

In the course of his discussion, Chida quotes an interesting comment of Rav Avraham Ibn Ezra (12th cen., Spain). Ibn Ezra (Num. 8:7) quotes the Sages as saying that the Levites did not shave their *peyos*. There is no existing Gemara or midrash that records such a view. Chida suggests that there must be some text where Ibn Ezra saw this opinion. If that is the case, then certainly a returnee should not shave his *peyos*. However, even without Ibn Ezra, even if the Levites did shave their *peyos*, a returnee would not be allowed to do so. Rabbenu Bachya Ben Asher (14th cen., Spain; commentary to Num. 8:7), in the texts we have available today, says explicitly that the Levites shaved their *peyos*. Similarly, *Revid Ha-Zahav* (ibid.) quotes this Ibn Ezra and disputes his opinion.

I believe that common custom today follows the second view above. A Jew who returns from worshipping another religion immerses in a mikveh, as a custom. He remains fully Jewish both during his apostasy and after his return. However, he sheds the mistakes of his past and rejoins the Jewish community by immersing in the mikveh and emerging on a new path.

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The Heretic's Sefer

by Rabbi Gil Student

I. The Heretic's Torah

The Gemara (*Gittin* 45b) says that we must burn a Torah scroll written by a heretic. In contrast, if a gentile wrote a Torah, then we either bury it (put it into *genizah*) or burn it, depending on whether or not we assume his intentions are for idolatry or heresy. The above relates to a Torah scroll written by a scribe. Does this apply today to sacred books (*sefarim*) published by heretics? Even if the content is completely kosher, does the book still need to be burned or thrown in the garbage? Printed books go through a different process than a scroll written by a scribe. Rav Ya'akov Ariel (cont., Israel; *Responsa Be-Ohalah Shel Torah*, 1:43) addresses this question.

Rashi (ad loc., s.v. *min*) seems to say that we only burn a Torah written by someone who strongly believes in idolatry and presumably wrote the scroll with idolatrous intent. In other words, Rashi requires improper intent. Rambam takes a different approach.

Rambam (*Mishneh Torah, Hilchos Yesodei Ha-Torah* 6:8) writes that we burn a Torah scroll written by a heretic who does not believe in the Torah because the scroll lacks proper intent. Rambam does not require improper intent but just lack of proper intent — even a Torah written without any intent would need to be burned. Rambam (ibid.) explains that “there is a mitzvah to burn it so that there is no monument to the heretics or their works.” However, if that is the case, then why don't we burn a Torah written by a gentile? Rashi says that a heretic has bad intent, which would distinguish him from a gentile who presumably has no intent. Rambam says a heretic has no intent either, so what is different about a gentile?

Rav Ephraim Navon (18th cen., Turkey-Israel; *Machaneh Ephraim, Chiddushim Al Yoreh De'ah, Hilchos Sefer Torah*) addresses this question within Rambam's thought. He suggests that a gentile who believes in G-d and has proper intent, sanctifies a Torah scroll that he writes. However, it is invalid for the mitzvah and therefore must be buried. He later suggests that a Torah written by a gentile lacks sanctity, like that written by a heretic, because the gentile does not have the proper intent. Despite that, there is a rabbinic prohibition against treating such a Torah disrespectfully and therefore we must bury it. This becomes important because most books are printed by gentile workers.

II. Printed Books

Around the year 1440, Johannes Gutenberg invented the printing press with movable type. While at first a novelty, the printed book became a standard part of life. The question arose whether a printing press can be used for Sta'm — Torah scrolls, tefillin and *mezuzos*. Roughly speaking, the letters are set in the galley and inked, and the paper

is then pressed against the inked letters in a manual process performed by hand. If the application is done with the proper intent, does it qualify as writing?

Rav Menachem Azariah of Fano (17th cen., Italy; *Responsa*, no. 93) addresses this question and argues that a printing press is not considered writing in regards to Sta"m. Rav Binyamin Slonik (17th cen., Poland; *Masas Binyamin*, no. 99) rules that it is writing and therefore published books have the same sanctity as handwritten books. Rav David Ha-Levi Segal (17th cen., Poland; *Taz, Yoreh De'ah* 271:8) agrees with Rav Slonik. Therefore, if the text of a Torah scroll or tefillin was printed with kosher ink on parchment, the sacred items would be kosher. Printed books of Talmud and commentaries must be treated with the same care and respect as handwritten texts.

