

ASK THE RABBI

VOLUME IV

A Sampling of Real World Halachic Questions that Were
Sent to the Eretz Hemdah Beit Midrash
Headed by
Harav Moshe Ehrenreich and Harav Yosef Carmel

By
The Eretz Hemdah Faculty



Eretz Hemdah
Institute for Advance Jewish Studies

Ask the Rabbi, Volume 4

Eretz Hemdah Institute

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יצא לאור בהשתתפות המשרד לשרותי דת

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ISBN , 978-965-436-036-4 hardcover

Printed in Israel

It is our privilege to present the fourth volume of *Ask the Rabbi*. Each year, Eretz Hemdah, through its partnership with the Orthodox Union's "Ask the Rabbi" program, receives thousands of questions. The questions are sent from rabbis and laity in Israel, America, and across the world.

In Eretz Hemdah, a small group of extraordinary graduates from the finest National-Religious *yeshivot* learn to prepare for the Israeli Rabbinates' rigorous "*Yadin Yadin*" examinations. We believe that true greatness in Torah can never be disconnected from involvement with the needs and concerns of the broader Jewish community. Therefore, over the tens of hours which our students are devoting to prepare themselves to get the "*Yadin-Yadin*" ordination, they are also preparing themselves to be *Poskim*.

The "Ask the Rabbi" questions cover all imaginable issues. In this volume, we bring together some of the select questions and answers from the most relevant areas of halacha.

We hope and pray that this book will be used to teach and enlighten. That it will help people observe halacha, while giving them a sense of the impressive and infinite world of the Talmud and Shulchan Aruch, which serve as the basis and context for our halachic practice.

With Torah Blessings,

Rabbi Yosef Carmel

Rabbi Moshe Ehrenreich

Rabbinical Deans of Eretz Hemdah



CONTENTS

HALACHOT OF *TEFILLA* AND TORAH READING

1.	Replacing the <i>shliach tzibbur</i> after he started	2
2.	Reciting <i>Kaddish</i> while in the middle of <i>P'sukei D'zimra</i>	4
3.	Customs regarding <i>Kriat Shema</i>	6
4.	Saying " <i>Baruch shem...</i> " in <i>Kriat Shema</i>	8
5.	Reciting 248 words in <i>Kriat Shema</i>	9
6.	Background on the three steps before <i>Shemoneh Esrei</i>	11
7.	What to do if someone from outside of Israel mistakenly began to say <i>v'tein tal umatar</i> while visiting Israel	13
8.	Whether a <i>kohen</i> can recite <i>Birkat Kohanim</i> if he has a frozen shoulder	14
9.	Saying <i>Nefillat Apaim</i> (<i>Tachanun</i>) near someone who is still saying <i>Shemoneh Esrei</i>	15
10.	Reciting <i>Tachanun</i> when davening alone	17
11.	Using a <i>siddur</i> to kiss a <i>sefer Torah</i>	18
12.	Carrying a <i>sefer Torah</i> through the women's section	19
13.	What to do when the only <i>kohen</i> in <i>shul</i> wants to receive <i>maftir</i>	20
14.	<i>Aliyot</i> to the Torah for a <i>kohen</i> married to a convert	21
15.	Who should receive the second <i>aliya</i> if a <i>levi</i> received the first one	22
16.	Whether one needs to cover the <i>sefer Torah</i> when reciting a <i>beracha</i> after receiving an <i>Aliya</i>	24
17.	The proper way to correct a <i>ba'al koreh</i> who makes a mistake	25
18.	Reading the <i>haftara</i> when there is no <i>minyan</i>	27
19.	<i>Mincha</i> immediately after <i>chatzot</i>	28
20.	Latest time to daven <i>Mincha</i>	29
21.	<i>Davening Ma'ariv</i> before <i>tzeit hakochavim</i> when davening without a <i>minyan</i>	31
22.	<i>Nusach</i> of <i>tefilla</i> for <i>Ma'ariv</i> when making early Shabbat and Friday is <i>Rosh Chodesh</i>	32
23.	Davening in a room without windows	33

ERETZ HEMDAH INSTITUTE

24.	Who should say <i>Kaddish</i> when there is no <i>avel</i>	34
25.	Proper pronunciation of <i>Kaddish</i>	37
26.	Guidelines for someone who <i>davens nusach Sefard</i> and is davening in a <i>nusach Ashkenaz minyan</i>	38
27.	Saying <i>Selichot</i> before <i>chatzot</i>	40
28.	What to do when the <i>Aron Kodesh</i> does not face Israel	41
29.	Source and importance of wearing a <i>kippah</i>	42
30.	Women eating before <i>Tefillah</i>	44
31.	Proper conduct in the presence of a <i>minyan</i> on a train	45
32.	Whether <i>Tachanun</i> is recited when a <i>Sefer Torah</i> is completed and brought to the <i>shul</i>	48
33.	Sources on the spiritual value of <i>Tehillim</i>	49
34.	Praying to angels	50

HALACHOT OF BERACHOT

35.	Whether to say <i>Birkat HaTorah</i> in the morning, when one took a nap the day before	52
36.	Women reciting <i>Birkot Hashachar</i> in the feminine form	53
37.	When and how to wash hands and say <i>berachot</i> upon waking in the morning	54
38.	How to hold the washing cup when washing <i>Netillat Yadayim</i>	57
39.	Removing rings for <i>Netillat Yadayim</i>	58
40.	Proper <i>beracha</i> on <i>mezonot</i> bread	59
41.	Source for " <i>Tehilat Hashem...</i> " after <i>Shir Ha'maalot</i>	61
42.	Customs regarding <i>Mayim Achronim</i>	62
43.	Proper <i>beracha</i> on <i>etrog</i> jam	63
44.	Whether a new <i>beracha</i> is required when one decides to have more food, and whether a <i>beracha acharona</i> must be said in the same room where one ate	64
45.	What to do if one began a <i>beracha</i> in error	67
46.	Reciting <i>berachot</i> over bodies of water and mountains, and the <i>beracha</i> of " <i>Ha'noten Layaef Koach</i> "	68
47.	A father saying " <i>Baruch shepatrani</i> " for a <i>bat mitzva</i> girl	70

ASK THE RABBI IV

HALACHOT OF TZITZIT, TALLIT AND TEFILLIN

48.	Whether one must put on the <i>tallit katan</i> (<i>tzitzit</i>) immediately upon awaking	73
49.	How to measure the size of a <i>tallit katan</i> (<i>tzitzit</i>)	74
50.	<i>Tzitzit</i> for a four cornered suit	75
51.	Whether to make a new <i>beracha</i> on one's <i>tallit</i> after a break on <i>Yom Kippur</i>	76
52.	How to properly tie <i>techelet</i>	78
53.	The nature of the <i>mitzva</i> of <i>tefillin</i>	80
54.	Different customs for wrapping <i>tefillin</i>	81
55.	Proper placement of the <i>kesher</i> of the <i>tefillin shel rosh</i>	82
56.	Participation of a child in the production of <i>tefillin</i>	83
57.	What to do if one dropped his <i>tefillin</i>	85

HALACHOT OF THE TREATMENT OF HOLY OBJECTS AND THE HALACHOT OF GENIZAH

58.	How to properly transport a <i>Sefer Torah</i>	87
59.	Whether a person must hold a <i>Sefer Torah</i> that is not presently being read from	89
60.	What to do if a <i>Megillat Esther</i> falls on the floor	90
61.	<i>Mezuza</i> for a dormitory room shared with a non-Jew	91
62.	Car <i>mezuza</i>	92
63.	Writing out the name of G-d	93
64.	Erasing Hashem's name that appears on a computer screen	94
65.	Bringing reading material with the word "G-d" into the bathroom	95
66.	Whether small parts of a page of a <i>sefer</i> require <i>genizah</i>	96

HALACHOT OF SHABBAT

67.	Having a man light the Shabbat candles	98
68.	Which electric urns may be used on Shabbat	99
69.	Squeezing water from hair on Shabbat	100
70.	Melting cheese on Shabbat	102

ERETZ HEMDAH INSTITUTE

71.	Using a Brita water pitcher with an electric sensor, on Shabbat	103
72.	Reading on Shabbat a newspaper that was delivered on Shabbat	105
73.	Having non-Jewish staff heat up food on a cruise on Shabbat	106
74.	Having a non-Jew push a stroller on Shabbat	108
75.	Dealing with Jewish co-workers who work on Shabbat	110
76.	Visiting an Israeli website after Shabbat started in Israel	111
77.	<i>Tehillim</i> and <i>bakashot</i> on Shabbat	112

HALACHOT OF DEATH AND MOURNING

78.	Sitting <i>shiva</i> for someone who chose to be cremated	114
79.	<i>Kaddish</i> for a relative who was cremated	116
80.	Questions regarding a mourner acting as the <i>shliach tzibbur</i> (<i>chazzan</i>)	118

MONETARY HALACHA

81.	Blindly lending money with interest on the internet and the concern that the recipient is Jewish	120
82.	Responsibility for damage caused as a result of one choosing to not be vaccinated	122

HALACHOT RELATING TO NON-JEWS

83.	Sources regarding respecting and loving non-Jews	125
84.	The seven <i>mitzvot</i> of <i>Bnei Noach</i> and their punishments	127
85.	A non-Jew attending <i>shul</i>	130
86.	Can a non-Jew wear a <i>tallit</i>	131
87.	<i>Brit mila</i> for a baby whose father isn't Jewish	132

ASK THE RABBI IV

JEWISH THOUGHT

88.	<i>Charedi</i> and National Religious positions on <i>Yehudah v'Shomron</i>	134
89.	Questions regarding the prayer for the welfare of the State of Israel	136
90.	Why there is so much disagreement amongst the Rabbis	138
91.	The religious significance of trees	140
92.	Performing multiple <i>mitzvot</i> at the same time	143

MISCELLANEOUS HALACHIC ISSUES

93.	Scope of a man's requirement to have children	145
94.	Requirement to attend a <i>brit mila</i>	146
95.	Whether <i>Kiddush</i> expenses can be counted as <i>ma'aser</i>	147
96.	Owning clown figurines	148
97.	Precision needed in observing halachic times	149
98.	Which custom of Hebrew pronunciation one should follow	150
99.	Standing for a Rav that one sees frequently	152
100.	Euthanasia for animals	153
101.	Source for custom to shower the <i>bar mitzva</i> boy with candy	155

Halachot of *Tefilla* and Torah Reading

1. Replacing the *shliach tzibbur* after he started

Question: The *gabbai* sent someone to be the *shliach tzibbur*. After he started davening, another person came in and said he had *yahrzeit*. The *gabbai* sent the first one away and replaced him with the second. Many of those present felt that the *gabbai* was wrong, and that once the first one started, regardless of where he was up to, it was embarrassing to replace him. Who was right?

Answer: Let us preface our answer by stating that we will not deal with the specifics of the case in discussion, since we did not hear the *gabbai*'s claims. The best rule-of-thumb in these matters is to distance oneself from strife.

If the synagogue has a Rav, he should be the one to deliberate in any matter pertaining to his congregation.

Regarding the particular issue at hand, it seems to us that one should not cease leading the congregation in prayers once he started. However, he certainly has the prerogative to relinquish his right to lead prayers. By doing so, he will demonstrate his benevolence, both with the living and with the deceased.

We cite proof to this from the *Shulchan Aruch* (*Orach Chaim, siman* 581:1 in the Rema), "There are places that have the custom that the one who leads the *Selichot* prayers [also] leads the prayers for the entire day."

The *Magen Avraham* and the Vilna Gaon explain the reason behind the custom based on the concept of: "We tell one who begins a *mitzva* to complete it." The *Magen Avraham* adds, "For this reason, he (the leader of *Selichot*) precedes an *avel* (mourner), a *mohel* and one who is commemorating a *yahrzeit*." One can learn from this that if one who led the *Selichot* prayers has precedence regarding *Shacharit* and *Minchah* certainly one who already started leading a particular prayer, has precedence over others regarding the

ERETZ HEMDAH INSTITUTE

continuation of that same prayer. We can certainly say about him,
“We tell one who begins a *mitzva* to complete it.”

2. Reciting *Kaddish* while in the middle of *P'sukei D'zimra*

Question: If an *avel* who is not *davening* for the *amud* decided to go ahead in *P'sukei D'zimra*, and subsequently, the *chazan* completes *mizmor shir chanukas habayis* while the *avel* is in the middle of *ashrei*, can the *avel* say the *Kaddish* after that *mizmor*?

Answer: In the book *Ishei Yisrael perek 15* footnote 109 there is a discussion specifically regarding the question you asked. There are some that say that one may say *kaddish* (*Rav P'alim* vol. 2 *siman* 14, *Maharshag* Vol.1 *siman* 48), and there are those that forbid it (*L'vushei Mordechai* Vol.1 *Orach Chaim* 112). The reason for those that allow it, is that the saying of *Kaddish* is not worse than *shoel mipnei hayirah*, greeting someone you fear which is permissible during *P'sukei D'zimra*. (The *Shulchan Aruch* writes in *siman* 66 that *shoel mipnei hayirah* is, for example, asking one's father how he is doing.) Since the *minhag* is to say *Kaddish* for one's father and mother out of honor, and if one would not say it, it would appear to be a disgrace to their honor, it is permitted. These opinions allowed it specifically between *mizmorim*.

Therefore, the allowance is specifically for a person that says *Kaddish* on behalf of his father or mother (and not other close relatives).

It seems that if there are other *aveilim* present who are saying *Kaddish*, and it is not very recognizable that he is not saying *kaddish*, he should not say *Kaddish*. The reasoning for this is based on the *Mishna Berura siman* 51 *seif katan* 12 who implies that nowadays the allowance of "*mipnei hayirah*," is no longer applicable. Although one can make a distinction between the case of the *Mishna Berura* and our case, nevertheless there is basis to be stringent. Therefore, since the recital of *Kaddish* will happen in any event, and the question is only whether or not this specific mourner, should say *Kaddish*, and being that the recital of this

ERETZ HEMDAH INSTITUTE

Kaddish is only because of the *minhag*, and it is recognizable that his omission is because he is in the middle of *P'sukei D'zimra*, one should be stringent.)

3. Customs regarding *Kriat Shema*

Question: I have 2 questions about *Kriat Shema*.

1. Since we are supposed to lengthen the pronunciation of the *daled* at the end of "*echad*", would it be proper to use the Yemenite "*daled*" (th) at that point. After all, we do have different pronunciations for other letters all the time. ie: "*oy*" for a "*cholem*", etc.

2. I remember learning some time ago, that we release our tzitzes after "*zera Yisrael avdecha*" or after "*ein Elokim zulasecha*". Most people today release them either after "*kayamet*" or "*la'ad*". Is there any documentation for any or all of these *minhagim* (besides Artscroll)?

Answer: Regarding your first question: Many Yemenite Jews cite the requirement to extend the pronunciation of the *dalet* as evidence supporting the correctness of their manner of pronouncing a *dalet*. Indeed, in *Orach Chaim siman* 61 the *Bach* comments on the halacha stating that one must lengthen the pronunciation of the *dalet*: "When one emphasizes the *dalet* one must extend one's breath so that one's mouth will pronounce it to the extent of the duration required to think in the heart etc, and not like those who extend the *dalet* as if it were punctuated with a *tzeire* and lose the *kavanot* – and so I have received from my teacher the *chassid* the great Rabbi Maharash of Lublin." The *Olat Tamid*, 3; *Eliyahu Raba*, 11; *Perach* 6 and the *Kaf Ha'Chaim*, 26, as well as the *Chayei Adam* and many more all write in a similar vein. Thus, our predecessors have already remarked that even someone who does not hold like the Yemenites, must extend his pronunciation without creating a new sound.

Regarding your second question: The custom of gathering up and kissing the *tzizit* while saying "*u're'item*" is an ancient one, which, according to some of the *Rishonim* and *Achronim* fulfills the actual commandment of "*u're'item o'to*" (see *Sefer Mitzvot Ha'Katan*

and Rabbi Chaim Vital's *Sha'arei Kedusha*). The *Beit Yosef siman* 24 writes along these lines, and it is codified in the *Shulchan Aruch* (ibid. *sif* 4), that "there are those whose custom it is to look at the *tzizit* when they come to *u're'item* and to pass them over their eyes..." Regarding the custom of releasing the *tziziyot*, see the *Kaf Ha'Chaim*, *siman* 48, 1, who writes that "when you get to *u'devarav chaim v'kayamim la'ad*, you should kiss them and pass them over your eyes and then remove them from your hand until they dangle down in the usual manner". The *Ari* voices a similar opinion in *Sha'ar Ha'Kavanot* (in *Derush Kavanot Yotzer*).

4. Saying “*Baruch shem...*” in *Kriat Shema*

Question: Is “*Baruch shem kvod malchuto*” part of the Shema?

Answer: “*Baruch shem kvod malchuto lolam vaed*” is not part of the *Shema*. The Rabbis tell us that when Ya’akov called his sons together and wanted to reveal to them the time of the end of days, Hashem’s presence left him. He feared that this was because, G-d forbid, there was a flaw in his sons. His sons said to Yaakov: “*Shema yisrael Hashem Elokeinu Hashem echad* – just as there is only One in your heart, so there is only One in our hearts.” At that moment Yaakov happily exclaimed “*Baruch shem kvod malchuto lolam vaed*” (*P’sachim* 56a). Based on this incident, the *gemara* (*ibid*) explores how we should act. On the one hand, it should be said, because Yaa’kov said it. On the other hand, Moshe did not mention it when he wrote *Shema* in the Torah. Therefore, it was decided that it should be recited quietly.

5. Reciting 248 words in *Kriat Shema*

Question: I have a few questions regarding the halachot of *Kriat Shema*:

1. When the *shliach tzibbur* says "*Hashem Elokeichem emet*", does he have to have in mind specific intention to be *motzi* the *tzibbur* in reaching the 248 words? I assume that the way it works is *shomei'ah k'oneh*, and that by listening to the *shliach tzibbur* it is as if each member of the *tzibbur* says those three words. Does the *shliach tzibbur* need to have specific intent to be *motzi* the *tzibbur*?
2. If the *shliach tzibbur* does not have in mind to be *motzi* the *tzibbur*, does the *tzibbur* not fulfill the 248 word obligation?
3. If the answer to the above questions is yes, and you daven in a place where you know or suspect that the *shliach tzibbur* will not have in mind to be *motzi* the *tzibbur* (due to lack of knowing the halachos), should you say "*kel melech neeman*" despite saying *Kriat Shema* with the *tzibbur*?

Answer: Regarding an individual who recites the *shema* prayer – according to the *Shulchan Aruch* (*Orach Chaim* 61:3)– one should have intent at the "*Emet Ve'Yatziv*" paragraph for the 15 vovs; which, when added together (each vov has a *gematria*-numeric value of 6), have a sum total 90. This is equivalent to the value of the three names of Hashem (see there for the calculation), and stands in place of "*Hashem Elokeichem emet*".

According to the Rema, an individual recites "*keil melech ne'eman*".

According to the Ari, an individual recites "*Hashem elokeichem emet*".

When praying with the *tzibbur*, all opinions agree that the *shliach tzibbur* calls out "*Hashem elokeichem emet*". The *chazzan*'s invocation thereby fulfills one's requirement to recite 248 words

ASK THE RABBI IV

The *shliach tzibbur* must intend to fulfill the congregants' obligation. If he does not know of this, Rav Ovadia Yosef rules (responsa *Yacheveh Daat*, volume 3, *siman* 5) that one should say these three words – "*Hashem elokeichem emet*" – together with the *shliach tzibbur*, regardless of whether one is Ashkenazi or Sephardi (refer to the source, where he speaks at length).

6. Background on the three steps before *Shemoneh Esrei*

Question: Could you please cite the sources and opinions regarding how and why one is supposed to take the three steps backwards and forwards before beginning *Shemoneh Esrei*?

