

*This week.....*

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This edition of Hemdat Yamim is dedicated in loving memory of **Mina Presser bat Harav David and Bina** on the occasion of her *yahrzeit*, 24

Tammuz  
and members of her family who perished in the shoah Al Kiddush Hashem  
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## Assimilation Warning

Harav Yosef Carmel

The *parasha's* account of the war with Midyan forms the background for the laws of *tevillat keilim* (immersion of utensils). Bnei Yisrael acquired spoils, including food-related utensils. Moshe taught: "Whatever goes into fire shall be passed through fire and be purified, but in the waters of *niddah* it shall be purified" (Bamidbar 31:23). Firstly, one has to kasher the utensils in which forbidden foods were cooked so they can be used for kosher foods. Secondly, there is a *mitzva* to immerse the utensils in a *mikveh* before using them. What is the idea behind this *tevilla*?

The Rambam writes: "This *tevilla* done to utensils of meals that are obtained from a non-Jew and afterward they become permitted for eating and drinking is not related to purity and impurity but is from the Rabbis, and it is hinted in, 'Whatever goes into fire...'" (Maachalot Assurot 17:5). A few halachot later, he writes: "There are other things that the Sages forbade, even though there is no source in the Torah, in order to distance oneself from non-Jews before one mixes in with them and come to intermarriage, and these are them: not to drink with them even when one does not have to fear wine used in idol worship, and they forbade eating their bread and their cooked foods even when one does not have to fear that they come from pots that have absorbed non-kosher" (ibid.:9).

According to the Rambam, the requirement of *tevillat keilim* is also to battle assimilation. Most *Rishonim* see *tevillat keilim* as a *mitzva* from the Torah but one that teaches the concept of not allowing relationships between Jews and non-Jews to deepen. By restricting eating and drinking with non-Jews and even with related utensils, the danger of the setting of joint eating is lessened. This served as a model for a slew of rabbinic initiatives that are intended to curb assimilation. We will mention a few.

1) *Eiruv chatzerot* – Even within fenced-in areas, we must "rent non-Jews' domain" before being able to carry there. This process was intended to make joint living quarters with them more difficult. 2) One may not eat bread that was baked in a non-Jew's home irrespective of *kashrut* issues. 3) One may not eat important foods cooked by a non-Jew. 4) One may not drink wine along with non-Jews irrespective of *kashrut* problems. 5) The Rabbis tried (unsuccessfully) to forbid use of non-Jews' oil.

This partial list demonstrates the Rabbis' great fears of intermarriage/assimilation, which endanger the Jewish nation's survival. Nowadays assimilation is eating into huge parts of our people, reaching 90% in some places. Our survival after millennia of exile is a historically unprecedented open miracle. Our *parasha* teaches us that while we have to thank Hashem for the miracle, we also have to take our own concrete steps, with our Rabbis' laws' help, to stem the tide of assimilation.

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**Question:** If I start Shabbat early, can my contractor (all workers are non-Jewish), who is building an extension to my house, work until regular Shabbat begins in town.

**Answer:** As a rule, as you seem to be aware, one may not allow workers to work on his house on Shabbat (Shulchan Aruch, Orach Chayim 244:1). Conceptually and sometimes practically, there is a distinction between a case where the worker is paid per time (*po'el*), in which case it would be forbidden, and a case where he is paid by the job (*kablan*), in which case it would be permitted (ibid.). However, the Rabbis did not allow even a non-Jewish *kablan* to do work on a Jew's house or in another public type setting where people might suspect (*marit ayin*) that he is the Jew's *po'el*.

In such cases, a reasonable amount depends on the extent to which people are likely to actually suspect him. For example, when the work is done outside the limits where Jews go on Shabbat it is permitted (ibid.). Let us then look at matters practically. Even if people see your workers working and think you told them to do so, it might still not be a problem. After all, that which people see happening, work being done a half-hour before Friday sunset, is okay because, as far as they know, you did not yet accept Shabbat. This is reminiscent of a halacha regarding an Israeli spending a second day of *Yom Tov* in the Diaspora that falls out on Friday. The Radvaz (accepted by the Mishna Berura 496:13 and others) says that he can cook on Friday without an *eiruv tavshilin* because those who see him cooking don't know that he did not make an *eiruv tavshilin*.