Rav Avraham Gombiner (17th cen., Poland; *Magen Avraham* 32:57) that printed tefillin and *mezuzos* are invalid because they have to be written in order, one letter after the other. With a printing press, the letters are printed all at once. Rav Yair Chaim Bacharach (17th cen., Germany; *Chavos Ya'ir*, no. 194) points out that most texts are printed by a gentile worker. This prevents the books from attaining sanctity and therefore serves as a source of leniency in certain cases. Rav Ya'akov Reischer (18th cen., Poland; *Shevus Ya'akov* 1:15) distinguishes between texts of the Written Torah and the Oral Torah. The former require Jewish writing and if written by a heretic must be burned. The Oral Torah, though, is less about the text than about the learning. If you can learn from a book, then it does not matter who wrote or how — it has sanctity. Rav Ya'akov Chagiz (18th cen., Morocco; *Halachos Ketanos*, no. 15) argues that even a book of Oral Torah printed by a Jew has sanctity but printed by a gentile does not, like a Torah scroll written by a gentile that must be buried.

III. Respect for Books

In general, most authorities insist that printed books be treated with basic respect because they contain sacred content, even if the books themselves lack sanctity. This can be seen in one of the earliest rulings on printed texts. Rav Shmuel de Modena (16th cen., Greece; *Responsa Maharashdam, Yoreh De'ah*, no. 194) argues that a printed text cannot be used for ritual purposes but can be learned from. Therefore, it must be treated with respect.

Rav Yechezkel Michel Epstein (19th cen., Russia; *Aruch Ha-Shulchan, Yoreh De'ah* 271:39) takes into account mechanical improvements to the printing process. By the late nineteenth century, an individual did not need to manually press every page. He turned on the process and then the machine automatically pressed page after page. Rav Epstein says that this obviously does not constitute a person writing but rather writing on its own, which is not valid for ritual purposes. However, because these texts are used for learning Torah, they have some sort of sanctity and must be treated with respect.

Rav Ya'akov Ariel (*ibid.*) argues that a heretic today who publishes a book does not work the printing press. Even if he did, printing is no longer a manual process and the machine would do the printing, not the person. Therefore, the heretic's intent does not affect the

published books. However, problematic books should be removed from circulation and buried separately from sacred books.

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Select Topics

Hiking on a Shidduch Date

by Rabbi Ephraim Glatt, Esq.

Question: Is it a prohibition of yichud for a boy and girl to go hiking in a state park on a shidduch date?

Short Answer: Assuming that the park is frequented by other visitors who will be able to see the shidduch daters every few minutes, it is permitted. There is further discussion, however, in the poskim whether the shidduch daters violate yichud when going in a car together on secluded roads.

Explanation:

I. Yichud Outside

There is no Gemara that expressly rules that yichud is forbidden outside. One might have thought that perhaps the prohibition of yichud only exists indoors, behind "closed doors."

Nevertheless, the Radvaz (1:121) writes that the guideline for yichud is seclusion in a place where if something improper (i.e. relations) would occur, no one would see the act. The fact that the yichud takes place outdoors is irrelevant. One of the proofs that he brings is from a Gemara in Bava Basra (146a-b) [according to one version in Rashi] where a person thought to perform chuppah/yichud with his fiancée in a churva. The Radvaz says that you see from here that the key criteria is that yichud must occur in a secluded area like a churva where no one can witness any act that occurs inside. Indeed, the Gemara (Berachos 3a) is clear that a churva is such a secluded outdoor area. The Pischei Teshuvah (E"H 22:8) codifies this Radvaz.

The Binyan Tzion (138) provides further proof that yichud may be violated in a secluded area outdoors (even though they are technically not behind "closed doors") from the Gemara (Megillah 14a) about Devorah HaNevi'ah who used to judge the B'nei Yisroel specifically under a "tomar" tree. The Gemara explains that she specifically sat under this tree in order to avoid the prohibition of yichud. Rashi explains that since this tree was very tall and had few branches to provide shade, it was very open and Devorah could avoid all yichud situations with litigants etc. Clearly yichud would have been violated under a different tree, even though they are outside.

However, the Mishnas Yosef (8:94) attacks this proof from Devorah. Presumably there were numerous litigants and people who were constantly coming and going to Devorah

throughout the day. If so, this is not a situation of yichud, and Devorah must have simply been acting out of midas chassidus.