Answer: The Rema in *Shulchan Aruch Orach Chaim* (*siman* 95, *sif* 1) states, “there are those who say that when standing to pray (*Shemoneh Esrei*), one should take three steps forward, in the manner of coming forward and getting close to something that needs to be done.” He quotes this from the early *Rishon*, the *Rokeach*. There does not seem to be an earlier source than this. While this is not a halacha from the *gemara* or *Ge'onim*, it is not stated as a *minhag*, rather as a *din* from the *Rishonim*- something that should be done, but one who does not do so is not violating a *takana* or *gezairah* of *Chazal*, (which could only be instituted until the end of the period of the *Ge'onim*).

Regarding taking three steps backwards before the three steps forward, the *Mishna Berura* (ad loc. *sif katan* 3), states that this is not necessary, but that the *minhag* is to do so.

Regarding which foot to put forward first, there does not seem to be much material on this. Searches with several available computer databases did not give results, though this does not mean that nobody discusses this issue. What can be said is that the regular Halachic sources do not mention a precedence, though we can suggest two logical reasons (*sevarot*) to prefer beginning with the right foot and one reason to prefer the left. Firstly, in *siman* 95 it is stated the halacha of standing in *Shemoneh Esrei* with the feet together. One reason for this, stated in the *Talmud Yerushalmi*, is to be similar to the *kohanim* during the Temple service (see the *Tur*). Applying this concept to our discussion, since *kohanim* need to walk with their right foot first, or else it is considered a blemish, being like them implies starting with the right foot.

ASK THE RABBI IV

Another reason to begin with the right foot, is that upon completing *Shemoneh Esrei*, the three steps back are commenced with the left foot (*Orach Chaim* 123:3). The *Mishna Berura* (13) states that one normally starts walking with the right foot, but when leaving the Divine Presence after *Shemoneh Esrei*, one does this in a way that shows a certain unwillingness to do so, which is expressed by using the left foot. We can therefore understand that the steps forward when starting *Shemoneh Esrei* should be done with the right foot. (Also, since this is the normal way of walking, it would appear to be more proper). The *Taz* (123:6) states that the Divine Presence (*shechina*) is on the person's left side (G-d's right side, so to speak), so when finishing *Shemoneh Esrei*, the left foot is preferable. One could say that similar reasoning would apply regarding the beginning of *Shemoneh Esrei*, and therefore this is an indication that starting with the left foot might be preferable.

7. What to do if someone from outside of Israel mistakenly began to say *v'tein tal umatar* while visiting Israel

Question: Someone visiting Israel mistakenly began to recite *tal umatar* on the seventh of *Cheshvan* (the appropriate day for those living in Israel).

When he returns to the Diaspora, should he continue to recite *tal umatar* (since he already made the change), or should he revert back to *veten beracha* (since it was a mistake) until December 4?

Answer: There is a disagreement in the *poskim* regarding whether one in this situation should continue to say *tal umatar* or not. (*Shaarai Yeshuva Orach Chaim* 117:4) Our advice is as follows: if one has already returned to the Diaspora, he should continue doing whatever he has been doing. If he is still in Israel and planning to return, he should add *tal umatar* in *Birkat Shome'a Tefilla*.

8. Whether a *kohen* can recite *Birkat Kohanim* if he has a frozen shoulder

Question: A *Kohen* has a frozen shoulder and asks if he can still *duchen* on *Yom Tov* even though he can't lift one hand as high as he is used to. Much thanks for your help.

Answer: The halacha (*Orach Chaim* 128:12) records that a *Kohen* performing *birkat kohanim* must lift his hands to the height of his shoulders. It is assumed that this is a Biblical requirement (see Rambam *Hilchos Tefillah* 14:11). Therefore, a *Kohen* who is unable to lift up both of his hands would unfortunately not be able to perform *Birkat Kohanim* (see *Noda B'Yehudah Kamah* O"C 5 and *K'tav Sofer* O"C 13). Our understanding is, that someone with a frozen shoulder would not be able to have their arm propped up by something else (like a splint). Is this correct? If it is not, please let us know, as that could impact the halacha. We wish good health to the affected *Kohen*.

9. Saying *Nefillat Apaim (Tachanun)* near someone who is still saying *Shemoneh Esrei*

Question: In the event that someone is still *davening Shemoneh Esrei* near a person who has concluded *Shmoneh Esrei*, and the congregation is ready to move forward to *Nefillat Apaim*, can a person do so within four *amot* of the individual that is still reciting *Shemoneh Esrei*?

Answer: Let us emphasize that those who come to pray in a *shul* or in another public place cannot forget that, despite the importance of their own *davening*, they must be sensitive to the other people praying. Therefore, if a person knows that generally he has a long *davening* etc. he should position himself, already before *davening*, in a place that will not be bothersome to the other congregants and will not cause people to be *nichshal*, stumble, over a prohibition or the like. Nonetheless a person that does not conduct himself as such and someone else wants to notify him about his improper actions, he should do so privately in a way that will not start an unnecessary quarrel, especially in a *shul*.

In the following situations, it is permitted to sit for *Nefillat Apaim*:

1. If one is sitting behind or to the side of the one praying.
2. If there is a piece of furniture at least 80 cm high and 32 cm wide separating between the one praying and the one who wishes to sit.
3. If the one who wishes to sit is ill or is weak (such as when fasting).
4. If he sat down before the person started to pray then he is not required to stand. In this case, however, it is proper to stand up.
5. Some *poskim* are lenient if the person praying is standing in the aisle in a way that is disrupting others.

ASK THE RABBI IV

6. Those who follow the rulings of the *Mechaber* in the *Shulchan Aruch*, such as many of the *Sephardim*, may be lenient by *Nefillat Apaim* and sit even in front of the person praying.

In a case where it is forbidden to sit, one should say the *Nefillat Apaim* standing up.

Sources: *Shulchan Aruch*, *Orach Chaim* 102 with the commentary of the *Mishna Berura*. *Mishna Berura* 131,10. *Yalkut Yosef Sheirit Yosef*, Volume 3, 102,1.

10. Reciting *Tachanun* when davening alone

Question: Does one who prays alone say *Tachanun*?

Answer: *Tachanun* is made up of a few sections: *Viduy* (confession), the Thirteen *Middot*, *Nefilat Apaim* (falling down on the face) and other pleadings (which are different on Mondays and Thursdays from the other days). There are certain groups, including most *Ashkenazim*, whose custom is to not recite the *Viduy* and Thirteen *Middot*.

The Thirteen *Middot* are said only in a *minyan*. Someone davening alone who wants to say them can say them like someone reading the Torah (with the *trup*) and not as the Thirteen *Middot* (*Shulchan Aruch, Orach Chaim*, 565:5 and the *Mishna Berura* there note 12).

The *Viduy* and the other pleadings are said even by an individual.

The *Nefilat Apayaim* is said by an individual, but one should put down his head only in a place where there is a *Sefer Torah*. In a place where there isn't a *Sefer Torah*, one should say the part of the *Nefilat Apaim* without putting down the head, but rather standing or sitting regularly.

When the congregation, who are in a place with a *Sefer Torah*, are saying *Nefilat Apaim*, an individual in his home can say and "do" it too, if there is no clear division between his house and the *shul* (Rema on the *Shulchan Aruch, Orach Chaim* 131:2 and the *Mishna Berura* there notes 11, 13).

In Jerusalem, the custom is to put down one's head even in a place where there is no *Sefer Torah*.

11. Using a *siddur* to kiss a *sefer Torah*

Question: Is one allowed to use a *siddur* to kiss a *sefer Torah*, or is it a disgrace to “use” a *siddur* for one’s own purposes?

Answer: After quite a bit of searching, we were unable to find an explicit source in the *poskim* on the topic.

The *Chayei Adam* brings in the *Tefilla Zaka* that it is a proper *tikkun* for sins of the mouth to use our mouth to kiss the *Sefer Torah*. While one cannot say with any confidence that the *Chayei Adam* would agree, we have found in the writings of Rav Y.E. Henkin *zt”l* (vol. 1, pg. 159) that it may be improper to kiss the *Sefer Torah* (even with its cover on) with the mouth itself. Therefore there is a need to find an alternative to kiss through something else. We also find the *minhag* to kiss the place from which we will *lain* with a *tallit* or the *mi’il* of the *Sefer Torah*, and this is not considered a *bizayon* for either (the *mi’il* is a *tashmish kedusha*).

Under the circumstances that one uses the *siddur* out of respect for the *Sefer Torah*, and not out of laziness to get close enough to use *tzitzit* or a hand, it does not seem to be an affront to the *siddur*. As the practice of using a *siddur* to kiss is widespread, the burden of proof is on those who would want to claim that it is improper.

12. Carrying a *sefer Torah* through the women's section

Question: May a man carry a Torah through the women's section in the sanctuary? If not, may a man hand the Torah to a woman who then carries it through the women's section?

Answer: A question of this type ought to be considered by the Rabbi of the *shul*, and only he is the one to come to a final decision after having looked into the matter with the *gabbaim*. In principle, see our *Bemareh Habazak*, section 3, question 29, where we ruled that it is permissible for the *chazzan* to pass close to the women's section with the *Sefer Torah* so that the women could come and kiss it. This is an ancient custom beyond any shadow of a doubt. If one wishes to carry the *Sefer Torah* inside the women's section, or give it to a woman to bring it there, as mentioned earlier on - it is the duty of the Rabbi to decide on the matter, taking into consideration the place and the time. If the Rabbi of the *shul* is to ask the question, we would advise him to verify whether the procedures mentioned above would strengthen the bond of the ladies to *shul*, as well as the congregation's (both the men and women) fear of G-d, and also to verify what would be the social ramifications of his decision. We again emphasize that one should not cause any damage to the Rabbi's status in any way, and that for any problem of this kind, the solution should be found in a peaceful manner.

13. What to do when the only *kohen* in *shul* wants to receive *maftir*

Question: A *Kohen* is "booked in" to say the *haftara* when he has *yahrzeit*. The first *aliya* is about to be called and he is the only *Kohen* in the *shul*. Can he be called twice, i.e. *Kohen* and *maftir*? Is it really appropriate for him to leave the *shul* to avoid the perceived problem?

Answer: One should not give *maftir* to someone who already received an *aliya* for the same reading.¹ Therefore, the solution is that the *Kohen* should leave the synagogue sanctuary prior to the first *aliya*. He should only return to the synagogue after the *oleh* started the *beracha*, meaning, after *Barchu* was already said.² Of course, it is advisable for the *Kohen* to try to hear the Torah blessing from outside the synagogue. Note that if the *yahrzeit* actually falls on Shabbat, it might actually be halachically preferable to receive a regular *aliya* instead of *maftir*.³

¹ *Shulchan Aruch, Orach Chaim* 282:5; *Mishna Berura* there

² *Shulchan Aruch, Orach Chaim* 135:6

³ *Pnei Baruch*, p. 425

14. *Aliyot* to the Torah for a *Kohen* married to a convert

Question: If a *Kohen* married a convert, which *aliyot* to the Torah is he allowed to receive?

Answer: A *Kohen* is forbidden to marry a convert. A *Kohen* who married a convert cannot bless the *Birkat Kohanim*, and he cannot get the first *aliya* as a *Kohen*, or the second, since he is considered like any other man, (not even as a *Levi*). However, he may get other *aliyot* just like any other Jew who transgresses the commandments.

Sources: *Shulchan Aruch*, *Orach Chaim* 128:40; Responsa *Igrot Moshe*, *Orach Chaim* II 33.

15. Who should receive the second *aliya* if a *Levi* received the first one

Question: If a *Levi* is called in place of a *Kohen* for the first *aliya*, must the same *Levi* be called again for the second *aliya* too?

This case is not addressed explicitly in *Shulchan Aruch*. The question arises based upon the *din* that we may not call a *Levi* after a *Levi* because of *p'gam sh'neyhem* as stated in the *gemara* (*Gittin* 59b) and brought down in *Shulchan Aruch* (*Orach Chaim* 135:9), which shows that the concern of *p'gam* applies with respect to both *Kohen* and *Levi*. Because of the concern for *p'gam* of the *Kohen*, in a case where there is no *Levi*, the *din* requires us to call the same *Kohen* twice in a row (*Orach Chaim* 135:8), and we may not call a different *Kohen* or a *Yisrael* for the second *aliya*. By the same logic, in a case where there is no *Kohen* and a *Levi* is called for the first *aliya* in place of the *Kohen* (as per the Rema in *Orach Chaim* 135:6), the *din* of "*ein korin Levi achar Levi*" should apply, which should prohibit us from calling a different *Levi* (or a *Yisrael*) after him for the second *aliya* because of the concern for *p'gam* to the *Levi* who was called for the first *aliya* in place of a *Kohen*. Therefore, the *Levi* who is called up first in place of a *Kohen*, should be called for the second *aliya* too, and receive a "double" *aliya*, just as the *Kohen* does when there is no *Levi*.

Is the above analysis correct? If not, please explain why. If it is correct, then in our situation where our congregation has no *Kohen* and only has one *Levi*, are there any factors that could affect the application of this *din*? Must this one *Levi* always receive a "double" *aliya* when he is called up for the first *aliya*? Can one find an argument along the lines of "*shehakol yod'im*" referred to in *Orach Chaim* 135:12 with respect to a town of only *kohanim*, that all know that this one man is a *Levi*? This could serve to remove the issue of concern for *p'gam*, and allow us to call him on occasion for the first *aliya* without having to give him a "double" *aliya* every time. Otherwise, this *Levi* will have to be relegated to

receiving "*acharon*" most of the time, as it is burdensome to the congregation to use up two aliyos for this one *Levi* every time he is called up for the first *aliya*.

Answer: When there is no *Kohen*, the *Shulchan Aruch* rules that a *Yisrael* should be called up instead (*Orach Chaim* 135:6). The Rema adds that a *Levi* may also be called, but certainly there is no obligation to call up a *Levi*. In the above situation it is prohibited to call a *Levi* for the second *aliya* (ibid.) Therefore, if one did call up a *Levi*, one should call afterwards a *Yisrael*. Only when a *Kohen* was called first and there is no *Levi* do we call up the *Kohen* again. The reasoning is, that if we call up a *Yisrael* after him, it would appear as if he isn't a *Kohen*, for after a *Kohen* a *Levi* should follow (*Mishna Berura* 135:28). We can't call a different *Kohen* either for the reason you mentioned. Therefore, we must call him again. However if a *Levi* was called first, there is no reason not to follow him with a *Yisrael* as this is the normal order, *Yisrael* after *Levi*. To call a *Levi* for the second *aliya*, when the first wasn't a *Kohen* is, as we mentioned, prohibited in all cases.

16. Whether one needs to cover the *Sefer Torah* when reciting a *beracha* after receiving an *aliya*

Question: When someone is called up to the Torah for an *aliya* we uncover the Torah and the first *beracha* is made. When the *aliya* is complete, the second *beracha* is made. Is it made with the Torah covered or uncovered and what is the source?

Answer: The *Shulchan Aruch, Orach Chaim* 139:4-5 says that the Torah is rolled closed. *Sephardim* do not shut their encased *Sefer Torah*, but cover it with a cloth. *Ashkenazim* roll it closed and do not need a cloth on top of that unless there is a relatively long break (*Mishna Berura* 139:21).

17. The proper way to correct a *ba'al koreh* who makes a mistake

Question: What is the halacha concerning correcting the *ba'al koreh* in synagogue? Errors by him when reading the *parasha* can be the subject of shouts from people attempting to correct him. However, it seems to me that such shouts are discourteous and not befitting the respect owed to such a holy place. The embarrassment and disruption this causes is reason enough to desist from the practice. Shouldn't corrections be left to the *gabbai* alone?

Answer: The *Shulchan Aruch, Orach Chaim* 142, discusses the issue of when one should correct the reader. The *Shulchan Aruch* says that even if the *ba'al korei* said one letter wrong, for example, a mistake in *nikud* (pronouncing the letter with the wrong vowel), or missed a letter completely he must read it again (but if he made a mistake in the *ta'am* – he doesn't have to read it again, see the *Yalkut Yosef*).

The opinion of the Rema is that, if his error changes the meaning of what he's reading, then he has to read again, but if it doesn't matter, like reading *Aron* instead of *Aharon*, he doesn't have to read it again, but we reproach him. See the *Teshuvot VeHanhagot* (1, 147) who writes that, even according to the Rema, if he has not yet continued reading after his mistake then he should correct it under all circumstances.

In any case, it is clear that the correction should be done in a pleasant way, and "The words of the wise spoken in quiet are more acceptable than the cry of a ruler among fools", and "her ways are pleasant ways and all her paths are peace". Hence, it is good to appoint someone whose job it is to watch over the reader's reading, and he should be the only one to correct the reader when it is necessary. This should not be done by everyone in the synagogue, as *Chazal* explain the pasuk – "thou shalt surely rebuke thy neighbor, and not bear sin because of him", to mean- do not rebuke

ASK THE RABBI IV

in a way that would embarrass or disgrace him, which would cause sin.

Therefore, the local Rabbi, together with the *gabbaim* should appoint a man who will be in charge of this, and thereby other people in the synagogue will not feel the need to call out corrections.

18. Reading the *haftara* when there is no *minyan*

Question: In the absence of a *minyan* - when we cannot read the Torah - is it permissible to chant the *haftara*?

Answer: According to the *poskim*, the main reason for reading the *haftara* is that, when the Jewish people were subjugated, and the ruling nation decreed that we could not read the Torah, *Chazal* decreed that we read a portion from the Prophets that is similar in its content to the Torah reading. Consequently, the *haftara* reading originates from an independent law that does not depend on the rules of reading the Torah. However, the Rema (*Orach Chaim* 284,1) rules that, without a Torah reading, and/or in the absence of a *minyan*, one does not read the *haftara*.

The *Biur Halacha* offers an explanation for the incongruity between the *gemara* and the Rema's ruling. He writes: "And although in the beginning the ruling (*Chazal's* original ruling) was that the *haftara* be read even without a Torah reading... now that the decree (against reading the Torah) has been lifted, the ruling to recite the blessings on the *haftara* applies only after reading from the *Sefer Torah*." Hence, in our day, when the act of reading the *haftara* is not dictated by a decree, it is dependent on the Torah reading.

Still, when there is no *minyan*, it is proper to read the *haftara* without saying the blessings.

19. *Mincha* immediately after *chatzot*

Question: We are a small Orthodox shul and are currently without a rabbi. On Shabbat morning we usually get a small *minyan*. We start *Kiddush* around 12:15 PM. We can only keep a *minyan* until about 1:15 PM.

Is it permitted to daven *Mincha* at *chatzot hayom* with a *minyan*, which on May 17 was approximately 1:19 PM here, instead of *Mincha Gedola* which here was about 1:55 PM, when we would not be able to get a *minyan*? Thank you

Clarification Request: Before we can give you an answer we would like clarification on the following point: Would most of the congregants *daven* by themselves later if there was no *Mincha minyan* at *shul* or would they likely not *daven* at all?

Clarification Answer: I think that the majority of the members do daven *Mincha* at their homes after they return from the synagogue.

Answer: The *gemara* in two places (*Berachot* 26b and *Pesachim* 58a) says that the *Korban Mincha* was not offered before six and a half hours into the day (*Mincha Gedola*), and therefore *tefillat Mincha* should not be said before this time (*Shulchan Aruch Orach Chaim* 233:1). According to many opinions, if one davened *Mincha* before this time, he would have to repeat *Mincha* (see *Mishna Berura* 233:2). Nevertheless, according to other opinions (see *Mishna Berura* ibid and *Shaar Haziyun* 233:6) one need not repeat *Mincha* if it was mistakenly said before *Mincha Gedolah*, but after *chatzot*, since, according to one opinion in the *gemara* (*Yoma* 28b), the *Korban Mincha* could theoretically have been brought after *chatzot*, and the only reason it was not brought so early was out of fear that it would accidentally be brought before *chatzot*. Nevertheless, this opinion should only be relied upon after the fact, and it would even be preferable to *daven* after *Mincha Gedolah* by oneself, then to daven beforehand with a *minyan*.