We might be reluctant to rely on this idea. First of all, halachically, we have not succeeded in finding anyone who discusses whether prohibitions of *marit ayin* apply or do not apply for the above reason during *tosefet Shabbat* (the time added on to Shabbat). (There is a question whether rabbinic prohibitions, in general, apply during *tosefet Shabbat*, but we will leave that issue for now). Furthermore, since you may go home and make *kiddush* while hammers are still banging in the extension, there would seem to be a practical problem of *marit ayin*.

However, there is still a straightforward way to allow the work. The Rama (Orach Chayim 261:1, based on Mahari Weil 116) allows an individual to ask a non-Jew to do work for him after he has accepted Shabbat early. The Mishna Berura (261:18) confirms that this is true even when there is not a *mitzva*-related need for the non-Jew's help. (See Shulchan Aruch, OC 263:17, who allows asking even a Jew to do work for him at this time if the latter did not yet accept Shabbat.) Now, let us make a simple calculation. If it is permitted to ask a non-Jew to do work at that time, one can certainly allow him to do work in his house even if it is seen publicly. The reason for the general prohibition is that one might think he hired the non-Jew as a *po'el*. Realize though that the problem is not that he is paid but that he is working on a Jew's behalf. Thus that which people might think you are doing in a worst-case-scenario (namely, that after accepting Shabbat early, you asked a non-Jew to do work for you) is in fact permitted, and *marit ayin* does not apply.

This being said, if indeed the work is being done within the confines of your home and your household sees or hears the work, there is an issue of the matter being out of the proper spirit of Shabbat. It would seem that the permission to use a non-Jew during *tosefet Shabbat* is intended primarily for incidental work or work that is done away from his proximity. Therefore, if it is possible, we would urge you to either make Shabbat at the regular time or ask the workers to finish an hour or so earlier. If this causes significant problems, one can rely on the straight halacha that the restrictions of what a non-Jew can do for you on Shabbat do not apply to *tosefet Shabbat*.

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# Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

## Things That Delay Redemption

(based on Ein Ayah, Berachot 1:9)

**Gemara:** Due to three things, people should not enter a *churva* (building in ruins): due to suspicion (that he is involved in illicit relations), due to collapse, and due to damagers (demons).

**Ein Ayah:** As is fitting for the words of the Sages of blessed memory, I decided to give another meaning to this saying, which also hints at the delay [in the ending] of *galut* (exile).

Although Hashem is capable of returning our captives, gathering us and having His Honor rest among us, there are three things that are preventing the dwelling of His Divine Presence in us until the deficiencies will be filled. For it is known that Israel, through their service, build the palace on high, and Hashem swore that He will not enter the Jerusalem on high until He will enter the Jerusalem below. However, as long as we have still not been totally purified, to fix the blemishes so that the edifice [of the national structure] will be arranged and in full repair but rather it will still have fissures and the characteristics and actions are not properly purified, it is described as a *churva*, for the whole unit is destroyed due to our great sins. Indeed the *p'sukim* have already compared the Nation of Israel to a house and a city [see Yirmiyah 23:8 and Tehillim 115:12].

It is impossible to have the blessed Divine Presence rest on Israel until the rectification is complete because of three things. The first is: the nations of the world should not say that they see that the actions of Israel are improper and yet Israel is given prominence. This would, Heaven forbid, look like favoritism was involved in the matter. In fact when the Members of the Kingdom of Yehuda [the remnant of the original Kingdom of Israel] were exiled, there was also a *kiddush Hashem* (sanctification of Hashem's Name) [in addition to the *chillul Hashem*]. This is because people said: "Even to the members of His household he did not show favoritism." If so, there is *chillul Hashem* (desecration of His Name), Heaven forbid, in the matter [if He shows us favor before we deserve it]. However, when Israel improves its actions, there is a *kiddush Hashem* when the nations see their greatness and all recognize that Hashem grants good to those who do good.