The sefer Noam Halachah (Yichud, p.16) cites a further proof that yichud can be violated outdoors from the Rambam. The Rambam (Terumos 12:22), based on the Gemara (Yevamos 99b), rules that when distributing terumah to a kohen in a silo, one should not give the terumah to the wife of a kohen when she is there by herself. One reason offered by the Rambam (and based on the Gemara) is because it could lead to yichud, as they are alone in an -- outdoors -- silo in a deserted field.

II. A State Park

Based on the above, the Teshuvos V'Hanhagos (5:331:1) writes that men and women should not go on shidduch dates in areas that are secluded and where other people are not likely to pass by, such as parks or in the woods.

Similarly, the Ohel Yaakov (Yichud, p.109) cites the D'var Halachah who was asked about yichud in an orchard of tall trees, i.e. the woods. The D'var Halachah responded that if the orchard is near a road where passersby can see inside the orchard, then there is no prohibition of yichud. Also, if people are consistently coming and going to and from the orchard, there is no yichud, even if the orchard is outside the city. Otherwise, there is a prohibition of yichud.

The Mishneh Halachos (5:130) as well rules that it is forbidden to go on shidduch dates in parks that are outside the city and are largely devoid of other people. He cites the Rama (E"H 22:5), who rules that even two men and one woman (see previous Article) violate yichud when outside the city in a field or park. He concludes by urging parents and mechanchim to protect against this breach of halachah by teaching young children and students that even though it may seem appropriate to go on a shidduch date where you cannot be recognized and can have privacy to see if this person is your zivug, it is inappropriate to shidduch date in a secluded park.

III. What Is Considered Secluded?

In order to properly understand when it is forbidden to shidduch date in a state park (or any other secluded hike), the definition of secluded must be explained in this context. In other words, is there a prohibition of yichud if the park has a few other visitors/hikers, who are seen by the shidduch daters every few minutes?

The Ohel Yaakov (ibid) cites the sefer Darkei Taharah Hashalem who rules that if another person is frequently seen every fifteen minutes or so, but could be seen more frequently, then there is no prohibition of yichud. However, he cites R' Y.S. Elyashiv zt"l who ruled stringently that the time period is seeing a person every five minutes. More than that would be a violation of yichud.

Accordingly, a deserted park where there are few other hikers/visitors would probably be a violation of yichud.

IV. Traveling Together in the Car

But even assuming that the state park (where the shidduch date is taking place) is frequented by others, can the man and woman travel together in a car outside the city boundaries, i.e. on a highway, to get to the park?

The Avnei Yashfe (3:104) rules that there is no prohibition of yichud for a man and woman to travel together in a car, even on large highways between cities, as there are frequently other cars on the highway. The Avnei Yashfe queries whether there are any desolate highways (in Israel) where there would be a concern of yichud.

The Igros Moshe (E"H 4:65:3), however, is concerned for yichud in a car, even if there are other cars on the highway, as there is always the concern that the car with the man and woman can pull off the highway to a secluded area. The Sefer Toras Hayichud (p.98) questions this stringency, because this concern would essentially negate any of the leniencies of yichud, such as keeping the door to the house open, because there is always the fear that the man and woman could close the door

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Atonement for the Deceased

by Rabbi Gil Student

Our time in this world is limited. We strive to do all the good we can and avoid doing wrong. When we sometimes misstep, we try to do *teshuvah* and atone for our misdeeds. The time for doing *mitzvos* ends with our passing, at least on a basic level. Is that also the end for our ability to atone for our sins or can we also achieve atonement in death?

I. Posthumous Atonement

The Gemara (*Kiddushin* 31b) says that when a child repeats a Torah idea in the name of a parent who died within the past year, he should add “*hareini kaparas mishkavo*, may I be an atonement for his resting.” Rashi (ad loc.) explains that you are asking to receive the punishment that would otherwise go to your parent’s soul, thereby offering an atonement to your recently deceased parent.

When performing the rite of *eglah arufah*, the sages of the city nearest to where a dead body is found must say, “Our hands have not shed this blood nor have our eyes seen it. Atone, Lord, for Your people Israel whom You have redeemed” (Deut. 21:7-8). Which people did G-d redeem? The Gemara (*Horayos* 6a) says that this refers to the generation of the Exodus. The *eglah arufah* atones not only for people today but for all past Jews, going all the way back to the time of Moshe.