20. Latest time to daven *Mincha*

Question: I was recently working and mistakenly had missed the *z'man* for *Mincha*, but to my surprise a bunch of the people I was working with began davening after *z'man*, and they told me that that was their custom. I decided to *daven* with them, since it seemed like that was better than not *davening* at all. Was I wrong in doing so? How do they justify *davening* after *z'man*?

Answer: You did not mention in your question whether “after *z'man*” was after sunset or even later than this. We will try and go over all the different options.

The Tana Kama and Rav Yehuda debate whether *z'man* for *Mincha* is until *plag hamincha* or until the evening. According to the accepted halacha, it is possible to daven *Mincha* until the evening if one does not daven *Ma'ariv* before nightfall (*Shulchan Aruch Orach Chaim* 233:1).

The definition of night for this purpose: The Rema says that one can *daven Mincha* until the time that stars appear in the sky. The *Mishna Berura* (ibid. 4) writes that many opinions (*Shiltei Giborim*, *Levush*, *Gra* etc.) prohibit davening *Mincha* after sunset. Therefore, ideally one should try to *daven Mincha* before sunset.

If the sun has set and one has not yet *davened*: Rabbeinu Tam and the *Ge'onim* debate the definition of “*bein hashmashot*” and nightfall. They debate whether it is $\frac{3}{4}$ of a *mil* after sunset or 4 *mil* after sunset. (*mil* = between 18 and 24 minutes). Today, in Israel and most communities in the world, we follow the custom of the *Ge'onim*, which is $\frac{3}{4}$ of a *mil* after sunset. Therefore, one can daven *Mincha* only until the earliest possible defined time of nightfall. According to Rav Elyashiv (*Tefillah Kehilchata* 3:45) this is 13 minutes after sunset.

According to Rav Ovadiah Yosef (*Yalkut Yosef* 3:640) this is 13.5 minutes (in *sha'ot z'manot*) after sunset, and one can begin as long

ASK THE RABBI IV

as he will finish most of the service by this time. Although not ideal, if one starts davening before this time, one may finish even after the time, even if most of the service was not finished before.

For those who follow Rabbeinu Tam (in Israel there are very few who do so both when it is a leniency as well as a stringency), the *Mishna Berura* states that it is possible to daven until $\frac{1}{4}$ of an hour before nightfall.

After this time, one may not, under any circumstances daven *Mincha*. One may also not join a *minyan* of people davening after this time. (*Yalkut Yosef* ibid. 642). Rav Chaim of Volozhin emphasizes the value of davening at the correct time in his book *Nefesh HaChaim*. The *Biur Halacha* adds there that if one davens *Mincha* after sunset it may be better to stipulate that if it is still day it will be considered *Mincha*, but if it is night it will be considered *Ma'ariv*, and the *Ma'ariv* that one will daven will be considered to make up for *Mincha* that was missed.

Regarding what is preferable: *Mincha* at the right time alone or after sunset with a *minyan*. The *Mishna Berura* (ibid.) states that it is preferable to daven on time alone. Rav Ovadiah Yosef (ibid.) states that is preferable to daven with a *minyan*. *Tefilla Kehilchata* also discusses this issue (ibid. 44) and distinguishes between *Sefardim* and *Ashkenazim*. However in the *Sefer Piskei Tshuvot*, which follows the order of the *Mishna Berura*, it is written (and it seems that this is even for *Ashkenazim*) that it is preferable to daven with a *minyan* even after sunset.

21. Davening Ma'ariv before tzeit hakochavim when davening without a minyan

Question: The *Kitzur Shulchan Aruch* says that when davening Ma'ariv without a minyan you have to wait for tzeit hakochovim before starting (chap. 70, paragraph 1). Is this the accepted halacha in actual practice? And, if yes, can you be more lenient and daven Ma'ariv earlier alone on Friday night?

Answer:

1. The preferable custom is that only if one always daven *Mincha* before *plag hamincha* (an hour and a quarter before sunset) may he daven Ma'ariv before sunset.
2. In case of need, one may daven Ma'ariv before sunset if he davened *Mincha* before *plag hamincha*.
3. There are authorities that permit for a congregation to daven *Mincha* after *plag hamincha* and then daven Ma'ariv afterward, before sunset, because it is otherwise difficult to gather the congregation for a minyan. Although it is not ideal, in extreme cases, an individual is permitted to daven Ma'ariv before tzeit hakochovim.
4. On Friday night one may be lenient according to rulings 2 + 3 because it is proper to accept Shabbat early.

In any case one should read *Kriat Shema* again after tzeit hakochavim.

In summary, that which you quote from the *Kitzur Shulchan Aruch* is the proper ruling. Regarding what the common practice is, it is hard for us to comment definitively.

(**Plag hamincha* is a halachic hour and a quarter before sunset.)

22. *Nusach* of *tefilla* for *Ma'ariv* when making early Shabbat and Friday is *Rosh Chodesh*

Question: If a congregation *davens* early Friday night *Ma'ariv* (after *plag*), what happens if Friday was *Rosh Chodesh*, do you recite the *Ya'ale Ve'yavo* by *Ma'ariv* (because in reality it is still *Rosh Chodesh*, he was just bringing on early the *keddushat shabbat*)?

Answer: When one who davens *Ma'ariv* early, starting from *plag hamincha*, then the prayer is associated with the day after *Rosh Chodesh*, and therefore one does not say *Ya'ale Ve'yavo* if the following day is not *Rosh Chodesh* [See *Ishei Yisrael*, chapter 39, note 35].

23. Davening in a room without windows

Question: Is one obligated to *daven Shemoneh Esrei* in a room with a window?

Answer: *Tefilla* in a house without windows:

The obligation of an individual to pray in a house with windows is greater than the obligation of *davening* with a congregation, *b'tzibur*. See *Shulchan Aruch, Orach Chaim* 90:4 and *Mishna Berura*: ibid 8. (The *Pri Megadim* brings the opinion of the Rambam that this law is only applicable to one who *davens b'yichidut*, alone.) However, certainly this halacha would not prevent someone from *davening* if he does not have a house with windows, see *Rambam Hilchot Tefilla*, 5:1.

24. Who should say *Kaddish* when there is no *avel*

Question: Regarding *Kaddish* when there is no *avel* in the *minyan*. Who, if anyone, should say *Kaddish Yatom* or *Kaddish D'rabanan*?

Answer: It appears that there is a difference of opinion among the *Rishonim* with regard to understanding the *takana* of saying *Kaddish Yatom* after *Aleinu Leshabeach* at the end of *tefilla*. According to the *Agur* (334), the placement of *Kaddish Yatom* was designated at the end of *tefilla* for the orphaned mourners, but it was also ordained that it be said regularly at the end of *tefilla*. Therefore, *Kaddish Yatom* is said regardless of whether there are actual mourners in the congregation, so long as there are orphans present, and even when there are no orphans present, *Kaddish Yatom* should be said even by someone who is not an orphan, since there are verses in *Aleinu Leshabeach* that can validate the saying of this *Kaddish*.

However, according to the Maharil (Responsa 64), the *takana* (regulation) of saying this *Kaddish* after *Aleinu* is because of the obligation to say *Kaddish* on these verses, but it was appropriated for orphans and the custom became that mourners/orphans would say it. Therefore, according to his approach, it is clear that even if a mourner or orphan is not present, the *Kaddish* should be said, since it is connected to the verses in *Aleinu*. This is also the approach of the *Levush* (132) and this is also explicit in the *Mishna Berura* (132).

Thus, according to all of the approaches, even when there is no mourner present, *Kaddish* should be said, preferably by an orphan, and if there are no orphans, then it is to be said by a man who has parents. However, all of the approaches above associate the saying of *Kaddish* with mourning/orphans, and therefore, a man who has parents can say *Kaddish* only if his parents do not mind.

This is explicit in the Rema, *Orach Chaim* 132:2: "*Kaddish Yatom* is said after *Aleinu Leshabeach*, and even if there are no mourners in the synagogue, it should be said by one who does not have a mother or father. And even one who has a mother and father can say it if his mother and father do not mind."

If one does not know the opinion of his parents on the matter, it is assumed that his parents probably would mind and only when it is clear that they do not object to their child's saying *Kaddish Yatom*, can one say the *Kaddish* (this is understood from the *Levush* and the *Mishna Berura* (ibid) and also is explicit in the Responsa *Yabia Omer* that is brought below, and also from the *Halichot Shlomo* of the *Gaon* Rav Shlomo Zalman Auerbach page 140, that a person whose parents are still alive should not say this *Kaddish*, and it seems as though his reasoning is that today parents do mind.

The saying of *Kaddish Derabanan* was predicated on learning Torah and *Agadah* as stated in *Sota* 49, that the world exists because of the saying of "yehei shmei rabba mevorach of *agadata*." Therefore, its inherent makeup is not connected to orphans, but nevertheless, orphans were accustomed to saying it. Therefore, even one who is not an orphan can and should say this *Kaddish*. Rav Auerbach rules this way, and Rav Uziel in *Mishpetei Uziel* (as it is brought in the *Yabia Omer*) added that, with regard to saying *Kaddish D'rabanan*, it is forbidden for parents to be against this, and even if they are against it, it is forbidden to listen and a person must say it.

However, the *Gaon* Rav Ovadiah Yosef (*Yabia Omer* part three, *Yoreh Deah* 26) differs and says that even with regard to *Kaddish D'rabanan*, it should be said only when parents do not mind, since it has become the case that orphans normally say this *Kaddish*, and it is reasonable to say that it is a bad omen for parents.

To conclude, in a place where there are no mourners, but there are orphans, an orphan should say *Kaddish D'rabanan* and *Kaddish Yatom*. When there are no orphans present, a person who has

ASK THE RABBI IV

parents should only say *Kaddish D'rabanan*, and only under the condition that his parents do not object.

25. Proper pronunciation of *Kaddish*

Question: I have seen *siddurim* which put a *tzaireh* under the *bet* in the first word of the passage which appears only in the *Kaddish Shalem* (i.e., *titkabail*). Since the *Bet Yosef* in *Orach Chaim* 56 says that this word is Aramaic whereas the *tzaireh* implies that it is Hebrew (see the *Mishna Berura Orach Chaim* 56 on the first 2 words of the *Kaddish*), this *nikud* seems incorrect. What is the source for this *nikud*?

Answer: The *Mishna Berura* and *Maaseh Rav* state that one should say *yitgadeil v'yitkadeish* with a *tzeireh*, since the words are Hebrew. However, many have doubts regarding this claim. Even if the words are Hebrew, it is still possible to pronounce them with a *patach* [as *yitkadal v'yitkadash* and *titkabal*].

There are therefore many who are accustomed to pronounce the above words with a *patach* (and not like the *Mishna Berura*). One may conduct himself either way, as long as his intentions are for the sake of Heaven.

Regarding "*titkabel*," it appears that it is in Aramaic and therefore should be said with a *patach*.

26. Guidelines for someone who *davens nusach Sefard* and is davening in a *nusach Ashkenaz minyan*

Question: I pray in a *shul* that prays in *nusach Ashkenaz*, while my *minhag* is to pray in *nusach Sefard*. There are 2 issues that I was hoping could be clarified.

1. Should I say out loud, "*Amen*" or "*Baruch Hu*" during *Kaddish*. I believe that I should not do anything to "stand out" from the congregation. However, I have heard others, both praying in *Sefard* and *Sefardi*, saying "*Amen*".
2. Another difference in *minhag* is saying of the 13 *middot* in/before *Tachanun*. I certainly would be "standing out" (literally!) by saying the 13 *middot*, while the rest of the *kehilla* is sitting down with their heads down. Would I be wrong then to say the 13 *middot* at the beginning of *Tachanun*? Would it be required, or at least preferable, to say the 13 *middot* at a different part of the *tefilla* when I would not stand out? Perhaps this leads to the question as to whether I am in fact obligated to say *Tachanun* at all...

Answer: Many *Achronim* (see *Igrot Moshe* 23, Rabbi Shlomo Zalman Auerbach, etc.) make a distinction between things said privately and quietly and things that are apparent to all. According to this distinction, it seems that there is no problem saying "*Amen*" during *Kaddish*, according to your *minhag*, as long as you don't say it out loud. On the other hand, you should skip over the 13 *middot* and begin with *Nefilat Apa'im*.

However, from the Responsa *Yabi'a Omer* VI 10, it seems that his opinion is that the whole problem stems from the fear of causing disagreement, and if disagreement will not arise, then you could go according to your *minhag* in any case (though in this specific case you should not say *Yud-Gimel middot* since they need to be said in a *minyan*).

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Summary: In *Kaddish* you should follow your *minhag* quietly. As for *Tachanun* there are two opinions in the latest *poskim* and you can follow either one. As for the *13 middot* – you should not say them at all, since there aren't ten people saying together with you.

27. Saying *Selichot* before *chatzot*

Question: Can you please explain the issue about whether *Selichot* is to be said or not to be said at night prior to *chatzot*?

Answer: Rav Moshe Feinstein writes the following on the subject (*Igrot Moshe, Orach Chaim* II, 105, starting with the words "*ach im*"): "However, if it is a case where it cannot be done after midnight, and the whole community will be prevented from saying the *Selichot*, one may allow it, in the ways of a *hora'at sha'a* (temporary ruling) even ideally (*lechatchila*), since these things do not have a source in the *gemara*, but are rather based upon the words of the *Achronim* according to the *Kaballah*. And it seems that in this matter there is no issue of prohibition, but rather that the 13 *middot* of mercy do not help in the way that they were promised to not return empty, but will be considered as a regular prayer. Therefore, it is better that the congregation not refrain from saying *Selichot* entirely, in which case the congregation won't have the opportunity of encouragement to repent. Therefore, it is better to do so even ideally (*lechatchila*) as a temporary decree..."

If it is possible, the congregation should attempt to plan their *Selichot* for the end of the first third of the night, since according to the *Shulchan Aruch* (1:2) it is good to pray at the times of the changing of the shifts of the night, since then the prayers are accepted, and this is the opinion of the Rosh at the beginning of *Berachot* and the *Tur*, and in such a case of great need (*she'at hadchak*) one can rely on this. In order to do this one needs to divide the night, from the appearance of the stars (*tzet hakochavim*) until dawn (*alot hashachar*) into three parts, as brought by the *Machatzit Hashekel* 104, and in the *Shaarei Teshuva* in the name of the *Shev Ya'akov* responsa. If so, here it is about 15 or 20 minutes after the beginning of the 11th hour in our city, and this is about an hour and forty minutes before midnight". This is also the custom in Jerusalem and in many other shuls.

28. What to do when the *Aron Kodesh* does not face Israel

Question: Our synagogue was built with the *Aron Kodesh* and the shul facing west (the chapel faces east). I have found plenty of sources that forbid this; what sources allow it? And once it has been built, what can be done about davening in it?

Answer: Ideally, of course, the *Aron Kodesh* should be put in the direction towards which one needs to daven, which is towards Israel (*mizrach* or east in your situation). Even if a mistake has been made, an effort should be made to fix it. [Any action of such sort needs to be done in accordance with the input and advice of the community's rabbi (if there is one)].

In a place where the *Aron Kodesh* is put in the wrong place, and the situation cannot be corrected, the congregation should nevertheless *daven* towards the proper direction, which is towards Israel.

However, if the *Aron Kodesh* is put in the wrong place and the situation cannot be corrected, and the congregation's practice is to face the *Aron Kodesh*, one should daven in the direction that everyone else is davening towards (towards the *Aron Kodesh*, which is incorrectly placed), and if it is possible, one should turn his upper body a bit towards the correct direction (meaning towards Israel). However, it should be noted that this should be done in an inconspicuous manner so that it will not be apparent that he is facing a different direction than his fellow congregants. In a situation where it is not possible to slightly turn your upper body (e.g. the direction of the *Aron Kodesh* and Israel are opposite each other), one should daven along with the practice of the congregation towards the *Aron Kodesh*.

For further reference see: Responsa *Bemareh HaBazak* III 23.

29. Source and importance of wearing a *kippah*

Question: How necessary is it to wear a *kippah* (head covering) when praying, as I have heard that the practice only originated around 12-13th century? Thank you.

Answer: The Rambam writes: (*Mishna Torah, Hilchot Tefilla, 5:5*) “One should not stand for prayer... with an uncovered head.” The Vilna Gaon cites the source from *Masechet Sofrim* 14:15. Rabbeinu Manoach claims that the source is from the *Talmud Shabbat* 10a, where it is related that Raba had covered his head with his cloak before praying. The *Shulchan Aruch (Orach Chaim 1)* likewise cites in the name of Rabbeinu Yerucham that one should not mention Hashem’s name at all with an uncovered head, and certainly not pray.

Note that the Talmud (*Kiddushin* 31a) states that Rav Huna, the son of Rav Yehoshua, did not walk even four *amot* (two meters) with an uncovered head out of respect for the *Shechina* (Divine Presence) above his head. The *Shulchan Aruch (Orach Chaim 2,6)* therefore rules that it is forbidden to walk four *amot* with an uncovered head.

The *Magen Avraham* writes (*ibid.*) that it is a practice of the pious to be careful not to walk even less than four *amot*. Furthermore, the *Taz* writes (*siman* 8) that in our times it is completely obligatory to wear a head covering, and even in one's house one should not sit bare headed to avoid emulating the statutes of the non-Jews, who are strict to uncover their heads.

However, there are halachic authorities (for example, Rav Moshe Feinstein in his *Igrot Moshe*) who were lenient in situations of need, like the case when a person works in a profession where it is not possible to cover one’s head.

In conclusion:

1. It is completely obligatory according to Tractate *Sofrim* and the statements of the *Rishonim* to cover one's head during prayer, and similarly each time that one mentions the name of Hashem.
2. One should not go four *amot* without a head covering; according to the majority of halachic authorities, this is completely obligatory.
3. According to some of the halachic authorities, and this is the ruling of the *Taz* and the *Mishna Berura*, today it is completely obligatory to cover one's head all the time, with the exception of situations of great need, where one should consult with a *rav*.

30. Women eating before *Tefillah*

Question: If women are obligated in *zechirat yetziat Mitzrayim* twice daily, do they also have to be careful not to eat a meal or do work before they do that *mitzva*?

Answer: The obligation of women to remember *yetziat Mitzrayim*: There is a disagreement amongst the *poskim* if women are obligated to remember *yetziat Mitzrayim* twice a day. The *Magen Avraham* says they are obligated, and the *Shaagat Aryeh* says that they are *patur*, exempt. See the summary of their opinions and their reasoning in the *Mishna Berura siman 70, sif katan 2*. In *siman 12*, the *Shaagat Aryeh* testifies that most of the women in his time did not have the custom to recite *Kriyat Shema* and its blessings, since they are *patur* from *Kriyat Shema*, and it stands to reason that they also did not mention *yetziat Mitzrayim*. Seemingly, this is also the situation today, where most women do not daven *Ma'ariv* with *Kriyat Shema* and its blessing, and it appears that they rely on the *Shaagat Aryeh*. The *Aruch HaShulchan* also rules like the *Shaagat Aryeh* in 70:4 and proves from sections of the *gemara* that he is correct. Therefore, it appears that the halacha is that women are not obligated in this *mitzva*.

31. Proper conduct in the presence of a *minyan* on a train

Question: My question regards how to conduct oneself during a *minyan* taking place on the train, if one is not actually participating in the *minyan*. There are a few aspects to the question:

1. The *minyan* may take place in the passenger part of the car itself, or may take place in between the cars, although definitely within earshot of many passengers, and within view depending on which way you're sitting. (There is an automatic sliding door between the passenger part of the car and the space in between the cars, however the door is usually not closed.)
2. Are there different levels of obligation for different parts of the *tefilla*, e.g. *Kaddish*, *Kedusha*, *Aleinu*?
3. Is there any importance to what one is doing at that time (e.g. learning or just reading a book/newspaper). Thank you.

