

This edition of Hemdat Yamim is dedicated to the memory of  
**Leiser Presser ben  
R'Aharon Yitzhak and  
Bracha**

on the occasion of his  
yahrzeit, 24 Iyar,  
and members of his family  
who perished in the shoah  
Al Kiddush Hashem.

As well as

**R' Meir ben Yechezkel Shraga  
Brachfeld  
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## *This week.....*

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## Different Types of Gerut

Harav Yosef Carmel

The Torah commands many times to give special treatment and love to *gerim* (converts). Many instances apply even to a *ger toshav*, for example in our *parasha*: "If your brother's status is lowered and his means of support falter, you shall strengthen him, whether he is a convert or a resident (*tohav*) and lives among you" (Vayikra 25:35). Who is this *tohav*? Rashi explains: "It is someone who has accepted upon himself not to worship idols, yet he still eats *neveilot* (improperly slaughtered animals)."

According to one opinion (Avoda Zara 64b) a *ger toshav* is someone who accepts all the *mitzvot* of the Torah except for eating *neveilot*. Our mentor, Rav Shaul Yisraeli z.t.l. (in Chavot Binyamin 67), asked: Why would someone who is willing to accept almost everything not go a step further and become a *ger tzedek* (a full convert)? Let us introduce two issues before trying to answer the question. *Chazal* tell us that a convert has a status of a newborn child, a categorization that applies to lineage in regard to the laws of incest. This concept, whose source is far from clear, applies to converts over the generations but did not apply to Bnei Yisrael at Sinai, even though they underwent a conversion process at the time.

The process of conversion has three parts: accepting the *mitzvot*, circumcision (for men), and *tevilla* (immersion). According to Tosafot, only the former requires a *beit din*. Rav Yisraeli explains the process of acceptance before *beit din* and many other things as follows. In order to convert, one must be accepted into Bnei Yisrael by representatives of the nation (i.e., a *beit din*). *Beit din* is authorized to do so only if the candidate is willing to accept the *mitzvot*; once he is told about some of the *mitzvot* and accepts all *mitzvot*, his obligation in them is not the result of his acceptance of the *mitzvot* but of his acceptance into *k'lal Yisrael*. This is the idea behind the most famous convert's statement: "Your nation is my nation, and your G-d is my G-d" (Ruth 1:16).

The conversion process begins with an act of national acceptance. A non-Jew's independent acceptance of *mitzvot* is meaningless; conversion without national acceptance is not conversion. As one changes national affiliation, he assumes a new identity regarding lineage while keeping his identity regarding personal matters. When Bnei Yisrael converted at Sinai, they did so as a nation together and thus the concept of new lineage did not apply. One who embraces the precepts of the Torah but is unwilling to change national identity can be a *ger toshav*, not a *ger tzedek*.

Ramifications of this thesis include that while conversion can occur only for one who accepts *mitzvot*, his or her failure to keep them afterward does not undo the conversion. Also, one's interest in being part of the nation is an important consideration for *beit din* in determining who is fit to be a *ger*.

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**Question:** I have seen many customs for *bentching* after *zimun*: 1) everyone *bentches* to himself; 2) the *mezamen* does the beginning out loud; 3) he waits for people to finish before saying *beracha* endings out loud so that people answer *amen*. What are the issues and what is the proper method?

**Answer:** This is a classic case of a practice that has changed from the manner it was originally intended, with splintered variations arising. Let us proceed through the development.

Apparently, a *mezamen* originally would recite all of *Birkat Hamazon*, while the others would listen silently and answer *amen* (see Bach, Orach Chayim 193; Mishna Berura 201:15). This most fully accomplishes the idea of praising Hashem together (see Berachot 45a). The *minhag* has developed for everyone to *bentch* himself, apparently out of concern that people will not listen well enough to the *mezamen* (see Beit Yosef, OC 183) or because one may have to understand the text he is hearing even if it is in Hebrew (see Shulchan Aruch, OC 193:1 and Mishna Berura 193:5).

What, if anything, is left to the idea of a joint *bentching*? When the Shulchan Aruch (OC 183:7) says that everyone *bentches* himself, he writes that they do so quietly. In this way, they can still hear the *mezamen* (Mishna Berura 183:27). The Rama (ad loc.) adds that the others should go ahead toward the end of the *beracha* to enable answering *amen* to the *mezamen's berachot* (which one cannot do if he just finished the *beracha* himself, with not more than a few exceptions- see Shulchan Aruch and Rama, OC 215:1). Many people practice the Rama's idea (usually the *mezamen* waits for the others rather than their speeding up, but it's the same idea).