The Mishnah (*Sanhedrin* 46a-b) discusses the process of a court’s execution. Following the execution, the deceased’s relatives do not mourn him. Rashi (ad loc., 46b, s.v. *ve-lo*) explains that the failure to mourn the executed disgraces him, which in turn serves as an atonement for his sins. Later in the discussion, the Gemara (46b) asks whether, in general, burial is to avoid disgrace or to provide atonement. If it is to avoid disgrace, then even if someone asks not to be buried when he dies, he must be buried because the family will also be disgraced by the lack of burial. If it is a matter of atonement, then it is just for him and he can refuse it.

II. Atonement is For the Living

From all these sources, it seems that there can be atonement even after someone dies. However, other sources indicate the contrary. The Gemara (*Zevachim* 5a) says that a woman who gives birth and brings a *chatas* offering but dies before it is sacrificed, her heirs cannot bring that sacrifice. Rashi (ad loc.) explains that a *chatas* is intended to achieve atonement but there is no atonement after death.

If you bring a *chatas* sacrifice and slaughter while having in mind that it should be for Nachshon, the *chatas* is kosher (*Zevachim* 9b). The general rule is that if you have in mind someone other than the sacrifice’s owner, and that person is obligated to bring a *chatas*, then you have done a sacrificial rite with the wrong owner in mind which

invalidates a *chatas*. If the person you have in mind is not or cannot be obligated to bring a *chatas*, then the sacrifice is kosher. The Gemara explains that since Nachshon, the leader of the tribe of Yehudah in the desert, is long deceased, and there is no atonement for the dead (*ein kaparah le-meisim*), the sacrifice slaughtered with Nachshon in mind is still kosher.

III. Some Atonement for the Dead

Rav Yosef Engel (20th cen., Poland; *Beis Ha-Otzar*, vol. 1 section 7:3, section 86) attempts to resolve these conflicting texts about whether there is atonement for the deceased. Rav Engel suggests that there are different types of atonement. The pain of death, of the separation of soul from body, achieves the same atonement as a sacrifice. Rav Engel acknowledges that even though Rava holds that a person's death atones for his sins (*Shevu'os* 8b, *Kerisos* 26b), this cannot mean that death atones completely because then there would be no punishment in the afterlife, no need for the living to give charity on behalf of the deceased or to say they will serve as an atonement for the deceased's resting. Rather, death achieves the limited atonement of a sacrifice and not a full atonement.

Rav Shalom Mordechai Schwadron (early 20th cen., Russia; Responsa Maharsham 3:216) quotes Tosafos (*Pesachim* 61a s.v. *ve-yeshno*) who say that someone deceased cannot achieve complete atonement. This implies that he can achieve partial atonement. I am not clear on the distinctions between different types of atonements. Does a sacrifice atone without repentance? Maybe in a limited way, and similarly death atones in this limited way when not accompanied by repentance.

In a different vein, Rav Engel quotes the Gemara (*Kerisos* 6a) which exempts from punishment someone who applies sacred oil to a corpse. The punishment does not apply because someone dead is not legally considered a person. Similarly, suggests Rav Engel, a dead person cannot own a sacrifice because he is not a legal person. Rav Naftali Tzvi Yehudah Berlin (Netziv, 19th cen., Poland; *Emek Ha-Netziv, Shofetim* 67) seems to explain similarly. The deceased need atonement and can achieve it through a sacrifice. However, they cannot bring a sacrifice on their own. If they are part of another sacrifice, such as the *eglah arufah*, then they can achieve atonement through that sacrifice. In other words, the deceased can achieve atonement but for technical reasons they cannot bring a sacrifice for it.

The children and students we leave behind affect our eternal lives. Our footprints continue to grow even after our times in this world have passed. Even someone's misdeeds can be corrected, at least to some extent, after his death.

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What is an Acceptable Ordination?

by Rabbi Gil Student

I. Five Types of Rabbinic Ordination

Rabbinic ordination serves to certify someone as a rabbi qualified to serve the community formally as a rabbi. In the past, we have discussed different theories of the significance of ordination today, and the practical implications of the different theories. I would like to discuss now the relatively recent history of a new level of ordination.