Answer: From your question it is apparent that you are not part of the *minyan*, and there is a *minyan* without you, and you want to know for which parts of the davening are you allowed or required to join. First of all, one needs to know that there are certain conditions in order to enable ten men to join for a *minyan*, and in general all ten need to be in one place together with the *shliach tzibbur*. The details of this halacha are brought in the *Shulchan Aruch*, *Orach Chaim*, *siman* 55, *siifim* 13-19, see there, and the *Mishna Berura* there. In *sif* 20, the *Shulchan Aruch* rules: "If ten people are in one place saying *Kaddish* and *Kedusha*, even one who is not with them may answer, and there are those who say that there must be no separation by something unclean or by idolatry". [A rule of thumb regarding the style of the *Shulchan Aruch* - if there is first an anonymous saying and then a disagreement, the halacha is according to the anonymous saying, see *Mishna Berura* note 62]. The *Mishna Berura* explains (note 60) that if one is in a different and distant house, he may still answer, since the

ASK THE RABBI IV

Shechina is there, since there are ten people there, and he joins them. This is opposed to the situation of initially forming the *minyan* in which case you need to gather ten people together in order to bring the presence of the *Shechina*, in which case all ten need to be together. In the book *Ishei Ysrael* on the halachot of *davening* (chapter 24, note 62), the author cites that Rav Shlomo Zalman Auerbach, *zt"l*, learned from the words of the *Shulchan Aruch*: "even one who is not with them may answer" that he may but is not obligated to.

However, if one is in the same train car with the *minyan*, he has an obligation to join the saying of the *Kedusha*, as explained in the Rema, *siman* 125, *sif* 2, since when the public is sanctifying Hashem's name, one should not separate himself from them. Additionally, he must join the saying of the first sentence of *Shema* (and "*baruch shem kevod malchuto le'olam va'ed*"), and ideally should read all three portions of the *Shema*, for the same reason- so that it shouldn't look as if he does not want to accept the yoke of heaven upon himself (*Shulchan Aruch, Orach Chaim* 65:2-3). In the *Mishna Berura* there (note 9), he adds that one also needs to join the rest of the things that the congregation says, such as *Ashrei* and *Aleynu*. However, in the *Aruch Hashulchan* (there, *sif* 6), he writes that the practice is to do so only in *Shema*, and in *Aleynu* when the congregation says "*ve'anachnu kor'im*" to bow down with them, and also in "*Modim*" so that it does not seem that all are bowing down except for him. He concludes that there are those who have the practice to say all of *Aleynu*.

In the Responsa *Igrot Moshe* (*Orach Chaim* III, 89), he writes that, even if one is sitting and studying he should join the *Thirteen Middot*, since the larger the crowd saying it, the more Hashem's mercy is aroused towards the public, however when a few people are learning together, they should not stop. As for saying *amen* and "*baruch hu u'baruch shmo*" there is a disagreement among the *poskim* regarding if one needs to say it, and it seems that if one is studying he may be lenient.

Therefore, if one is in a different car, and there is no problem of "being seen as separating oneself from the public", the matter is up to one's wishes, as we saw above, and if one is learning, it seems that he should not stop the studies in order to answer.

32. Whether *Tachanun* is recited when a *Sefer Torah* is completed and brought to the *shul*

Question: I have been told that there is a custom that *Tachanun* not be recited in a community on the day of the *siyum* and *hachnasat Sefer Torah* to a *shul*. Have you heard of this practice? Could you cite a source?

Answer: Regarding saying *Tachanun* at a *siyum*, Rav Ovadia Yosef (in *Shut Yabia Omer* Vol. 4 O.C. *siman* 13) cites the *Shut Pri Hasadeh* as saying that, although it might seem that one should not say *Tachanun* (at least during the *davening* adjacent to the *siyum*, i.e. *Mincha*- if the *siyum* will be in the afternoon), nonetheless he feels there is basis for the custom (prevalent in his time and place) to say *Tachanun*.

Rav Ovadia Yosef argues with his explanations and feels that, at least in a place where there is not a *minhag* to say *Tachanun*, then one should not say *Tachanun*. One of his arguments (in paragraph 4) is the importance of honoring the Torah and those who learn it. Presumably, this argument could be applied to a *hachnasat Sefer Torah* as well (although we have not yet found anyone who discusses it).

[We will add that the *Tzitz Eliezer* (vol. 11, *siman* 17 paragraph 6), while discussing *Tachanun* at a *bar mitzva*, quotes the above *Pri Hasadeh*, and seems to feel one that one should say *Tachanun* at a *siyum*].

33. Sources on the spiritual value of *Tehillim*

Question: What is the source of the inherent value which we attribute to *Tehillim*?

Answer: In the *Midrash* on *Tehillim*¹ it says “and on them he says – ‘Let the words of our mouth be pleasing and the thoughts of our hearts before Him’...”² The *midrash* goes on to explain that David is requesting that if people read the *Tehillim*, and think about them, then they should receive reward which is equivalent to the reward for the learning of Torah.³

¹ *Sachar Tov* 1:8

² *Tehillim* 19:15

³ See the *Nefesh HaChaim*, beginning of *Shaar* 4. See also *Tzitz Eliezer* 18:63.

34. Praying to angels

Question: Is it permissible to pray to angels? If not, why do we have many prayers that do seem to pray to angels such as the “*Barchuni l’shalom*” line in the *Shalom Aleichem* Friday night prayer?

Answer: The question of prayer to the angels is an ancient one, and there were those who therefore opposed such prayers, which seem to be directed towards the angels. The source, which the opponents of these prayers rely on is the *Yerushalmi* (*Berachot* 15:1): “You should neither pray to the angel Michael nor to the angel Gabriel.” Also, the fifth *ikar* of the thirteen *ikarim* (13 statements of faith) compiled by the Rambam states: “It is befitting to pray to Him (Hashem) alone and unbefitting to pray to any other besides him.” This seems to support their view.

The main rabbis who oppose such prayers are the *Maharal* (in his book, *Netivot Olam, Netiv Ha’avodah*, chapter 12, with regards to the prayer, “*Machnisei Rachamim*”), and also the Vilna Gaon, Rav Chaim of Volozhin (in the book, *Ma’aseh Rav*) and Rav Ya’akov Emdin in his siddur (regarding the poetic verses of “*Shalom Aleichem*”).

Nevertheless, a few of the later commentators, among them being the *Chatam Sofer* (*Shulchan Aruch, Orach Chaim* 166), approve of the custom, explaining that its purpose is not to direct our prayers towards the angels, but rather to use their assistance in turning to Hashem. Based on this explanation, many have the custom to recite these verses, and one should have the proper intention when reciting them.

Halachot of *Berachot*

35. Whether to say *Birkat HaTorah* in the morning, when one took a nap the day before

Question: If someone takes a nap and then says *Ahavat Olam* (and learns right after); all before midnight, then doesn't fall back asleep until it is halachically morning, does he say *Birkat HaTorah* when waking up? Thanks so much.

Answer: First of all, when one wishes to make a blessing before learning Torah, one does not say *Ahavat Olam* as the blessing, rather he recites *Birkat HaTorah*. Only in a case, if it were to occur, that one started praying [and forgot to say *Birkat HaTorah*] and while praying one subsequently recited *Ahavat Olam* with the congregation, and immediately learned afterwards, does the recitation of *Ahavat Olam* exempt him from the obligation of reciting *Birkat HaTorah* before learning.

According to the *Shulchan Aruch*'s ruling that a "fixed" sleep during the day would not be considered an interruption, one would not have to recite *Birkat HaTorah* again after waking up, since one only slept after it was already daytime. However, the *Mishna Berura* (*siman* 47, *sif katan* 25) cites many halachic authorities that rule that one should still recite *Birkat HaTorah* in that situation. The *Mishna Berura* wrote that one who follows those opinions has what to rely on.

36. Women reciting *Birkot Hashachar* in the feminine form

Question: Can you provide me with references to support the *berachot* of "*shelo asani goya*" and "*shelo asani shifcha*" in the feminine form? I would like to learn more about the halachic justification for women to use the feminine form.

Answer: In the *gemara*, the version of "*shelo asani goya/shifcha*" is not mentioned at all, but only the version: "*shelo asani goy/aved*". The *beracha* of "*she'asani kirtzono*" is also not mentioned, and it is only a custom mentioned in the *Tur*, *Orach Chaim* 46, for women to recite this blessing.

The *Pri Chadash* rules that women recite the first two *berachot* (*Goy* and *Aved*), although they do not recite the third *beracha* (he holds that women do not recite the *beracha* "*she'asani kirtzono*"). The *Chida* has the same ruling.

The *Eshel Avraham* was uncertain about whether women say the *berachot* in the masculine version like the *gemara* rules or in the feminine version. The *Kaf Chaim* rules that the *berachot* should be recited in the feminine version, and that is the reason for the version that *Rinat Yisrael* has.

37. When and how to wash hands and say *berachot* upon waking in the morning

Question: If you are a mother with kids who you have to get ready for school in the morning, and you get out of bed, brush your teeth and go into the kitchen to make the breakfast, lunch, etc, can you wait until you get to the kitchen to do *negel vasser* (*netillat yadayim*, morning hand washing)? I thought you can't do *negel vasser* in the bathroom and since upstairs in my house there are no other rooms with running water, that's what I've been doing. Also, I don't know the "*Raishit Chochma*" paragraph by heart so I usually wait until the kids leave to say *Modeh Ani* and the "*Raishit Chochma*" paragraph. Is that acceptable?

Also, I've seen my older married kids come out of the bathroom and go to the kitchen sink and sort of wash *negel vasser* all over again. Is this necessary? And if so, when do you say the bathroom *beracha*? Thank you for your time.

Answer: In your case, you should wash hands in the bathroom immediately after getting up. Later, you could say the appropriate blessings, brush your teeth, etc. and wash your hands in the kitchen. You should say *Modeh Ani* upon arising. On the other hand, you should say *Reishit Chochma* only after washing in the kitchen sink.

An elucidation of the answer:

There are several reasons for the obligation to wash one's hands in the morning: Some explain that, since one's hands probably touched areas of the body that are ordinarily covered during one's sleep, he or she would be obligated to wash one's hands as preparation for the recitation of *Shema* and *Shemoneh Esrei*. Others view washing one's hands as a special sanctification of oneself, as man (or woman) is transformed in the morning into a new being.

The holy *Zohar* states that washing one's hands is necessary in order to remove the *ruach ra'ah*, forces of impurity that remain on one's hands after sleeping. The *Zohar* cautions that one should wash one's hands immediately upon arising. This is brought by the halachic authorities (cf. *Shulchan Aruch, Orach Chaim, siman 1, Sha'arei Teshuva* and the *Mishna Berura*) who mention that at least one should not walk the distance of four *amot* [about six feet] without washing one's hands. However, the responsa of the *Shvut Yaakov* (volume 1, *siman 1*, as cited by the *Sha'arei Teshuva*, *Ibid.*) states that the accepted custom is to be lenient and to consider the entire home as four *amot*.

There are therefore many who are lenient and do not wash their hands adjacent to their beds. We heard that our teacher, Rav Shaul Yisraeli ruled that perhaps yeshiva *bochurim* could be lenient regarding this. We have similarly seen sources brought from the responsa *Salmat Chaim* (*sif 9*) who gives justification to those who are lenient regarding this (which is elucidated in his responsa). In addition, there are halachic authorities who rule that *ruach ra'ah* in the morning no longer exists (cited in *Yabia Omer*, volume 3, *Orach Chaim, siman 2, ot 4*). We similarly heard of a tradition cited in the name of HaRav Shlomo Zalman Auerbach in the name of the Gra that *ruach ra'ah* no longer exists.

Regarding washing one's hands in a sink found in a bathroom or restroom: There are halachic authorities who are lenient regarding washing one's hands, if necessary, in a bathroom sink, like in a hotel. This is the outcome of the discussion in the responsa *Or Letzion* (volume 1; however, in volume 2, p. 23, he cites that if the room contains a shower, even without a bath, one should nonetheless be stringent, as it is then considered like a bathhouse).

However, there are halachic authorities who wrote to be stringent since in our times *ruach ra'ah* still exists in a restroom. Therefore, one should not wash one's hands there. (cf. The responsa *Yabia Omer*, volume 3, responsa 1 and 2 regarding a bathroom with a toilet). Rav Ovadia Yosef writes that one may only be lenient in a time of great necessity.

ASK THE RABBI IV

It nonetheless seems that washing one's hands in these places helps remove *ruach ra'ah* of the morning, so it should not prevent oneself from washing one's hands there. Similarly, there is less *ruach ra'ah* found in the restroom than *ru'ach ra'ah* of the morning-as is written in the above *Yabia Omer*, (*siman* 1, *ot* 11).

It therefore seems that the correct recommendation regarding the above is as follows: One should wash one's hands in the bathroom or restroom immediately upon arising, without reciting the blessing. Afterwards, one could brush one's teeth, go to the bathroom, etc. Subsequently, one could go downstairs to the kitchen and say the blessings of *Asher Yatzar* and *Elokai Neshama*. In any case, the blessing on washing one's hand should nevertheless be recited near the time that one wishes to pray. The reason is that this fulfills the other opinion in the *Rishonim* that hold that the washing is a prerequisite for prayer.

Regarding the recital of *Reishit Chochma*: *Modeh Ani* is customarily said immediately upon opening one's eyes, even before washing one's hands--since there is no mention of Hashem's Name in the prayer. However, the verses of *Reishit Chochma* should be recited after washing one's hands in the kitchen, as we have mentioned above, after reciting the blessings of *Asher Yatzar* and *Elokei Neshama*.

38. How to hold the washing cup when washing *Netillat Yadayim*

Question: When washing hands upon awakening, which we wash '*beserugin*', does one have to grab the cup in a different part each of the six times, or can one hold it each time by one of the two handles, even if they're already wet from the previous 'pouring'?

Answer: You are correct that one should wash his hands *beserugin*, alternately, in order to remove the “*ruach ra'ah*” (see *Mishna Berura* 4, 9). Still, the concern that one's hand should not touch water which became impure by coming in contact with a hand which was impure, is only relevant with regards to the first pouring (and not the second and third one), and only when the pouring was done with water amounting to less than a *revi'it* (86 cm). However, if more than a *revi'it* of water was poured on each hand, there is no longer a question of impure water, and one is permitted to touch the washing cup even in areas which came in contact with water from the previous pouring.

39. Removing rings for *Netillat Yadayim*

Question: Do I have to remove my ring when I wash for *Ha'Motzi*?

Answer: Yes, you should, unless you almost never remove it (including at night, showers, when baking etc.). If you would virtually never remove it, then it is viewed as part of the hand and will not cause a separation. See *Shulchan Aruch, Orach Chaim* 161:3 and the *Mishna Berura* there.

40. Proper *beracha* on *mezonot* bread

Question: In the airplane one gets *mezonos* bread (marked in the *hechsher* as *mezonos*-bread) together with a whole meal. Should one make *Hamotzi* on it (*pat haba bekisnin*)? Does it make a difference if one eats it together with a whole meal or if one eats it alone?

Answer: The source for the halacha regarding *mezonot* bread depends on the different opinions held by the *Shulchan Aruch* and the *Rema* (168:7). For those who follow the opinion of the *Shulchan Aruch* (of *Sefardi* origin), if one senses a sweet taste of fruit juice mixed within the dough, he should recite the *beracha* of "*Borei Minei Mezonot*". For those who hold by the opinion of the *Rema* (those of *Ashkenazi* origin), only if the fruit juice comprises a majority of the dough can one recite the *beracha* of *mezonot*. Most of the commentators wrote that, also according to the opinion of the *Rema*, the main determining factor is the sweet taste, which should be strongly sensed in the dough.

Practically:

- a) Many commentators point out that most of the rolls today do not have a strong taste of sweetness to them, and therefore it is best not to eat them outside of a meal.
- b) If a person uses this type of bread as the basis of his meal, he needs to recite the *beracha* of *Hamotzi* and needs to wash his hands prior to eating it, especially if he will be eating the rest of his meal with it. (The concept of "*kviut seuda*" – determining a meal, is also very dependent on the different opinions held by those of *Sefardi* and *Ashkenazi* origin, and since we are unable to discuss the matter in length, we will refer you to *Shulchan Aruch*, *Orach Chaim* (168:10), *Mishna Berura* (ad loc: 24), and the book *Vezot Habracha* (pg. 28)..

ASK THE RABBI IV

To summarize the issue:

- a) It is recommended not to eat *mezonot*-bread without washing and making the *beracha* of *Hamotzi* over it, especially in a case where the rest of the meal will be eaten along with it.
- b) The best way to eat this bread is along with other bread, as part of a meal, and to recite the *beracha* of *Hamotzi*.
- c) In any event, one should not protest against one who is accustomed to reciting the *beracha* of *mezonot* over this bread, because there is an opinion on which he can rely

For more detailed information on the subject, see the book *Vezot Habracha*, pgs. 20, 185, 248.

41. Source for “*Tehilat Hashem...*” after *Shir Ha’maalot*

Question: After *Shir Ha’Maalot* in some *siddurim**benchers* is a paragraph of 4 verses: “*Tehilat Hashem*”. What is the origin of this paragraph?

Answer:

- A. The custom of singing *Shir Hamaalot* and *Al Neharot Bavel* before *Birkat Hamazon* began in the 16th century following the practice of the holy *Shla* and his disciples.
- B. The custom of appending these verses is also recent, and I have not found ancient sources for it. The prevalent approach in prayer research is that communities would sing *Shir Hamaalot*, and the customary melody would end after the words, which is why a number of verses were appended- so that the words and the music would end simultaneously.
- C. In an answer given by Rav Shmuel Pinchas Gelbard (<http://www.moreshet.co.il/web/shut/shut2.asp?id=63326>), he writes that he did not find the source of the custom, but his opinion is that it may stem from the fact that the four verses represent the four blessings of *Birkat HaMazon*:
 - “*Tehilat Hashem...v’yevarech kol basar*”- parallels the first blessing, which includes the phrase “*Hu noten lechem lichol basar*”.
 - “*v’anachnu nevarech Ya*”- parallels the second blessing – “*anachnu modim Lach*”
 - “*hodu... ki liolam chasdo*” parallels the third blessing, “*v’lo nikalem l’olam va’ed*” “*mi yemalel gevurot Hashem*” parallels “*malkeinu adireinu boreinu go’aleinu*” hence, although we offer praise to him we know that there is no one who can express the extent of his praiseworthiness.

42. Customs regarding *Mayim Achronim*

Question: Could you please send me the *psak halacha* on the *mitzva* of *Mayim Achronim*, and why it is a custom by many observant families not to practice this. I understand that the halacha specifically calls for doing this *mitzva*.

Answer: The reasons that our sages established the halacha of *Mayim Achronim* are the following:

1. To clean one's hands from dirt from the meal in order to say the *Birkat Hamazon* with clean hands, as is appropriate when saying a blessing.
2. The apprehension of the salt of Sodom - during every meal, salt is used, and there is the fear that mixed in the salt is a certain type of salt that can lead to blindness. There is the fear that a little of that type of salt will be on one's hands (like the salt of Sodom).

The *Shulchan Aruch, Orach Chaim* 181:1 rules that *Mayim Acharonim* is obligatory. Nevertheless, in 181:10 it mentions that there are those nowadays who do not have this custom. This is because in our time this type of salt is not found, and we therefore do not take precautions regarding it.

If one eats with silverware and has clean hands, he is not obligated according to the first source mentioned above. Therefore, there is a source for those who are particular regarding *Mayim Acharonim* and also for those who are not.