The Mishna Berura (183:28) points out that in his time it was common for everyone to *bentch* out loud so that no one heard the *mezamen* (now it is more common for everyone, including the *mezamen*, to do so quietly). He says that it is important for all to hear the *mezamen* at least for the first *beracha* (until "*hazan et hako!*") because of the idea that this is the end of the *zimun*. The main ramification of this idea is that those who interrupt their meal to answer *zimun* are supposed to wait until after that point before resuming their meal (Rama, OC 200:2). The matter depends on a *machloket Amoraim* in Berachot (46a) whether *zimun* ends at "*hazan et hako!*" or at "*u'mituvo chayinu,*" the addition to *bentching* that is inserted when there is a *zimun*. Sephardim follow the latter opinion (Shulchan Aruch, ad loc.). The Mishna Berura, ruling for *Ashkenazim*, posits that people must hear the *mezamen* until "*hazan et hako!*" for *zimun* to be done properly. The Magen Avraham (183:12) went a step further, saying that until that point, people should only listen to the *mezamen* and only afterward *bentch* themselves. The Mishna Berura (ibid.) says that only people who can concentrate on and understand the first *beracha* should follow the Magen Avraham.

Indeed, people do not always listen to the *mezamen* for even the first *beracha*. Because it is difficult to argue on a prevalent practice that has been followed by some knowledgeable people for a long time (see S'dei Chemed, cited in Kaf Hachayim, OC 183:38) different rationales for the leniency have been given. One is that, in regard to this manner, *Ashkenazim* rely on the Shulchan Aruch that *zimun* ends with "*u'mituvo chayinu*" (ibid.). The Tzitz Eliezer (XVI, 1) also cites an opinion that, generally, it is better to *bentch* separately. The Chazon Ish also points out that regarding a *zimun* of ten, where Hashem's name is invoked in the first part of the *zimun*, it is not necessary to listen to the *mezamen* until "*hazan et hako!*" (see Mishna Berura 200:10).

In summary, we recommend following the Mishna Berura's position where there is not a clear *minhag* to the contrary. However, we do not discredit the other systems you have seen.

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## Movement and Stability

(based on Ein Ayah, Berachot 1:153)

**Gemara:** One who prays should place his legs together, as the *pasuk* says: "Their legs were a straight leg" [a *pasuk* referring to angels that the prophet saw] (Yechezkel 1:7).

**Ein Ayah:** The legs serve two purposes: walking and standing. In order to walk, the legs are primarily separate from each other; during standing, the main usage of the legs is when they are close together.

In the course of one's work on *shleimut* (spiritual completeness) there is "walking" (i.e., movement) and one can acquire attainments in the realm of the intellectual and that of personal attributes. There is also "standing" (i.e., spiritual consistency), by means of which one makes sure that the things that he acquired will remain strongly in his spirit, so that they will not be lost by some change in or challenge to his status. This dichotomy is hinted at by the *pasuk*: "Who will go up on the mountain of Hashem and who will stand in His holy place?" (Tehillim 24:3). One needs not only to reach the proper level but remain there.

The Torah is special in that it increases *shleimut* and brings higher levels, and, for this reason, it is called a path. "One who does not increase, will lose what he has" (Avot 1:13). In contrast, prayer etches into a person the levels that were attained so that they become permanent. In that way, a person begins to resemble angels, whose levels of *shleimut* are strong by virtue of their very existence. In fact, their main calling is to remain in their *shleimut* and not to increase upon it. Therefore, their legs relate to their power of unification, the straight leg. It also indicates that that their level is a natural one, not one that was chosen through free choice. This is like the natural movement that has no curving or distortion, as the Rambam discusses in Moreh Nevuchim. Included in this matter of stability is a person's striving during prayer that his high levels should be acquired permanently and engrained.

## One Who Eats Before Prayer

(based on Ein Ayah, Berachot 1:155)

**Gemara:** Whoever eats and drinks before he prays, about him the *pasuk* says; "You threw Me after your back (*geivecha*)" (Melachim I, 14:9). After he was haughty (*ga'ava*), he accepted the kingdom of Heaven.

**Ein Ayah:** The foundation of haughtiness is that one removes his heart from the realization that that which is good for him is not up to him. Rather, any possible *shleimut* comes from His Hand, which should cause a person not to be so proud about that which is not his own. Palpable feeling will not be able to imagine this, because the senses will not sense something that is outside the one who is feeling. Therefore, one who is drawn in by his senses will make a haughty connection and say that he saved himself.

In contrast the goal of prayer is to engrain in the heart the realization that all the good we have comes from Hashem. Therefore, one should involve himself in prayer, which brings him humility, before eating, which brings on blind haughtiness.

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## Mistaken Public Mechila

(based on Halacha Psuka, vol. 57- condensation of a *p'sak* by the Beit Din of Itamar)

**Case:** The plaintiff (=pl) ran a private nursery in a *yishuv* (=def). Pl had a worker (=#3) who also ran a crafts club on the *yishuv*. #3 suggested to pl to order supplies based on a budget def promised for her club's supplies, with remaining funds going to her club. Pl acquired supplies, two thirds of which went for the nursery. Pl wants def to reimburse her as #3 promised, saying that she wouldn't have bought the extra supplies from her own funds. Def responds that #3 was not authorized to share her budget. However, since there were good intentions, def agreed to pay for two thirds of the promised budget, with pl and #3 carrying the other third. After paying its share and pl's refusal to pay the other third, def now wants to recover the two thirds.