The Talmud (*Sanhedrin* 5a) lists three types or levels of ordination: *yoreh yoreh* (permission to rule on ritual matters), *yadin yadin* (permission to serve as rabbinic judges), *yatir yatir* (permission to decide on blemishes in animals). The last no longer exists because there is no practical reason to rule on animal blemishes. *Yoreh yoreh* and *yadin yadin* are regularly given to qualified individuals, often together.

We are not entirely sure when but probably in the late fourteenth century, in the wake of the Black Plague, a new form of ordination was established. Some attribute it to Rav Meir Ha-Levi of Vienna (d. 1406) and some to earlier authorities. Due to the communal disruption in Germany, all sorts of people claimed to be qualified to serve as rabbis. To resolve the matter, the leading rabbis created a title “*Moreinu*” that only they could issue and only someone with that title could serve as a rabbi.¹

In nineteenth century Germany, a fifth type of ordination emerged, certifying the holder as qualified to serve a rabbi and leader (*rav u-manhig*). The earliest I have seen this type of ordination is at the school commonly known as Hildesheimer’s Institute in Berlin. The school generally gave a *rav u-manhig* to its graduates who went on to serve as rabbis. Only the exceptional graduates would receive a *yoreh yoreh* ordination.² Generally speaking, *rav u-manhig* implies lower qualifications than the other types of ordinations because it does not state that the rabbi is qualified to issue halachic rulings. However, in many communities a rabbi does not need to be able to rule on halachic matters. Where there is a need to send rabbis into the field who can positively impact the community, a *rav u-manhig* ordination suffices.

II. Who Can be Considered a Rabbi?

In mid-twentieth century America, many *yeshivos* almost exclusively gave only a *rav u-manhig* ordination. In the 1940’s, the Rabbinical Council of America (RCA)’s Semicha Standards Committee began investigating what level of ordination qualifies for membership in the organization. On the one hand, membership in a national organization

¹ See Prof. Simcha Assaf, *Be-Ohalei Ya’akov*, p. 28ff; Prof. Mordechai Breuer, “Ha-Semichah Ha-Ashkenazis” in *Tziyon*, no. 33, pp. 16-18.

² *Seridei Esh*, vol. 4, p. 133.

is valuable because, among other reasons, the field of chaplaincy requires certification from such an organization. On the other hand, rabbinic schools cherish their independence and are loath to take instruction from organizations.

As described by my late teacher, Rav Louis Bernstein (*Challenge and Mission: The Emergence of the English Speaking Orthodox Rabbinate*, pp. 18-20), the RCA interviewed leading rabbis for their input.

Rav Yitzchak Hutner, *rosh yeshiva* of Chaim Berlin, gave a *rav u-manhig* ordination. He allowed for a slight revision of the language to *moreh hora'ah*, someone who can decide matters of law, but would not change the language beyond that. He told the RCA that if this was not sufficient for the organization, his graduates would look elsewhere for certification (Bernstein, p. 19).

Rav Ya'akov Kamenetsky and Rav Gedaliah Schorr, both of Torah Vo-Da'as, said that their yeshiva gives three levels of ordination — *rav u-manhig*,³ *yoreh yoreh* after another three years of study, and *yadin yadin* after further study. They consider any of these levels of ordination sufficient for serving in the rabbinate and should be recognized as rabbis (Bernstein, *ibid.*).

Rav Joseph B. Soloveitchik, the leading rabbinic figure at Yeshiva University said that ordination should use the term “*semichas Chachamim*” (ordination by the sages). With that language, *rav u-manhig* ordination is sufficient and should be accepted by the RCA for membership.

Quite astonishingly, after a decade of consideration, in 1954 the RCA decided to require for membership at least a *yoreh yoreh* ordination, thereby excluding from membership rabbis with a *rav u-manhig* ordination. Rabbi Bernstein writes that “[t]his was one of the very rare instances when the Rabbinical Council did not accept [Rav] Soloveitchik’s opinion” (p. 20).

The RCA’s membership standards have changed over the years but the exclusion of rabbis with *rav u-manhig* ordination remains. In contrast, the Rabbinical Alliance of America accepts rabbis with *rav u-manhig* ordination. This article is not intended to criticize the RCA’s policy but to show the historical views of *Gedolei Torah* on the subject.

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³ Their version is *rav be-Yisrael*.