43. Proper *beracha* on *etrog* jam

Question: We have made jam from our *etrog*. It consists mainly of the skin. What *beracha* should we make? Should we make *Borei pri ha'etz* since it is a fruit, or *shehakol*, since it is mainly the skin, not the fruit itself that we eat? Furthermore, do we make a *Shehecheyanu* on it?

Answer: Regarding jam made from the skin of citrus fruits, the *Achronim* are divided over whether its *beracha* is *Borei pri ha'etz*, *Borei pri ha'adama* or *Shehakol*. The *Mishna Berura* rules (*Orach Chaim* 202, 39) that its *beracha* is *Shehakol*, and *b'di'eved*, if he said one of the other *berachot* he does not need to bless again.

As for *Shehecheyanu* – The *Kaf Hachaim* 285, 32 writes that we don't say *Shehecheyanu* on a seed of a new fruit, because its *beracha* is *Shehakol*, hence the same would go for the skin, as we concluded that its *beracha* is *Shehakol* [and therefore one would not make *Shehecheyanu*].

44. Whether a new *beracha* is required when one decides to have more food, and whether a *beracha acharona* must be said in the same room where one ate

Question: My questions center on *Brachos*.

1. If one has made a *Borei minei mezonos* and then decides to eat another item, which also requires a *Borei minei mezonot* (before making the *beracha achronah*), must one make another *beracha* (i.e. within a reasonable time span). Would the situation be different if one were to eat a *Shehakol*, *Ha'dama*, *Ha'etz*?
2. Must the *beracha achronah* for *Mezonos* be made in the same room as one eats it or would any other room in the apartment suffice?
3. If after eating some food item which requires a *Ha'adama* and then later one wishes to have some fruit which also requires a *Ha'adama*, must one make another *beracha*?

Answer: We will answer the first and third questions together (based on the rulings of the *Shulchan Aruch*, the Rema, the *Magen Avraham* and the *Mishna Berura* 206:5).

- A. In general, it is preferable that at the beginning of the meal, a person will have intent for his *beracha* to include everything relevant to that *beracha* that he plans to eat in the course of the meal.
- B. According to most *poskim*, even if he made a *beracha* without keeping in mind what he would eat later on, there is no need to repeat the *beracha* even if he already ate the first type of food and it is no longer in front of him, because it is obvious that he had intent for all that would be brought before him from that type of food. But if one thought he was finishing his meal after

eating a certain dish and that he was no longer going to eat anything, and afterwards regretted it and wanted to eat again, he has to make another *beracha*.

- C. Everything stated in paragraph B is correct if the person ate from the same species (such as apples and then he was brought apples again), but if they brought him a different species entirely, and only the *beracha* for the two species is identical (such as meat and eggs or banana and tomatoes), then only if he had intent in advance and thought of exempting himself from whatever fit into that category of *beracha* that would be brought before him, does he not have to make another *beracha*.
- D. The *poskim* are divided about the following matter: if two types of fruit are each brought separately before a person during a meal (i.e. apples and oranges), is this considered one category or two? The *Mishna Berura* determined, like the opinion of the *Magen Avraham*, that it is considered two categories of fruit and therefore, if he did not remember to have intent at the beginning of eating to include in his *beracha* all types of fruit, he would have to make another *beracha* unless he is still eating the apples when the oranges are brought to the table, in which case he would not have to make another *beracha*.
- E. If he intended to eat a meal of fruit ahead of time, the *Chayei Adam* and the *Mishna Berura* determine that he should not make a *beracha* on fruit that is brought out later in the meal and was not before him when he made the original *beracha*, even if he did not think of this fruit specifically at the beginning of the meal, since he had in mind at the beginning to eat fruit and he did not change his mind about that.

With regard to the second question (the answer is based on the decision in the *Shulchan Aruch* and the *Mishna Berura* 176 paragraph 5 and 184: 3), the *Rishonim* were divided on whether there is a need to make a *beracha achrona* at the place where the meal takes place, in the event that he ate food that came under the category of “*Borei minei mezonot*.” The *Mishna Berura* rules,

ASK THE RABBI IV

following the Vilna Gaon, that it is necessary to make a *beracha achrona* on grain based foods at the place where the meal took place. Any place that is in the same room as where one ate, is considered the same place, and if one ate outside, anywhere within 4 *amot* is considered the same place.

45. What to do if one began a *beracha* in error

Question: If one began saying a *beracha*, for example "*Al hamichya*," and in the middle of saying it he realized that he had made a mistake and it was really unnecessary to say that *beracha*, for example, he had not eaten cake or he had already said it, should he just stop, or does he finish the *beracha*?

Answer: It is forbidden to continue the *beracha*. If one only said "*Baruch ata Hashem*", he should continue with the words "*lamdeini chukecha*", to turn it into a *pasuk* from Tehillim. If he is past that in the *beracha*, he should stop and say "*Baruch shem kvod...*" See *Shulchan Aruch Orach Chaim* 119:12.

46. Reciting *berachot* over bodies of water and mountains, and the *beracha* of "*Ha'noten Layaef Koach*"

Question: Is it the halacha to say a blessing when one sees seas, rivers, or mountains? Also, is it expected by all (nowadays) to say the *beracha* of "*Ha'noten Layaef Koach*"? (I was under the impression that *Sephardim* didn't say it, but my friend told me they do). What would warrant saying a *beracha* that wasn't around in the *gemara* time?

Answer:

1. The *Shulchan Aruch* rules in *Orach Chaim* 228, that one must say a blessing upon seeing high mountains, rivers and seas, and that the appropriate blessing is "*O'se Ma'ase Bereshit*". In order to make this *beracha*, a number of conditions must first be met:
 - A. That the course of the river has not been determined by human hands, that the sea's basin has not been dug by human hands, or that the rivers or seas did not come into being after the six days of creation, even if their coming into being was natural. The custom today is, therefore, not to say this blessing upon seeing rivers that we are not sure came into being during the six days of creation. And the *Piskei Teshuvot* writes that, even in the case of especially immense rivers, it is correct to say the blessing without mentioning G-d's name.
 - B. The mountains and rivers must be of extraordinary magnitude; large enough to cause wonder in the eyes of the beholder (this depends on every individual and his tendency)
 - C. That they have not been seen (by the person saying the blessing) in at least thirty days.

2. Upon seeing the ocean one should say the blessing “*She’asa et HaYam Hagadol*” (or “*O’sse Ha’Yam Ha’Gadol*”). There is a *machloket* regarding the Mediterranean, and one must therefore say “*O’sse Ma’ase Bereshit*”. And amongst the *Achronim* there are some who add the phrase “*She’aasa et HaYam Hagadol*” after saying the blessing.
3. Regarding the blessing “*Hanoten Layaef Koach*”: Although the *Shulchan Aruch* (in *Orach Chaim* 66, 6) writes that “there are those whose custom it is to say the blessing “*Hanoten Layaef Koach*”, and their words are not reasonable,” nevertheless, the *Sephardi* custom is to say this blessing. This is also what Rav Ovadya Yosef writes in *Shut Yabia Omer*, pt 2, *siman* 25, *se’ifim* 12-14. The *Ashkenazim* certainly say the blessing, since the Rema writes (ibid) that the basic custom of *Ashkenazim* is to say it.

Generally, we do not make blessings that were not formulated by the Sages. Still, if the custom is to say the blessings then we do say them. The reason for this is that the *Ge’onim* who formulated the blessing must have had a source for it.

47. A father saying “*Baruch shepatrani*” for a *bat mitzva* girl

Question: Why don’t we say “*Baruch shepatrani*” for a *bat mitzva* girl?

Answer: We did indeed rule that way in the Responsa of Eretz Hemdah: *Bemareh HaBazak* I, but there we did not deal with the reasons.

In general, two explanations have been given for the father’s saying “*Baruch shepatrani*” upon his son becoming a *bar mitzva*.

1. The *Magen Avraham* (225:5) – Until now the father would be punished for his son’s sins, since he was obligated to educate him. From now on, he is not obligated to educate him anymore.
2. The *Levush* (225:2) – Until now the son would be punished for his father’s sins, and from now on the son does not get punished because of his father.

The *Pri Megadim* (on *siman* 225 in the *Eshel Avraham sif* 5) explains that the reason the *Levush* gives applies both to boys and to girls, since they all get punished for the sins of their parents. However, the reason the *Magen Avraham* gives applies only to boys, since the father is not obligated to educate his daughters. Even if one holds that the father is responsible for educating his daughter, this applies only to the *mitzvot* she is obligated to do, and these are few. This is how the *Pri Megadim* explains the custom not to say “*Baruch shepatrani*” for girls.

In the Responsa *Yabi’a Omer* (VI, 29) Rav Ovadia Yosef rules that one may say “*Baruch shepatrani*” also for a girls, since the father is obligated to educate his daughter to keep the *mitzvot*. This ruling is simpler to follow in our days, since even for boys the custom is to say the *beracha* without the name of Hashem.

We would like to add the opinion of *Kaf HaChaim* (225:15). According to him, even according to the explanation the *Levush* brings, this *beracha* should not be said for a girl, since she is connected and tied within her soul to her future husband (since, as the *Midrash* teaches, 40 days prior to the birth a voice comes from heaven and declares “the daughter of so and so to so and so”), and even if the daughter could theoretically be punished for her father’s sins, she would be saved for the sake of her husband, and therefore the *beracha* was not intended for girls at all.

Halachot of *Tzitzit*, *Tallit* and *Tefillin*

48. Whether one must put on the *tallit katan* (*tzitzit*) immediately upon awaking

Question: Is one allowed to walk around in the house upon awakening before one puts on the *tallit katan*, or does one have to put it on immediately upon arising from bed?

Answer: The *mitzva* of *tzitzit* is only required when one wears a garment with four corners to it. As long as one is not wearing such a garment, he is not transgressing the *mitzva* of *tzitzit*. However, the *gemara* states that at a time of G-d's anger, one could be punished for not making the effort to wear a four cornered garment with *tzitzit* and thus fulfill the *mitzva*. Since the *mitzva* of *tzitzit* is so great, making the punishment of the one refraining from it great too, the *Aruch Hashulchan* and the *Shulchan Aruch Harav*, *Orach Chaim* 8 write that one should take care to put on *tzitzit* as soon as he awakens and washes his hands, and even before sunrise one should wear them, but should recite a *beracha* over them only after sunrise (and one should move them while making the *beracha* in this case).

In the *Shulchan Aruch*, it is written that one can put on *tzitzit* before washing his hands, but should move them and recite a *beracha* over them after washing his hands.

All of the above refers to the *hidur mitzva* (where one wishes to adorn the *mitzva* and therefore performs it in a special way, beyond the basic requirements), but seemingly, the proper basic time for putting on *tzitzit* is when one changes from his pajamas into his clothing.

49. How to measure the size of a *tallit katan* (*tzitzit*)

Question: I know that the neck hole in a *tallit katan* does not count toward the measurement of the garment. If one has a “V” neck in the garment, where the pieces of cloth fold away from the slit, is the slit area, the area opened up by the folding back of the sides of the slit, subtracted from the garments dimensions?

Answer: There are those who write¹ that the part of the garment that is folded away is not included in the dimensions of the *tzitzit*. This is based on the verse “that you are covered by.” There are those² that distinguish between a permanent fold, which is not included in the dimensions, and a temporary fold. However, in reality, most halachic authorities³ are of the opinion that the fold is counted in the dimensions. They consider the fold as if it is not folded and thus included in the dimensions. This is the case unless the fold is sewn, in which case it does not count towards the dimensions of the garment.

¹ The *siddur* of the *Baal HaTanya*, *Hilchot Tzitzit*. See “*Tzitzit – Halacha Pesuka*” where it is written that the custom of *Chabad* is to tie a string around the garment so that it should not fold.

² *Shut MaHarsham* 3:272

³ *Shut Beit Yaakov* 106,15:1, *Mishna Berura* ibid. 104, *Kaf HaChaim* ibid. 104, *Chazon Ish Orach Chaim* 3:35. *Shtilei Zeitim* ibid *Halacha Berura* (Rav David Yosef) 15. Also *Tzitzit - Halacha Pesuka* ibid.

50. *Tzitzit* for a four cornered suit

Question: Some men's suits are made with a double split in the back so that there are 4 corners - a single split suit only has 2 corners but a double split has 4 corners. Is there a requirement to put *tzitzit* on this - or to avoid wearing such a suit without *tzitzit*?

Answer: Usually, two of the corners are rounded. More importantly, the back slits almost never extend half way up the length of the jacket as required by halacha. Therefore for both reasons a suit would not require *tzitzit*.

Follow-Up Clarification: Thank you for this reply. The corners are not rounded, they are squared. Where is the source of the requirement that the slit be more than half way up the back?

Follow-Up Answer: It is brought by the *Shulchan Aruch, Orach Chaim* 10:7.

51. Whether to make a new *beracha* on one's *tallit* after a break on *Yom Kippur*

Question: On *Yom Kippur* we take a break after *Musaf* for as long as 2 hours, and we take off our *tallit* during that break. When we return, does one make the *beracha* on putting on the *tallit* again? Does it make a difference if one napped during that time? Also, on a Shabbat, if the *tallit* is removed to eat *kiddush* and a meal in *shul*, lasting as long as one and a half hours is the *beracha* made again if the *tallit* is put on again (like going back home where there is no *eiruv*)?

Answer: The *Tur* rules (*Shulchan Aruch, Orach Chaim, siman 8*) that when one removes his *tallit*, and has no intention of immediately putting it back on, it is considered an interruption. In such a case, he is obligated to make a new blessing when again donning it.

The *Beit Yosef* (ibid.) explains that the above case is obviously an interruption. However, he is in doubt regarding how long of an interruption would require one to make a new blessing. By *tefillin*, one is called “interrupting” even after a moment. Perhaps one should apply the interruption of a moment to wearing a *tallit*, even when one has intention to immediately wear his *tallit* again. If one were to say that an interruption has occurred, he would have to make a new blessing on the *tallit*. Indeed, the *Shulchan Aruch* rules (*Orach Chaim 8:12*) that one must always make a new blessing in such a case. However, the *Rema* (ibid.) argues, citing the *Agur*, that if one intends to put his *tallit* on again, he should not make a new blessing. The *Rema* brings another opinion, which states that no interruption has occurred if one is still wearing his *tallit katan*. It follows that one should not make a new blessing.

The *Mishna Berura* writes (ibid., *sif katan 37*), citing the *Magen Avraham*, that it is only not considered an interruption when one intends to immediately don his *tallit* (as the *Tur* wrote). However,

if one intends to wait a period of time without a *tallit*, everyone agrees that he must make a new blessing.

The *Mishna Berura* further writes (in *sif katan* 38) that the majority of *Acharonim* ruled like the Rema's latter opinion, that if one is still wearing his *tallit katan*, he does not make a new blessing. The *Mishna Berura* nevertheless cites the *Magen Avraham* and the Vilna Gaon that the above case is limited to one who removes his *tallit* without any specific intent. In such a case, one can deduce that the wearing of a *tallit katan* shows that the person did not make an interruption. However, if one intends to don his *tallit* only after a period of time, then one must make a new blessing even when wearing the *tallit katan*. The *Mishna Berura* adds that if one removes his *tallit* during davening, one can assume that the person's intention is to immediately wear it again.

In response to your question, it follows that:

1. One who removes his *tallit* for a two hour-long intermission clearly demonstrates that his intention is not to immediately put his *tallit* back on. Thus, according to all opinions, he must make a new blessing when he puts his *tallit* back on. That is certainly the case if he goes to sleep, which is a complete interruption.
2. One who removes his *tallit* during *kiddush* [or a meal] which lasts about an hour-and-a-half certainly does not intend to immediately wear his *tallit* again. He therefore must make a new blessing upon donning his *tallit* again.

52. How to properly tie *techelet*

Question: I want to tie *techelet* threads to my *tzitziot*. What type of *techelet* tying do you recommend?

Answer: There are three approaches in the *Rishonim* regarding how many strands of *techelet* strings are in *tzitzit*:

- A. **Rashi's** approach (*Talmud Menachot* 38a, "*HaTechelet*") and the **Tosafot** (ibid. 41b, "*Beit Shammai*") state that the number of strands of *techelet* is equal to the number of white threads—four from each color. Their ruling is based on the fact that, since both affixing white and the bluish *techelet* colored strings are separate *mitzvot*, both are equal in **importance** and number.
- B. The **Raavad's** approach (*Mishna Torah, Hilchot Tzitzit*, 1:6) is that one of the four threads is *techelet*; the other three strands are white (i.e. two out of the eight strands are blue). His reason is that the Torah writes "*petil techelet*", a strand of *techelet*. The verse implies one thread.
- C. The **Rambam's** approach (ibid.) is that only half of one thread is *techelet* (one out of eight). His reason is based on the fact that he explains the word "*petil*", a thread--as "*davar hapoteil*", something that twists. In other words, the thread is what twists around the other threads, and therefore only that part of the thread must be dyed.

There is no clear ruling to your question of which of the three approaches is halachically acceptable. The Vilna Gaon learns from the Rema's writings (*Shulchan Aruch, Orach Chaim* 12:1) that he rules like *Tosafot*. This is also the opinion of Rav Herschel (Tzvi) Schechter that *Ashkenazim* should follow the *Tosafot's* halachic decisions. However, the Vilna Gaon himself (ibid.) rules like the Rambam. This is also the opinion of the Rodziner Rebbe. The Rodziner initiated the renewed modern search for *techelet*.

According to some of our contemporary *Acharonim*, it is preferable to tie the *techelet* according to *Tosafot*'s approach. Also, according to the Rambam, there is a minimum of one strand of *techelet*. However, the four strands of *techelet* are also *kosher*. Others take the opposite approach: According to the Rambam, when there is more than one strand of *techelet*, one has not fulfilled the *mitzva*, even with the white strands. In such a case, one would be wearing a garment without *tzitzit*, which is a nullification of a positive *mitzva*.

Due to the lack of a clear halachic approach, it seems that it is appropriate for one who wishes to fasten *techelet* to his *tzitzit* to conduct himself according to the Rambam, since the Kabbalists also write like him.

The number of threads influences the manner of tying. According to the Rambam, the strand of *techelet* is supposed to twist around the other strands (apart from the first and last wrappings, which are made from white strings—because of the principle of “one ascends in holiness and does not descend.” In contrast, according to other *Rishonim*, it is not so; rather, some of the wrappings are done with the *techelet* strings and some of the wrappings are done with the white strands.

The various methods of tying are described in Rav Yehuda Rock's essay in Hebrew (*Techumim*, volume 16, pp. 412-432). Since we have deduced that the best approach is like the Rambam, one should tie his *tzitzit* like the first approach, which is described by Rav Rock.

53. The nature of the *mitzva* of *tefillin*

Question: Is the halacha of putting *tefillin* on every weekday just to put it on, or is the halacha to pray every day three times a day and to wear *tefillin*, preferably during *Shachrit* services on weekdays? Thank you in advance.

Answer: The *mitzva* is to wear *tefillin* every day, independent of *davening*, and in fact according to many, the *mitzva* is to wear them all day, not just during *tefilla*. However, since we are afraid that if one has them on too long he is likely to release gas with them on (*Shulchan Aruch, Orach Chaim* 37:2), we therefore limit the wearing of *tefillin* to *Shacharit*. A major reason to have the *tefillin* on during *Shema* specifically, is that in *Shema* we mention the *mitzva* of wearing *tefillin*, and if we did not have them on it would be similar to being *meid edut sheker* (*Mishna Berura* 37:7). The *Shulchan Aruch* (ibid) also stresses the importance of wearing *tefillin* for *Shemoneh Esrei* of *Shacharit*, and this is highlighted by the *Shulchan Aruch, Orach Chaim* 66:8 that says that one would stop to put on *tefillin* that just arrived between *geula* and *tefilla* (without a *beracha*), which he would not do for *tzitzit*. The *Magen Avraham* (66:12) goes as far as to say that it is better to pray with *tefillin* without a *minyan* than with a *minyan* and no *tefillin*. At night, we do not wear *tefillin*, because people are likely to fall asleep with them. Regarding *Mincha*, most have the *minhag* not to wear *tefillin* (see *Beit Shearim Orach Chaim* 145), but there are the following exceptions:

1. One did not have *tefillin* available at *Shacharit* (*Mishna Berura* 66:40);
2. *Tisha B'av*;
3. Those who have Rabbeinu Tam *tefillin* sometimes have the *minhag* to wear them then (*Shaarei Teshuva* 34:3, in the name of the Ari).