There is a second reason. Hashem wants the future redemption to be a complete redemption that has no subjugation afterward. Therefore it is necessary to wait until everything will stand on a firm base, so that it will not deteriorate, Heaven forbid. This cannot happen until there is a major improvement, including being purged by the exiles and true *teshuva* (repentance).

A third reason is that there are evil people who were not removed from Israel who are unfit to enjoy the Divine Light. It is impossible to have redemption until those distant elements are further distanced and those who are meant to join us will join us. This is what the *pasuk* means, "I will remove all of your base metal... Zion will be redeemed with justice..." (Yeshaya 1:25-27).

This is what the Rabbis hinted at in the three reasons not to enter a *churva*, that Hashem will not cause His Presence to dwell and Israel will not be gathered back to their place, until all of the fissures heal. One is the suspicion of *chillul Hashem*, that the nations will say there is favoritism in the matter; another is of collapse, that sins should not cause a return to falling, and therefore one needs strengthening so that the redemption will last forever. Also, there are "damagers," the wicked who are unfit to see the greatness of Hashem, for they need to be pushed off. This is referred to by the *pasuk*, "I left in your midst a poor nation, and they will shelter themselves in the Name of Hashem" (Tzefaniah 3:12).

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# P'ninat Mishpat

## The Obligation of One Who Has Work Done by a Worker From a Temporary Employment Agency – part II (Harav Akiva Kahana)

(based on Halacha Psuka, vol. 44)

[We continue to investigate the halachic outlook on the law regarding the rights of one who does work for a would-be employer (*mazmin*) under a contract with an employment agency. To what extent is the *mazmin* the employer of the worker, and as a result, to what extent is the law that obligates him to provide workers' rights to the worker in line with halacha?]

The *gemara* (Bava Metzia 118a) discusses when one can tell a worker that he asked to do work that he should receive the object he worked on in lieu of a salary. The *gemara* concludes that when Reuven tells Shimon to work in Levi's field he must actually pay him, whereas if he told Shimon to work in an abandoned field he can tell him to take what he worked on as payment. Rashi (ad loc.) explains that when Shimon works in an abandoned field and can take the produce for himself, Reuven is not responsible for his pay.

The Rashba asks why it is that when Shimon does what Reuven asked, he isn't considered his worker whether he works on someone else's field or no one's. He explains that Reuven's obligation when he works on Levi's field is based on the concept of *arev* (a cosigner). The *gemara* (Kiddushin 7a) says that when one wants to give a woman money as *kiddushin* and she tells him to give the money to someone else to effectuate the marriage, the *kiddushin* works, just as a cosigner becomes obligated to pay back a loan that was given to someone other than himself. So too, when Levi got the benefit from Shimon's work based on Reuven's request, it is as if Reuven was getting the benefit. On the other hand, if it was done on an abandoned field, it is like one who says throw money into the sea and I will pay you. In that case, there is a *machloket* among the *Rishonim* if the halacha of *arev* applies. The Rashba apparently posits that it does not.

What seems to follow from the Rashba is that in a case where a middleman tells a worker to work for a *mazmin*, the *mazmin* is the employer even though the middleman promised to pay him. The Mateh Levi (Bava Metzia 28:16) explains that if there is a "cosigner" (the middleman), there must be a borrower (the *mazmin*). In this case, the *mazmin* would be considered the employer, and the agency would have to pay because of *arvut*. However, it is not clear from the *Rishonim* in Kiddushin that every cosigner requires the existence of a borrower. Therefore, it is not certain that the *mazmin* is necessarily obligated in the worker's pay or in the other rights that emanate from the ostensible work relationship.

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