**Ruling:** Pl's use of the supplies without realizing its significant is parallel to the following case (Ketubot 34b). A man borrowed a cow and died, and his inheritors, who thought they received it from their father, ate it. They were required to pay the value of cheap meat. The Rashba (III, 96) says that this is two thirds of meat's normal price. The K'tzot Hachoshen (246:2) learns from here that when one receives benefit from another's property, even unwillfully, he must pay for it. Therefore, even if pl bought the supplies only because of the prospect of reimbursement, she still has to pay partially for using them – 2/3 (rate) \* 2/3 (material used).

Pl says that any payment levied on her should be transferred to #3, who misled her. This is similar to the discussion of one who accepted a certain currency based on bad advice from a moneychanger. The advisor is exempt if the advice was given by an expert for free (Shulchan Aruch, CM 306:6) or if it is not evident that the advisee relied upon him. The Rosh (BK 9:13) says that the moneychanger is exempt if the advisee had the opportunity to ask someone else also. The Maharshal and Shach (306:12) concur, but the Shiltei Giborim cites a *machloket*. In our case, pl should have asked def's secretariat if she could expect reimbursement, and, therefore, her claims against #3 depend on that *machloket*. Furthermore, #3 acted with good intentions, and according to the opinion that one who causes semi-direct damages (*garmi*) has to pay as a penalty, this is only for intentional damage (Shach, CM 386:1). Based on these doubts, pl cannot extract money from #3.

Regarding def's withdrawal from its voluntary payment, they cannot recover their money. The Mayim Amukim (II, 63) rules that a community that relinquishes rights in a thought-out manner may not back out even if their decision was based on an incorrect assessment. In this case, even if def agreed only because they thought pl would accept the settlement, they must keep their commitment. Pl, though, must pay the suppliers the other third.

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Baba Metziah 15-21

## Reusing a Shtar

This week in the Daf Hayomi (17a), the Gemara states that one cannot reuse a shtar, whose debt was already paid off, for a new loan. The Gemara explains that if the new loan is being given at a date later than the one written in the shtar, it is obvious that one cannot reuse the shtar. The problem with this is, as we explained last week, a loan with a shtar creates a lien on the real-estate of the borrower, and if he sells land, the lender can collect it from the buyer to pay off the debt. Therefore, if the date in the shtar is earlier than the actual date of the loan, there is a concern that the borrower will sell land between the date of the shtar and the date of the loan, in which case in truth the land is not liened to the lender, since it was sold before the loan took place, but the lender will be able to unjustly collect his debt from the buyer, because the shtar is dated to before the sale took place. Therefore, if one wants to reuse a shtar at a later date it is clear that he cannot do so. However, even if the date is the same, such as a case where a person took a loan with a shtar, and paid off the loan that day, and later that same day he wishes to take an identical loan and reuse the shtar, the Gemara says that he cannot do so, since the lien created by the shtar has already been nullified. The Poskim disagree as to what exactly the Gemara means. According to the S'mah (Choshen Mishpat 48, 1), a shtar has two functions. The first is to be a proof for the loan. The second is to create a lien on the real-estate of the borrower. Therefore, claims the S'mah, when the Gemara stated that one cannot reuse a shtar, since the lien was nullified, it was only referring to the second function of the shtar, that the shtar cannot create a new lien since the lien it created was nullified. However, the fact that the lender is in possession of a shtar is still proof of the debt, since, if the loan was paid off, the shtar would have been returned to the borrower, and therefore, a shtar can be reused as proof for the loan. Thus, a lender in possession of a reused shtar, would not be able to collect his debt from lands the borrower sold, but he can collect his debt from assets still in possession of the borrower.

The Shach (ibid, 2) disagrees. He claims that we cannot separate between the different functions of the shtar. If the shtar's power to create a lien was cancelled, it cannot function as proof either, and the lender cannot use it to collect his debt even from assets still in possession of the borrower.

The Poskim also discuss whether one can reuse a note signed by the borrower himself (=k'tav yado). The Halacha distinguishes between a shtar, which two witnesses sign upon, thereby creating a lien, and k'tav yado, which only the borrower is signed on, and although it can be used as proof for the loan, it does not create a lien. According to the S'mah (ibid), it is clear that one can reuse a k'tav yado, since even regarding a shtar, the only problem was creating a new lien, but, by a k'tav yado, where there is no lien anyway, there is no problem with reusing it. The Shach (ibid), although he disagrees with the S'mah regarding a shtar and claims that it cannot be reused even only as proof, agrees that a k'tav yado can be reused. The reasoning is that a shtar, since it normally creates a lien, if its power to create a lien is nullified, becomes completely nullified. However, since a k'tav yado never creates a lien and is only used as proof, no portion of it was nullified and thus it is valid. However, the Bach (ibid 1) and Ketzot Hachoshen (ibid 3) disagree and claim that even a k'tav yado cannot be reused. Their reasoning is that, since the signatures, those of the witnesses for a shtar and that of the borrower for a k'tav yado, were signed on a different loan which was already paid off, they are not valid and cannot be used as proof of a new loan.

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