54. Different customs for wrapping *tefillin*

Question: My question is regarding the *kesher shel yad* and *rosh*. My grandfather wore *tefillin* of *nusach S'fard*. The one point that is clear is that my grandfather, father and myself wind the *retzuot* of the *yad* “going out” on the arm, not “in”. My *tefillin* have the square *kesher* on two pairs and the *daled* on one pair. Is there a problem with wearing the *daled* on the *kesher*, which is *Nusach Ashkenaz*, and winding the *shel yad* on my arm “going out”, which is *nusach S'fard*? Thank you.

Answer: Apparently there is no connection between the *minhagim* (customs) regarding the manner of winding the straps of the *tefillin shel yad* and the way the knot is tied on one’s *tefillin shel rosh*. Each of the above stated *minhagim* has a source and is firmly grounded in holy ideas. Everyone should conduct oneself according to the *minhag* of his forebears and rabbis.

Nevertheless, we have found that those who follow *minhag S'fard* wrap the *retzuah* (strap) in an inward direction. This is the tradition of the Kabbalists in accordance with the teachings of Rabbi Yitzchak Luria, the Arizal. Those who follow the *Ashkenazi* custom wrap the *retzuah* in an outward direction. However, even this is not an ironclad rule.

There are those who are accustomed to wind the straps of the *tefillin shel yad* in an outward direction and to tie the knot of the *tefillin shel rosh* in the form of a single *dalet* and not as a square.

The correct thing to do is to conduct oneself in these matters according to the custom of one’s father.

55. Proper placement of the *kesher* of the *tefillin shel rosh*

Question: Can you please comment on the proper place for the *kesher* of the *tefillin shel rosh*?

Answer: The *kesher* of the *tefillin* has to be on the back of the neck. The *Mishna Berura* (27:35) writes that it is preferable for the *tefillin* to be worn on the bone above the dent on top of the neck, and one can even wear the *tefillin* on the dent itself on condition that it is still considered an area of the head where hair grows (There are those who have hair growing under their neck, yet it is not considered to be like the hair growing on the head). In the Responsa, *Az Nidberu*, the author discusses in several places this subject at length (1,88; 2,56; 3,44).

One should ensure that the strap of the *tefillin* is firm enough so that the *kesher* and the *batim* of the *tefillin* do not move from their place, because if they do move, the one wearing the *tefillin* may not be fulfilling his obligation (*Mishna Berura* *ibid*).

56. Participation of a child in the production of *tefillin*

Question: In the *tefillin* manufacturing process, including the *batim*, *retzu'ot*, painting and writing (and *haga'ha*) of the *parshiyot*, are there any stages in which a *katan* may participate hands on?

Answer: The *Shulchan Aruch* rules in *Orach Chaim* (39:1) that *tefillin* written by a *katan* even if he has already reached the age of *chinuch* are *pasul*, because anyone who is not obligated to wear *tefillin* cannot write *tefillin*. In halacha *beit* (2) he adds that anyone who is *pasul* to write the *tefillin* is also *pasul* to contribute to any stage of its production, *tikun asiyatan*. The *Mishna Berura* (*sif katan* 8) adds that a *katan* is *pasul* from things included in *tikun asiyatan* even if an older person is standing over him and watching him to make sure it is done *lishma*, for the sake of the *mitzvah*. (This is because, aside from the need to make the *tefillin* *lishma*, there is an *inyan*, notion, that someone who is not obligated to wear *tefillin* is *pasul* from writing them.)

The *Mishna Berura* (*sif katan* 3) adds that you need a person who is at least thirteen years old and whom it is known that he has reached puberty, meaning, has grown two hairs. However, if we are in doubt whether or not he has reached this stage, then he is *pasul* for writing the *tefillin* even if he has reached thirteen years of age, unless he has many hairs on his beard or he is old enough that you can be certain he has reached puberty.

Concerning that which is included in *tikun asiyatan*, the *tefillin*'s production, the *Mishna Berura* writes (*sif katan* 10) that whatever is done to the *guf*, body, of the *tefillin* is included. For example, covering the *batim* (the boxes that store the parchment and are placed on the upper arm and the head) and sewing them and making the letter “*shin*” on the leather of the *batim* or correcting a letter (because through correcting a letter the *tefillin* will become

ASK THE RABBI IV

kosher and this is considered actually writing the *tefillin*.) If a *katan* performs any of these acts then it is *pasul* even *b'di'eved*, ex post facto. However, if the *katan* participates in the processing of the parchment then the *tefillin* are *kosher*, but you need a *gadol*, an adult, to stand over him and see that he is doing it *lishma*, for the sake of the *mitzva*.

Regarding the blackening of the *tefillin* straps and their production, we see from the words of the *Mishna Berura* and the *Biur Halacha* (33) that they are not considered to be included in *tikun assiyatan*, the production process. However, they still need to be done *lishma* like the Rema *paskens* in 33. (According to the *Shulchan Aruch* it is good to make them *lishma* but it is not an obligation.) Therefore, it is permitted when an adult supervises the *katan* and teaches him how to make them *lishma*. (From the language of the *Biur Halacha* it appears that only *b'di'eved*, would we consider these *tefillin* *kosher*.)

In regards to the blackening of the *batim*, the Rema *paskens* that *b'di'eved* it is *kosher* to blacken them even without doing it *lishma* and therefore it is certainly sufficient if a *katan* does it while an adult is supervising him.

In regards to writing the crowns on the letters “*shin*”, “*ayin*”, “*tet*”, “*nun*”, “*zayin*”, “*gimmel*” and “*tzaddik*” and also reinforcing the letters with ink and separating two letters that appear to be attached- the *Biur Halacha* (*siman* 39) *paskens* that it is *kosher b'di'eved* if a *katan* would do it, since even without doing these things the *tefillin* are *kosher*.

57. What to do if one dropped his *tefillin*

Question: While at the airport recently awaiting my flight, my briefcase containing my *tefillin* accidentally fell. My *tefillin* were in a *tefillin* bag, the bag was inside a plastic bag, and the plastic bag was inside my briefcase. Since the briefcase containing the *tefillin* fell, is there anything special that I need to do? Or does the fact that I had the *tefillin* inside a bag, and the *tefillin* bag inside another bag (plastic), and all of which were inside my briefcase exempt me from doing *teshuvah* for this accident?

Answer: There is nothing in particular that you are obligated to do. The requirement to fast (or to give money to charity in lieu of fasting), only applies when the *tefillin* were not in their cases (see the Rema to *Shulchan Aruch Orach Chaim* 44:4, and the *Magen Avraham* #5 there).

Halachot of the Treatment of Holy Objects and the Halachot of *Genizah*

58. How to properly transport a *Sefer Torah*

Question: My family has commissioned a *Sefer Torah*, which is being written by a *sofer* in our community. I (the family) wish to have this *Sefer Torah* transported from our community in Israel for various *bar mitzvas* in the family over the next year or so, the first being in one month from now. How is this best accomplished and how is it transported on the airplane flying from here to North America?

Answer:

- A. While transporting the *Sefer Torah* it should be put in a portable ark. If necessary, one can put the ark in the plane's luggage compartment. However, it is best to take the *Sefer Torah* on board the plane and place it in a closet, or the passenger's storage compartment a closet not possible.
- B. One need not *pasul* the *Sefer Torah* by removing its stitches in order to transport it outside of Israel, since one intends on returning it.
- C. If one is bringing the Torah onto the plane that he will also be flying on, he should place it in a container, hand it over immediately prior to the flight, and take it immediately upon landing, so that the container should not remain unattended in a place where it is possible that people will sit on it.

If one will not be flying in the plane that the *Sefer Torah* is being transported on, then one should place it in a container within a container (in which case there are lenient opinions, even if people were to sit on it). If it is impossible to put it in a container, then it should be placed in a large luggage bag and place clothes or other items inside (in order to prevent damage and in order that it should not be considered like a Torah ark).

ASK THE RABBI IV

It is appropriate to ensure that the container should not be thrown around by the baggage handlers by writing “fragile” on the container.

- D. All this is when the *Sefer Torah* is still under the possession of the family who is writing it. However, if it was already donated to the *shul*, one must be granted permission from the shul’s gabbai in order to take it out.

59. Whether a person must hold a *Sefer Torah* that is not presently being read from

Question: There is a custom in many *shuls* in the United States (and perhaps in Israel as well) that when there is an extra *Sefer Torah* (or following *hagbah*) the *Sefer Torah* is placed in an upright position on a wooden bench - the *Sefer Torah* is secured so that it will not fall. My question is whether there are *poskim* that believe that this a good practice *lechatchila* or whether this constitutes *bizayon hatorah*. I am aware of a *teshuva* in *Igros Moshe* (*chelek Alef*) where Rav Moshe Feinstein maintains this practice is forbidden and that a person must hold a *Sefer Torah*. However, I would like to know whether there are other views as well. Thank you very much for your assistance.

Answer: The *Igrot Moshe* (1, 38) forbade this, as you remark in your question. However, the *Minchat Yitzchak* (2, 117) wrote that whoever permits this has sources to rely upon in doing so. The *Minchat Yitzchak*'s opinion is based on the *gemara* in *Megilla* (26b), where the *Tur* and the *Beit Yosef* explain that the "*kursaya*" a *Sefer Torah* is placed upon is actually a chair that the *Sefer Torah* would be placed upon when two *sifrei Torah* were taken out of the *aron kodesh*. (The *Igrot Moshe* writes that, according to the interpretation of those who do not permit placing the *Sefer Torah* on a chair, the "*kursaya*" is actually the *bima* that the *Sefer Torah* is placed upon during the Torah reading).

Even the *Minchat Yitzchak* though is inclined towards refraining from doing so, and he writes that if people do it, then they should be careful to not place the *sefer* in a position where the person being called up to the Torah is standing with his back towards it, and that the *sefer* should be secure so that it cannot fall.

It seems that those doing so certainly have sources to rely upon, since, as you have written, it has been the custom in many communities.

60. What to do if a *Megillat Esther* falls on the floor

Question: I was putting my *Megillat Esther* back into it's case, and the *klaf* broke through the bottom of the case and fell on the floor. Is there something that has to be done (i.e fasting or giving *tzedakah*)? Thank you so much

Answer: A *Megillat Esther* which has fallen is just like any other *sefer kodesh* which falls and needs to be picked up immediately and honored. However, there is no need to fast or to give *tzedakah* instead of fasting, which is uniquely required in the case of a Torah scroll or *tefillin* falling (*Magen Avraham siman 44*).

61. *Mezuza* for a dormitory room shared with a non-Jew

Question: When a Jew and a non-Jew share a dorm room, must a *mezuza* be on the common doorway?

Answer: The Rema on the *Shulchan Aruch, Yoreh De'ah* 286:1 rules that if one has a partnership with a non-Jew, he is exempt from putting up a *mezuza*. However, there are those who obligate (Rashba on *Chullin* 136; Rosh), and therefore one should put up a *mezuza* without a *beracha* if there is no fear that the *mezuza* could be treated disgracefully.

62. Car *mezuzah*

Question: Would putting a *mezuzah* on a car be an issue of *bal tosif*? Even if the *mezuzah* is not *kosher*, couldn't we have a concern about an appearance of *bal tosif*?

Answer: A car is exempt from a *mezuzah*. It would be similar to the case of a house on a boat, which is mentioned in the *Shulchan Aruch, Yoreh Deah* 289:19. The *Tur* rules that this is considered a temporary residence and therefore exempt. Even though a car is exempt, if one were to affix a *mezuzah*, there would seemingly not be a prohibition of *bal tosif*. The *Shiltei Giborim* writes (Tractate *Rosh Hashana*, chapter 4): "Women only violate *bal tosif* on *mitzvot* that are incumbent upon them. Similarly, a man does not violate *bal tosif* by putting on *tefillin* in a place where it is inappropriate to don them". Therefore, since a car does not require a *mezuzah*, if one were to nonetheless affix a *mezuzah*, he would not transgress the *mitzva* of *bal tosif*.

However, the *Shulchan Aruch (Orach Chaim* 666) rules regarding sitting in a *sukkah* on *Shmini Atzeret* that, although there is no prohibition of *bal tosif* as long as one does not intend to fulfill the *mitzva* of sitting in a *sukkah*, nevertheless, one should not do so in order that "it should not appear like adding a *mitzva*". Therefore, because of this concern, the *Chelkat Yaakov* writes in a responsum (*Yoreh Deah*, 162) that one should refrain from affixing a *mezuzah* on a place that is exempt from the obligation, because of the concern that it will appear like adding to the *mitzvot*. Therefore, one should not affix a *mezuzah* on a car.

63. Writing out the name of G-d

Question: I was taught not to spell out G-d's name. Recently I've seen my synagogue bulletin include G-d's name spelled out. I was very surprised. I asked why and wasn't given an answer. Is this permitted to spell G-d's name?

Answer: There are seven names of God that one is forbidden to erase, and they are mentioned in the Rambam, *Hilchos Yesodai HaTorah* 1:2. The rest of the names of Hashem are considered nicknames, and there is no prohibition to erase them (ibid, Halacha 5). Also, names that the non-Jews use to describe Hashem are considered nicknames (*Or Same'ach*, *Hilchos Ovdai Kochavim U'Mazalot*, 2:6 and *Responsa Mishne Halachot*, 5, *siman* 117), and one is allowed to erase them (*Shach* on the *Shulchan Aruch siman* 179, note 11). Therefore, one may write the nickname of Hashem used by non-Jews in the *shul's* bulletin board, since there is no prohibition to erase it.

64. Erasing Hashem's name that appears on a computer screen

Question: We sometimes receive in our emails requests to say *tehillim* for *yidden* who are *nebach* sick etc., but once in a while they even send the transcription of the actual *tehilim* itself in Hebrew, with the name of Hashem in it etc. (the actual page of *tehillim*) Are we permitted to delete such an e mail from the computer once we are finished with it?

Answer: According to the strict letter of the law, one may erase from the computer screen those names of Hashem that one is generally forbidden to erase. The reason for this is that writing on the screen is not writing at all, as it is merely the appearance of letters from the lighting of the screen, and also the appearance of letters has no permanence, as it is merely the electricity that constantly is renewing the appearance of the screen.¹ Also, regarding erasing the names from the hard disk or any other memory, there is no prohibition, since in that case there isn't a shape of a letter.²

However, the *poskim* refrain from permitting erasing *lechatchila* (before the fact) even in places where it is permitted, for the sake of honoring Hashem. Therefore, it is better to refrain from writing the divine names even on the computer screen, so that one does not come to erase them.

¹ This was cited in the name of Rav Shlomo Zalman Auerbach. See *Shulchan Shlomo* III 340:4:11 and note 17 there. It seems that this is the common practice.

² See: *Igrot Moshe*, *Yoreh Deah* I 173 and *Yabia's Omer* 4 *Yoreh Deah* 20 and others.

65. Bringing reading material with the word “G-d” into the bathroom

Question: Can one bring a magazine, newspaper or a book into a bathroom (with a toilet) if it contains the word of G-d in it?

If not, do you have to check every magazine before bringing it into the bathroom? What if you notice from experience that a particular magazine usually does say the word G-d in it? What if you have never read that magazine before?

If you are reading a magazine in the bathroom and come across the word G-d, do you have to immediately take it out of the bathroom?

What about the word *Shalom*?

Answer: According to the *Shach* (*Shulchan Aruch, Yoreh Deah* 276-12) there is no holiness in G-d’s name in a language other than Hebrew. According to the *Tashbetz* (1:127), if a name was not written with holy intentions, even in Hebrew, it has no holiness. According to the *Chavot Yair* 164, if a name was printed with the intention of being destroyed, it has no holiness. Therefore, when adding all of these opinions together, although one should ideally not bring these magazines into a bathroom, if they were taken in by mistake it is not necessary to take them out immediately if he discovers that they contain the word “G-d.” One may wait until he leaves the bathroom and then take it with him.

Regarding the word “*shalom*”- in the majority of cases where the word appears in newspapers, it is not being used to refer to the name of G-d, but is rather in the context of a story (*Radvaz* 1,120) or a blessing (*Igrot Moshe, Orach Chaim*, volume 4,40,3). There is therefore no problem to take it into a bathroom. Only if it is written as G-d’s name should one ideally be stringent. If necessary, one can rely on the Rosh who says that “*shalom*” is not one of the names of G-d that cannot be erased (especially because the Vilna Gaon, *Yoreh Deah* 276-29 agrees with him).

66. Whether small parts of a page of a *sefer* require *genizah*

Question: When tiny pieces of paper fall from a *sefer*, can they be left on the floor or are they *shaimos*?

Answer: There is a prohibition from the Torah to discard the name of Hashem (*Mishna Berura* 276:9). There are commentators who rule that *kodesh*-related books that do not contain the name of Hashem inside of them, are Rabbinically forbidden to be discarded, and therefore one should place all *kodesh*-related books and articles into *shamos*. However, if a piece of paper on which nothing was written was torn from the *sifrei kodesh*, it no longer retains its holiness. Nevertheless, it would be praiseworthy if one picked up that piece of paper to prevent it from being discarded in a disgraceful manner.

Halachot of Shabbat

67. Having a man light the Shabbat candles

Question: I am thinking about starting to light Shabbat candles every Friday night. My wife has no desire to do so, but she does not object if I wish to. It appears that lighting candles is one of the traditional things that the wife does, and my question is, is it okay if I do it?

My second question is, would the answer be the same to the above question across the spectrum, from reform to ultra-orthodox?

Answer: Every Jewish home should have Shabbat candles, with the wife having the honor to be the one to light (see *Shulchan Aruch Orach Chaim* 263:3). If she wants to honor her husband we would still urge the husband to tell her that he prefer that she does it. But, if because of a lack of interest in performing *mitzvot*, she does not want to light candles, the husband should light until the wife feels ready to do it. From our perspective, this does not differ from community to community, although we can speak only about ourselves.

68. Which electric urns may be used on Shabbat

Question: I'd like to know if all electrical hot water pots can be used for Shabbat. If not, which can and which cannot be used? Thank you very much for your precious attention

Answer: To use an electric urn on Shabbat, one must ensure that several conditions are implemented:

1. The manner of extracting water from the urn must be mechanical, and not electrical.
2. It is preferable that the thermostat mechanism can be disconnected for Shabbat use, and that, if such a mechanism is operating on Shabbat, one not pour water out of the urn when the heating elements are off. However, the basic halacha is that it is permitted to use an urn even if it has a thermostat operating (*see Maor Hashabbat* 1, 509-510). Therefore, if it is difficult to find another option, one may be lenient.
3. The water in the urn should be hot prior to the onset of Shabbat. One should take precautions not to pour water from the urn when the level of water in the urn is low. If the urn is equipped with a pipe that indicates the amount of water left in the urn, one must wait an hour from the time that the water has boiled before pouring out water from the urn.
4. If a safety switch disconnects the electrical supply when the water runs out, one must be careful not to take out enough water that would activate the switch.
5. If there is a measuring gauge, one should wait an hour from the time the water is heated to make sure the water in the gauge has also been heated.

69. Squeezing water from hair on Shabbat

Question: I have a question about *mefarek* on Shabbat. One is allowed to squeeze a pickle to rid it of unwanted juice, but one is not allowed to squeeze wet hair into a sink, why? The brine in pickles is a liquid first and then is absorbed in the pickle. Water is a liquid first then trapped in hair -- hair does not absorb. Pickle juice may be squeezed out on to a plate and even used, if the initial intention was only to have a drier pickle. Hair may not be squeezed down a drain where the water is not *nikar* and is discarded! There is no *issur* of *mefarek* when a solid is squeezed and the juice is not meant to be drunk; one may squeeze fruit for medicine or lemon juice for a dip (Rema 320). One certainly has no intention of drinking the water squeezed from wet hair! So why is it *assur*? Thank you

Answer: Halachic authorities debate what the reason is for prohibiting wringing moisture from one's hair on Shabbat. While discussing the laws of laundering, the Rambam in his *Mishna Torah* (*Hilchot Shabbat* 9:11), writes that there is no prohibition of *sechita* [wringing moisture] from hair. The *Maggid Mishna* explains that the Rambam meant that, although no Torah obligation exists, a rabbinic prohibition still exists.

Some derived from this ruling, which is juxtaposed along with cases of the prohibition of laundering on Shabbat, that the prohibition of *sechita* is rabbinically forbidden because one might perform the *melacha* of *melaben*, laundering. Indeed, this is what the *Biur Halacha* writes (302:9, “*assur*”). The prohibition is similarly codified in halacha in the responsa *Az Nidbaru* (volume 1, *siman* 55) and the *sefer Mehuchat Ahavah* (volume 2, p. 421, note 68). According to this approach, the questions that were asked are resolved, as wringing hair is not related to *mefarek*.

In contrast, some wrote that the rabbinic prohibition of wringing moisture from one's hair is not because of *melaben*, but rather *mefarek*. This appears to be the opinion of the *Pri Megadim* in

siman 320 (Mishbetzet Zahav, 12) and in Rav Moshe Feinstein's responsa, Igrot Moshe (Or Hachaim, volume 1, siman 133). This similarly appears to be the approach of Shemirat Shabbath Kehilchatah (volume 1, chapter 14, note 64, quoting Rav Shlomo Zalman Auerbach). According to their opinion, it would be permitted to wring moisture from one's hair in a situation where the water would otherwise be wasted or would be absorbed by a towel. This is especially the case when the liquid does not collect in a way that is perceived by the naked eye (Shemirat Shabbath Kehilchata, Ibid).

70. Melting cheese on Shabbat

Question: I have been asked whether there is a problem to melt cheese (in a *kli shlishi*, if necessary) on Shabbat. Is there a problem of changing the consistency of the cheese? Are there any other problems? Thanks for your help.

Answer: If the cheese is made solely from pasteurized milk then one may be lenient and warm it in a *kli sheni*, since one can rely on the opinions that it is considered to be already cooked, along with the opinions that placing in a *kli sheni* is not considered cooking (see *Shuchan Aruch Orach Chaim* 318:4-5). According to *Ashkenazic* custom, one may do so only if the cheese does not turn into liquid or if it turns to liquid but is immediately absorbed into something.

However, if the cheese is not made solely from pasteurized milk, one should refrain from doing so.

71. Using a Brita water pitcher with an electric sensor, on Shabbat

Question: This is a question regarding the BRITA FF-100 WATER FILTER. This filter has a battery operated sensor to detect when it's time to change the filter cartridge. Can it be used on Shabbat?

Answer: We are not familiar with the particular design of this filter. After consulting with Rav Yisrael Rosen, the director of the Zomet Institute, we were able to clarify the following principles:

[In order to know if your water filter is acceptable for Shabbat use, you have to find out what type of sensor is in your water filter.]

There is a type of electronic filter that has a sensor that continuously measures the filter's status, which constantly changes according to the water quality. It measures the amount of water flow or the duration of water flow. A warning indicator turns on after a particular stage of operation.

If your filter has such a sensor, you would need to disconnect the sensor for use on Shabbat. The problem of Shabbat desecration is not limited to an indicator turning on due to a power interruption. Rather, there is a problem with the continuous electronic operation each time that the water is turned on.

In contrast, an electronic filter which contains an edge sensor is less problematic. The edge sensor only operates after sensing when the filter reaches a particular efficiency point. Only then does a light turn on. In such a case, using such a filter might be permitted, since the chance that the user will get to a point of breaking the circuit precisely at the moment of turning on the tap on Shabbat is remote. This is similar to (using a device which has) a thermostat on Shabbat (see *Shemirat Shabbat Kehilchita* 10:12, note 33). If the chances are slim that the sensors will immediately turn on upon operation, many rabbis would allow such a filter.

ASK THE RABBI IV

By the way, there are types of water filters for which the water flow causes an ultra-violet beam to turn on and purify the water streaming into it, and therefore in many cases, water filters need rabbinical approval in order to ascertain that they may be used on Shabbat.

72. Reading on Shabbat a newspaper that was delivered on Shabbat

Question: If one has a 7-days a week subscription to NY Times, and the *Saturday Times* which is printed on Shabbat arrives on Shabbat, is it permissible to read this paper on Shabbat?

Answer: It is forbidden for a Jew to profit from the work of a non-Jew on Shabbat, and therefore it is forbidden to read this paper on the Shabbat that it is received.¹ Even though one could argue that the printing of the paper is done on behalf of the majority of the readers who are not Jewish, still, the delivery of the newspaper on Shabbat is problematic. See the footnote for further explanation.

¹ This is the opinion of the *Shut Mishne Halachot* 4:47, and the *Shut Beer Moshe* 8:148. However, the *Shemirat Shabbat Kehilchita* (31:24) brings in the name of Rav Shlomo Zalman Auerbach that according to the letter of the law, it is permitted to read a newspaper, since the printing was done on behalf of the majority, non-Jewish, readers (if most of the readers are not Jewish), and the additional printing on behalf of the Jews is too indirect to forbid reading the paper. Nevertheless, this is true only regarding the printing itself, however if the paper is not being delivered by foot, but by car, then seemingly all opinions would forbid.

73. Having non-Jewish staff heat up food on a cruise on Shabbat

Question: When purchasing a cruise package it is always all inclusive, meaning that all meals are included. *Kosher* meals can be requested from most major cruise lines and are included at no additional cost. These are usually prepared by Weberman's Catering from Miami Florida and are sent to the cruise lines in a frozen state. Once on board, the waiters would ask a day ahead of time which meals one would like for the next day and these are then heated in the original wrappings and served with disposal cutlery.

The question is what about heating these meals on Shabbat. All the kitchen and wait staff are gentiles. Can they warm and serve the meals on Shabbat as they are not asked to do so by the guests and do so as part of their employment by the cruise line. Can they also warm soups?

Answer: One is allowed to ask a non-Jew to warm up dry food that one wants to eat on Shabbat if there is no alternative (see *Biur Halacha* 253:5 "*lihacheim*"). The rationale being that reheating dry food is only a rabbinic prohibition, and one is permitted to have a non-Jew perform a rabbinic prohibition for him/her under certain extenuating circumstances. Furthermore, your situation has a further reason to be lenient, as you do not have to ask the non-Jew on Shabbat, but on Friday (for a summary of some sources regarding this leniency see *Yalkut Yosef* Shabbat Vol. 2 p.280). Nevertheless, you should not have the wait staff warm up liquids, as many rabbis believe that reheating liquids is a Torah prohibition (see *Shulchan Aruch Orach Chaim* 318:4 and the commentaries there).

Follow-Up: Thank you very much for your reply. If this is so, then under what *heter* do the hotels in Israel serve hot soup and fresh coffee on Shabbat morning and lunch. Especially the coffee, as it

has to be freshly brewed while the soup may be in special warmers overnight.

Follow-Up Reply: Regarding serving soup on Shabbat, you are correct that the soup is kept on warmers from Erev Shabbat until it is ready to be served. Regarding coffee, there is a special machine, developed by Zomet (you can find a description of the item, in Hebrew, at <http://www.moreshet.co.il/zomet/html/meicham.htm>) that is utilized by hotels. The gist is that the machine automatically empties and refills itself (even if it is full of hot water) several times throughout Shabbat, so that the supply of hot water (or coffee) is constantly fresh. I hope that this clarifies things.

74. Having a non-Jew push a stroller on Shabbat

Question: I recall seeing a *teshuva* allowing a non-Jewish maid to push a stroller on Shabbat (where there is no *eiruv*) so that the *Rav* and family could attend communal dinners etc in the *shul*. I do not remember the source. Are you aware of such a source?

Answer: The principles and sources for allowing one to ask a non-Jew to push a stroller on Shabbat in a public domain are as follows:

The *Shulchan Aruch* (*Orach Chaim* 307:5) rules like the ruling of the Rambam that it is permissible to tell a non-Jew to perform a **rabbinically** forbidden act if the act is essential for a particular *mitzva*.

However, the Rema's (ibid. 276:2) ruling is even more lenient, like the opinion of the *Baal Itur*. He rules that if the *melacha* (act) in question is essential for a particular *mitzva*, it is even permissible to request a non-Jew to perform a *melacha* forbidden under **Torah** law. The Rema writes that one should nevertheless conduct oneself according to the stringent opinion unless a tremendous need exists.

Many halachic authorities argue with the Rema's leniency. They instead rule like the *Shulchan Aruch*, which only allows room for leniency in a rabbinically forbidden case. The *Mishna Berura* allows one to take a lenient approach for a *melacha* that is essential for a *mitzva* of the community. See *Tzitz Eliezer* (volume 11, siman 77; *Mishna Berura*, *sif katan* 12) who utilizes the Rema's lenient approach when a halachic authority is able to adjoin additional reasons for leniency.

Therefore, if we are dealing with a case where the Rabbi's presence and his participation at the meal is considered essential for a *mitzva*—whether for public teaching of Torah or *kiruv rechokim*, encouraging “not-yet observant” Jews towards an atmosphere of Shabbat observance and the fulfillment of Torah and

mitzvot, then one may be lenient, as is written in the responsa *Bemareh Habazak*, volume 3, responsa 36. The reason for leniency is that many authorities are of the opinion that the *melacha* at stake here is rabbinically prohibited in which case all agree that asking a non-Jew to perform an act that is essential for a *mitzva* is permissible. Even if the *melacha* is prohibited according to Torah law, one may nevertheless rely on the opinion of the Rema and his supporters. See there for additional references and reasons for leniency in a case similar to yours.

75. Dealing with Jewish co-workers who work on Shabbat

Question: I live in Israel and work in the hi-tech industry, in an office of about 50 people. Only two of us are *dati*. Occasionally, I get emails sent from co-worker(s) on Shabbat. (They don't work in the office, but occasionally work on a project from home.) Some of the emails are to a group, some specifically to me. Am I obligated to specifically ask them not to send me email on Shabbat? If they work on a project on Shabbat, and I will benefit from the work, am I obligated to ask them not to work?

Answer: Your making use of email that was sent on Shabbat or *Yom Tov* is not forbidden for two reasons:

1. The *Shulchan Aruch* rules (*Orach Chaim*, *siman* 308) that a cooked dish that was cooked on Shabbat is always forbidden for the one who cooked it, whereas others are only prohibited from eating it on Shabbat. However, it is permissible for them to eat the food after Shabbat ends. See the *Mishna Berura* there, where he writes that even in a case where someone cooked on Shabbat for a particular individual, the individual is permitted to partake of it immediately after Shabbat has finished. In our case, the situation is even easier to be lenient, since the Shabbat violator did not perform the work specifically for his colleague. His action was for his own benefit and on behalf of the company for which he is employed.
2. It seems that in your case, you did not benefit at all from an activity performed on Shabbat. Indeed, you, as an employee, did not directly benefit from the actions of others employed in the firm. Your obligation is solely towards your employer. Nor do you benefit from the actions of others, even though the individual's contribution is part of a company project.

76. Visiting an Israeli website after Shabbat started in Israel

Question: Can I go to Israeli websites on Friday when it is already Shabbat in Israel?

Answer: If the subject of discussion is a website that is maintained by Shabbat desecrators, such as a news site that gets updated on Shabbat, it is forbidden to visit them, even when it is still not Shabbat for the one visiting the site.

If the website is not maintained by Shabbat desecration, it is permitted to visit it and to even perform transactions, as long as they do not entail desecration of Shabbat by the website owners.

See more details in Responsa *Bemareh HaBazak*, (volume 5, *siman* 37, *sifim* 2, 3).

77. *Tehillim* and *bakashot* on Shabbat

Question: I'm saying *Tehillim* for a sick person and proceed it with a special prayer - "*Ribono shel olam*", etc. When I say *Tehillim* on Shabbat, am I allowed to include this prayer, or is it a *bakasha* that is forbidden on Shabbat?

Answer: We wish a complete recovery for the person on whose behalf you are praying, along with the rest of our sick brethren.

One should not pray on Shabbat or say *Tehillim* or a subsequent prayer for one who is ill, unless he or she has a life-threatening illness. There is an opinion that even the saying of the *Mi Sheberach* prayer, which is said during the Torah reading on behalf of one who is sick, should not be recited. Nonetheless, in practice, it is permissible to recite the *Mi Sheberach*.

Sources: *Shulchan Aruch*, *Orach Chaim* 288:10; *Igrot Moshe*, *Orach Chaim*, Volume 1, *siman* 105.

Halachot of Death and Mourning

78. Sitting *shiva* for someone who chose to be cremated

Question: My aunt's relative was cremated, and she was instructed by her rabbi to not sit *shiva*. Why is *shiva* not observed for a person who has been cremated? It seems like the mourners are being punished for the actions of the deceased. I don't understand, because *shiva* is about comforting the mourners and why should she have to mourn alone? Please explain. Thanks!

Answer: The source for the rabbi's decision, that your aunt should not sit *shiva*, is based on the *Shulchan Aruch Yorah Deah* 345:5. The *Shulchan Aruch* states that someone who "departs from the ways of the community," should not be mourned for with *shiva*. Traditionally, this status was applied to a person who abandoned their observance of the *mitzvot*, and no longer considered themselves to be part of the Jewish community. Therefore, it was deemed inappropriate to perform the Jewish mourning process for one who denied the validity of that process. Today, it has become much more difficult to know when to apply this halacha. Unfortunately, there are many members of the Jewish community who do not observe some of the most basic of halachic requirements, such as Shabbat and *kashrut*, but they still view themselves, and are viewed by others, as being part of the Jewish community. There are many reasons for this phenomenon, but we believe that the primary reason is a lack of sufficient Jewish education, both quantitatively and qualitatively. Our non-observant brothers and sisters did not reject halacha ideologically, but were often born into an environment where it was not valued, and they never experienced and learned about a genuine traditional Jewish lifestyle. These people are therefore still considered to be part of the Jewish community.

We would imagine that the reasoning behind your aunt's rabbi's decision is that, even in today's non-observant climate, there is an awareness that Jewish tradition demands and values a burial, and

the choice to be cremated is an ideological one against Jewish tradition. Furthermore, since the issue of cremation is a break with tradition particularly in an area of halacha that relates to death, one who chooses cremation should not be awarded the traditional Jewish mourning. This being the case, one would need to verify that the choice of cremation was truly an ideological one, and not just the result of an unfortunate lack of education.

Although you are quite correct, as you stated in your question, that *shiva* is a profound process of consolation for the mourners, nevertheless, honoring the deceased is an inextricable aspect of the *shiva* process as well. Therefore, if it is determined that the deceased is not to be mourned, then the mourners unfortunately will miss out on the *shiva* process too. That being said, even in such a case, we believe that it would be completely appropriate to console the mourners in non-halachic ways. Therefore, if the synagogue typically would arrange meals for the mourners, and the mourners' friends and relatives would typically call and visit, etc., then those things could be done here as well.

79. *Kaddish* for a relative who was cremated

Question: I have a question regarding whether *Kaddish* can be said for a relative who was cremated. In this case, the relative's son, who is not observant, decided upon cremation. He claims that he had held discussions with the decedent before her death and that this approach was agreed to.

The decedent had ties to traditional Jewish practices and, for example, always expressed pleasure in the fact that *Mi Shebaruch* prayers were being said for her during her illness. I wonder, under these circumstances, whether it is appropriate or permissible to say *Kaddish* for her?

Answer: The source for the halacha is found in *Responsa Binyamin Zeev*, *siman* 203 (Rav Binyamin ben Matitya lived in sixteenth century Greece). He concludes that one does not recite *Kaddish* on one who converted from Judaism, just like one does not bring the sacrificial offerings of a heretic. The reason is that the Torah does not want the atonement of such a sinner. This ruling is cited as halacha by the *Darchei Moshe* of the Rema, (*Yoreh Deah*, *siman* 377). It is also quoted by the *Shach* (towards the end of *siman* 376).

The *Chatam Sofer* (*Even HaEzer* 69) does not deal with the case of a convert from Judaism, but rather with one who had committed suicide. The *Chatam Sofer* concludes that one does say *Kaddish*, even on a sinner's behalf. He refers to the incident of Rabbi Meir who prayed for the atonement of the soul of Elisha ben Avuya. It appears that the *Chatam Sofer* does not argue with the above mentioned *Responsa Binyamin Zeev*. Rather, the *Chatam Sofer* distinguishes between a sinner and [a more severe case of] one who converts from Judaism, thus removing himself from *Klal Yisrael*. Indeed, no atonement could rectify the sin of one who converts from Judaism. In contrast, *Kaddish* is said on behalf of one who has sinned, as he is still considered part of *klal Yisrael*.

The *Minchat Eliezer* (which is quoted in responsa *Seridei Aish*, volume 2, *siman* 98) writes “the heretics who are cremated that recognized their Creator and intend to rebel and, Heaven Forbid, deny everything *le’hachis* [to sin intentionally in order to anger Hashem].”

Additionally, Rav Moshe Feinstein in his *Igrot Moshe* writes (*Yoreh Deah*, volume 4, *siman* 61, ot 6) that the Rema’s intent is only that one is not **obligated** to recite *Kaddish* on behalf of a severe sinner. However, “if he would want to say *Kaddish* for his father that desecrated the Shabbat out of heresy and [subsequently] died, it is reasonable to say that he [the son] is permitted to do so. Since the son is righteous, [his prayers are] beneficial, even for his father, who is completely wicked.” This is similarly mentioned in the responsa *Divrei Yatziv* (*Yoreh Deah*, *siman* 189) in the name of several *Acharonim*.

According to the above, it is clear that one who felt connected to her Jewish heritage, even if she had ordered that her body be cremated, would not be considered, Heaven forbid, one who had abandoned *klal Yisrael*. It is certainly a great *mitzva* to say *Kaddish* on her behalf, especially if her son would desire to recite *Kaddish* as an *illui neshamah* [“soul-raising”, or helping the soul ascend to the next world] of his parent.

80. Questions regarding a mourner acting as the *shliach tzibbur* (*chazzan*)

Question:

1. Does an *avel* who is in *shloshim* for wife/child get preference for the *amud* (*shliach tzibbur*) over post *shloshim avel* for a parent?
2. Do we give an *avel* the *amud* for *kavod hamess* or specifically to give him more *kaddishes* to say?

Answer: See responsa *Bemareh Habazak* (volume 6, question 7) where it is written that a son who is mourning for one of his parents takes precedence over the obligations of other mourners. See in note 5 where we clarified further that the main concept is that, when a son increases merits in this world (not necessarily by saying *Kaddish*), by doing so, he raises his parent's soul in the next world.

Therefore, any good deed that a son himself performs – either by causing the congregation to merit by answering *Amen*, or other deeds – helps this cause (and therefore some are also accustomed to bring refreshments to the synagogue in order to bring merit through the recitation of additional blessings or by bringing joy to the congregation).

Some commentaries explain, regarding David's command to Shlomo (*Melachim I*, 2:2), that David commanded to preserve the commandments of Hashem and to go in His ways. What does the verse intend to teach us? Perhaps the explanation is that David desired that by Shlomo's walking in the path of Hashem, David would "go on the path of the entire land (verse 2)." Meaning, his soul would rise higher, in the merit of Shlomo's performing *mitzvot* in this world. According to this explanation, it is appropriate to cite in our case the popular expression of *Chazal*: "a son is like his father's foot" – one's father continues to walk and to progress through his son's help in this world.

Monetary Halacha

81. Blindly lending money with interest on the internet and the concern that the recipient is Jewish

Question: Would it be a problem of *ribbis* (or anything else) to lend money on websites such as www.prosper.com, where the recipient of the loan may be another Jew, or is the company considered the actual lender?

Answer: According to the [prosper.com](http://www.prosper.com) site, they actually create the loan with the borrower. The role of the so-called "lender," is that of a buyer of a promissory note on the loan from prosper to the borrower. Nevertheless, if one was sure that the borrower was Jewish, it would be a problem to buy the loan for the following reason: In *Yoreh Deah* 168-9:10, there is an argument between the commentaries of the *Shulchan Aruch* (the *Shach*, *Nekudat Hakesef* and *Taz*), regarding the conditions under which a Jew (let's call him Reuven) may buy a debt with interest that a non-Jew has on a Jew (let's call him Shimon). According to all opinions though, Reuven is forbidden from collecting interest directly from Shimon if Shimon had not already been obligated to pay that interest to the non-Jew prior to the sale. In the case of prosper, the loan is initially due to prosper, at that point, the borrower owes virtually no interest, because the borrower is always entitled to pay off the loan early. Once prosper sells the loan to the "lender," the "lender" receives payments into his bank account directly from the borrowers bank account (according to the website, this is typically how it works) with interest that was accrued after the sale.

Nevertheless, since the majority of prosper's borrowers are not Jewish, one is able to rely on the principle of *rov*, and would therefore be able to assume that the borrower isn't Jewish. Furthermore, although one is required to investigate, when possible, even when a *rov* exists, in the case of prosper it would be impossible, since it is illegal to probe into the identity of the

borrower. If one would somehow know that the borrower is Jewish (some borrowers post pictures of themselves, and if the borrower, for example, is wearing a *kippah*, one should assume that he's Jewish), then it would be forbidden to lend to him.

82. Responsibility for damage caused as a result of one choosing to not be vaccinated

Question: In light of the current outbreak of measles in Israel and the US, what is the halacha - is there an obligation to give vaccines? If someone purposely doesn't are they responsible for damages to one they infect - such as a child below the age when the vaccine is given or someone on chemotherapy? Thank you

Answer: Since most experts believe that children should be immunized for measles, it is thus also halachically required. Someone who does not immunize his children should also take into account that it could harm others. Despite the above, it is very hard halachically to win a damages claim against such a parent.

More in depth answer: We would like to introduce our answer with the words of the *Kitzur Shulchan Aruch* (33:1): "Since a healthy and whole body is part of Hashem's way; it is impossible to understand or know something about one's Creator if he is sick, therefore one must distance himself from things that destroy the body, and [instead] accustom oneself to things that make him healthy and complete, as it [the Torah] says "*v'nishmartem me'od*"

It is clear that the Torah requires one to maintain his or her good health as much as possible. Therefore, if one's doctor advocates receiving a specific vaccine, then he should do so. However, even if one purposely chooses to not receive a vaccine, and as a result, s/he infects someone else, s/he would not be responsible (in *Beit Din*) for any subsequent damages, since that damage would be fall under the category of "*grama*", or indirect damage (see *Choshen Mishpat* 386). *Grama* damage is still forbidden (*Bava Batra* 22b), but would not make one responsible for compensatory damages in *Beit Din*. This case would be considered *grama*, since:

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*S/he did not do an **act** of damage against the newly infected person, as s/he did not physically place the disease on the victim (it traveled by itself).

*The damage did not necessarily have to occur. Someone could be exposed to the disease without contracting it.

*The damage did not happen immediately, only later, after the disease was able to develop in the victim's body.

Halachot Relating to Non-Jews

83. Sources regarding respecting and loving non-Jews

Question: My understanding is that commandments such as “Love thy neighbor...” are regarding conducting oneself with fellow Jews. What about non-Jews - do *Chazal* speak on this subject? Are there any texts you could direct me to on this subject?

Answer: The *Talmud Berachot* 17a cites “They spoke about Raban Yochanan ben Zachai. Nobody was ever able to greet him before [being preempted by Raban Yochanan with greetings of Shalom], even to non-Jews”.

On a similar note, the *Midrash (Pesikta Zutra)* states that one can learn from Moshe Rabbeinu how he would precede his greetings to his father-in-law (*Shemot* 18:7, “*Veyishalu ish lereihi leshalom*”). In addition, we could learn from Moshe who preceded his greeting to Sichon that there is an obligation to give a greeting, even to a non-Jew.

We have two observations:

a. The *Mishna Avot* 3:14 cites Rabbi Akivah, “Precious is man who was created in the world... Precious are the Jewish People who are called the children of Hashem... Precious are the Jewish People who were given a precious vessel”. From here, we see that all of humanity is precious and special, but the Jewish People have an additional fondness. Rabbi Shimon Shkop, in his introduction to his book, *Shaarei Yosher*, comments on the verse “And you should love your neighbor as yourself.”

Rebbi Shkop states there that everyone claims to love himself. The question remains: What does he consider an integral part of himself? Some consider the physical body to be their entirety. Others consider themselves to be comprised of both the physical body and the soul. Still others consider their family to be an integral component of their being... After close inspection of the

ASK THE RABBI IV

entire Torah verse, one learns that one must first love himself. Only afterwards can he spread his love towards others. Eventually, his love can be inculcated towards non-Jews, as well.

b. Sometimes, when one says that he loves everybody equally, he really means that he does not really love anyone!

84. The seven *mitzvot* of *Bnei Noach* and their punishments

Question: Thank you for taking the time to read my query. I am an Orthodox Jew interested in the topic of gentiles and the Seven Noachide Laws. Just today I was flipping through a book about the halachot of the *Sheva Mitzvot*, and they seem to be SO strict, like a non-Jew would violate the law of sexual morality by hugging a member of the opposite sex or winking in a suggestive way. Also, I read that they must keep the laws only because G-d commanded them, not just because they seem logical. What non-Jew knows these things? Suddenly, every single non-Jew seems evil and lacking any hope for the world to come. This troubles me because there are many good non-Jews out there, as I'm sure you can attest to; people who believe in G-d, but are hopeless because they give their uncle a hug or leaned on a car and "stole"?! This seems outrageous. Oscar Schindler and other gentiles who saved lives, and Jewish lives, but definitely violated these nuances, have no share in the world to come? This depresses me and makes me question the validity of our faith. Could G-d be so cruel to his creations?

Answer: Before we begin, we would like to preface our remarks by stating that we understand and identify with the uncomfortable feelings that you felt when you read the material regarding a *Ben Noach*. Not all of the material that appears in the book that you read is precise and there is a need to correct what is inaccurate:

Even during the times when capital offenses were judged, (it is not possible for rabbinical courts to rule on capital cases today), a *Ben Noach* could not be killed for leaning on a car that does not belong to him. So too, capital punishment is not given for kissing or hugging a woman forbidden to him, but only for a *Ben Noach* who performs a sexual act involving a forbidden relationship, such as with his mother or a married woman.

ASK THE RABBI IV

In your statements, you asked if it possible for someone to be punished and judged for a one-time transaction. We divided your question into two parts:

1. The ability of a *beit din* composed of corporal beings to judge a person for a specific and one-time action, without considering his general lifestyle.
2. The ways of reward and punishment, which Hakadosh Baruch Hu uses to rule His world.

Now for the details:

The punishment of a human court generally deals with a concrete action, and does not take into consideration a person's lifestyle. For example, let us suppose that an outstanding doctor exerted his entire existence to save many people's life. Yet, one day, unexpectedly, he decided to murder somebody. The *beit din* would indeed grant his punishment in accordance with what the Torah states about this type of an offence. This is the maximum human capability of judging an action, which does not take into account the entire gamut of human emotions, which include his intentions, desires, practical struggles, and additional layers of his existence.

Therefore, if a *Ben Noach* transgressed one of the Seven Mitzvot that he is obligated in, and if certain qualifying conditions are fulfilled, which are mentioned in the statements of the Talmud (see *Sanhedrin* 56) and *Rishonim*, he is punished.

It is true that a *Ben Noach* who has observed the *mitzvot* obligated upon him has a portion in the world to come. Nevertheless, this does not negate the possibilities that even one who did not observe the Seven Mitzvot – but had performed many good deeds in his life – would also be granted the world to come. Hakadosh Baruch Hu does not deprive His creations of their reward. Just like the frogs in Egypt received reward for following Hashem's orders, so too, it is clear that a person who has dedicated his entire life for the benefit of others will receive reward from Hashem, who does not deprive anyone of their reward!

Furthermore, whoever generally observes the *mitzvot* of the *Bnei Noach* that are imposed upon him, even if he stumbles in a one-time fashion (even several times), is still considered to have fulfilled the *mitzvot* imposed upon him. This is in contrast to one who scorns [the precepts] and is completely lax at observing the mitzvot given to the *Bnei Noach*. One could understand the assurance of a portion in the world to come to a non-Jew who observed the Seven Noachide Laws, as applying to an ordinary person who did not perform special benevolent actions, and thus his ability to merit the world to come is dependent on the *mitzvot* that he performs. However, this statement does not apply to a person who dedicated his life to good deeds.

85. A non-Jew attending *shul*

Question: Would it be disrespectful for me, a Christian, to attend a service in an Orthodox synagogue? If I may attend, how should I dress? What should I know before attending?

Answer: In general, while Judaism discourages (but does not prohibit) conversion, synagogues are open to all who wish to attend, Jew or non-Jew. In fact, the Holy Temple is described (*Isaiah* 56:7) as a place of prayer for all nations. During the High Holidays, in the fall, more people attend than at other times, and seating may be limited. To prepare for such a visit at another time, we suggest that you contact the rabbi of the synagogue to inquire about times of services. Perhaps he can even brief you on what to expect and/or ask a member of the congregation to orient you.

86. Can a non-Jew wear a *tallit*

Question: Can a non-Jew wear a *tallit* in *shul*?

Answer: A. A non-Jew may fulfill *mitzvot* that he is not obligated in, in order to receive reward (Rambam, *Hilchot Melachim* 10:10), as long as he does not claim he was commanded to do so (see the *Radvaz* ad. loc.).

Therefore, a non-Jew may wear a *tallit* with the *tzitzit* (fringes) as long as he does not say he was commanded to do so.

However, he may not say the blessing for wearing the *tallit* (Rav Moshe Feinstein in *Dibrot Moshe* on *Kidushin* 45:2), since he is not obligated to wear the *tallit* and therefore it would be a blessing in vain and a lie (since in the blessing he states that he was commanded to do so, as opposed to what was said above).

B. In any case, the Sages (*Chazal*) prohibited selling a *tallit* with fringes to non-Jews, and this prohibition includes lending or depositing the *tallit* with the non-Jew, with the exception of a short time loan or deposit, and this was the ruling of the *Shulchan Aruch Orach Chaim* 20:2, and therefore one may not allow the non-Jew to keep the *tallit* permanently, but rather to have it just for the time of the davening.

C. One needs to make sure that the congregation that sees the non-Jew with the *tallit* in *shul* will know that he is a non-Jew and that people won't mistake him for a Jew (this is inferred from the reasoning for the previously mentioned decree of the Sages, and also is apparent for other reasons, so that people won't be mistaken and led to intermarriage, to socializing with him, and to adding him to the *minyan* of ten men needed for the public davening, etc.).

87. *Brit mila* for a baby whose father isn't Jewish

Question: I know a Jewish woman who is married to a non-Jewish man. They have a daughter and have raised her as a Jew (the husband has no religion of his home and is totally supportive). The woman is now pregnant with a boy. She is looking into different *mohalim* in our area and has two concerns: 1) whether an Orthodox *mohel* will perform a *bris* on a child who has a non-Jewish father, and 2) if she has a non-Orthodox *mohel* perform the *bris*, that the child will one day have to be "re-brissed" if he wants to be accepted in the Orthodox community. My understanding is that, because she is a Jew, her child is Jewish no matter what she does/doesn't do. Isn't that right? Is there any reason that anyone would ever even ask about a man's *bris* and who was the *mohel* who performed it? Is there such a thing as a *brit mila* certificate anyway? Would this be an issue in terms of proving Jewish identity in Israel with the rabbinic courts there?

Answer: An Orthodox *mohel* will perform a brit for the son of a Jewish woman and a non-Jewish man, since such a child is Jewish (see *Shulchan Aruch Even Haezer* 4:19). While a *brit* certificate is not a requirement, in cases where there are questions about one's lineage, a document of that sort can be helpful. Also, when a child who grows up, he or his future spouse may inquire about his *brit* when he or she has reason to suspect it wasn't done in a manner that is acceptable according to those who are careful about all elements of halacha. If they find problems, a new procedure might be necessary or other uneasiness might arise if there were more questions about the *brit*.

Jewish Thought

88. *Charedi* and National Religious positions on *Yehudah v'Shomron*

Question: It appears that some *Charedim* feel that Jews should not live in Judea and Samaria.

Can you please explain to me what their position is and what your position is? What do the *Charedim* feel should be done with Judea and Samaria? Do some *Charedim* live in Judea and Samaria?

Answer: I hesitate to answer on other people's behalf, although we share agreement on almost all of the principles and most of the details of the Torah.

Regarding the *Charedi* approach, there are two main halachic issues and one social/religious one. Firstly, some feel that there is insufficient justification to endanger one's life, on the assumption that Judea and Samaria are more dangerous places than others in Israel. Some feel that one should not partake in settlement activity that is seen as "starting up with the non-Jews" (based on *Ketubot* 111a). Still others are against it because it is "too Zionist" and they feel that maximizing the importance of rebuilding the Land takes away from the prioritization of *mitzvot* as they see it in their camp.

By the way, many tens of thousands of *Charedim* live in Judea and Samaria albeit often for economic reasons. We of course have different outlooks on all of these points. We believe that the danger is not so great as to prohibit living in these areas. Although it is best to limit dangers as much as possible, when one is involved in the *mitzva* of settling the Land of Israel, it is not only permitted but worthwhile to put oneself in a mildly dangerous situation.

Furthermore, unwillingness to settle land in our control out of fear of danger encourages our enemies to attack us in areas previously considered safe. This idea has been illustrated recently and

presently with the evacuation of the Gaza strip and the subsequent attacks on Sderot, Ashkelon and other places.

Regarding starting up with the non-Jews, we received the permission of the nations of the world and all other land obtained was conquered in defensive wars. Our teacher, Rav Yisraeli, taught that once we took hold of the rights given to us, the permission cannot be rescinded, and we may hold on to that which is received due to the aggression of others. We also see developing the Land not as a compromise of Torah values, but as a very central part of the personal and especially national fulfillment of the Torah.

89. Questions regarding the prayer for the welfare of the State of Israel

Question: Who wrote the prayer for the welfare of the State of Israel? What does it mean? Why do most *Charedi gedolim* disagree with this prayer?

Answer: The text of the Prayer for the Welfare of the State of Israel follows:

Our Father in heaven, Protector and Redeemer of Israel, bless the State of Israel, the first flowering of our redemption. Shield her beneath the wings of Your kindness and spread over her Your canopy of peace. Send Your light and truth to her leaders, officers and counselors, and direct them with your good counsel. Strengthen the defenders of our Holy Land; grant them salvation; crown them with victory. Establish peace in the land and everlasting joy for its inhabitants.

Remember our brothers, the whole House of Israel, in all the lands of their dispersion. Speedily bring them to Zion, Your city, to Jerusalem, Your dwelling place, as it is written in the Torah of Moses, Your servant: "Even if your outcasts are at the end of the world, from there Hashem, your God will gather you, from there He will fetch you. And Hashem, your God will bring you to the land which your fathers occupied, and you shall occupy it; and He will make you more prosperous and more numerous than your fathers." (Deuteronomy 30:4-5)

Unite our hearts to love and revere Your Name and to observe all the precepts of Your Torah. Speedily send us Your righteous Messiah of the House of David to redeem those who long for Your salvation.

Reflect Your glorious majesty upon all the inhabitants of the Earth, and let everyone who breathes declare: Hashem, God of Israel, is King and His dominion rules over all. *Amen*. Selah.

There is some question whether this prayer was composed by the then *Ashkenazic* Chief Rabbi Isaac Halevy Herzog or the nobel laureate Shmuel Yosef Agnon.

Not only some *Charedim* but even some Religious Zionists have theological objection to the description of Israel as “the first flowering of our redemption” and either omit this phrase or do not recite the prayer.

Historically speaking, a prayer for the government was introduced by both *Sefardim* (who recite it after *Kol Nidre*) and *Ashkenazim* (who recite it after the Torah reading on Shabbat and festivals) from a very early period. The justification for such a prayer is *Jeremiah 29:7*, “And seek the welfare of the city to which I have exiled you, and pray to the Lord in its behalf; for in its prosperity shall you prosper.”

The prayer for the welfare of the local or national non-Jewish ruler was dutifully recited by Jews throughout the Diaspora, even when these rulers were terrible tyrants and oppressed their Jewish communities. It is clearly only proper, therefore, that a prayer be recited for the State of Israel and its democratically selected officials.

90. Why there is so much disagreement amongst the Rabbis

Question: Can you explain the parameters that rabbis follow in their rulings as to what is permitted and what is not. Why is there so much disagreement amongst the Rabbis?

Answer: Originally there were in fact no practical arguments amongst the Rabbis, since every halachic question was determined by the *Beit Din Hagadol*, located in the *Lishkat HaGazit* of Yerushayim, according to majority rule. After its ratification, the halacha was the same for all of the Jewish people. Indeed, a wise man who would rule contrary would be deemed a *zaken mamreh*, [“a rebellious Sage”].

The first unresolved dispute that is known to us was the debate cited in the *Mishna Chagigah* 17a regarding placing one's hands on a sacrificial animal on *Yom Tov*.

Rav Reuven Margaliot *zt”l*, in his book *Yesod Hamishna Vearichata*, explains that the reason for the increase in disputes is the breakup of the main unifying *Beit Din* in Yerushalayim due to political reasons. It follows that one Sage holds one way while another Sage takes issue with him and the debate remains undecided. After the *Mishna*’s sealing in the times of Rebbi, Rabbi Yehuda Hanassi – the *Amoraim* began to deliberate the wording of the *Mishna* at length, and to also deliberate on the issues that were not decided in the *Mishna*. As a result, the *Talmud Bavli* and *Yerushalmi* were created. After the sealing of the Talmud, the *Rishonim* and the *Ge'onim* deliberated on the explanation of the words of Talmud, so that regarding the Talmud we have various commentators and debates until today. Let’s bring an example from the concepts of *issur veheter*, *kashrut*.

The example that we will bring is regarding mixtures of meat and milk, and the question of how long one must wait between eating milk products after meat.

The Talmud, Tractate *Chullin* (105a) states: “Mar Ukvaḥ said ‘I am regarding this matter vinegar, the son of wine in comparison to Father. Whereas when Father would eat meat, he would not eat cheese until the next day – a twenty-four hour period – in the same meal, I do not eat it, but in the next meal, I eat it.’”

In explaining Mar Ukvaḥ’s statement, there are two main opinions of the *Rishonim*. First, there is the opinion of the *Behag*, Rabbeinu Tam, and the *Tosafot*, that it is sufficient to interrupt the meat meal by reciting *Birkat Hamazon*, and immediately afterwards, it is permissible to eat dairy products in another meal. In contrast, the opinion of the Rosh and the Rambam is that one must wait six hours from the end of eating meat before partaking of dairy products. This is the usual time between the morning and evening meals.

In his *Shulchan Aruch*, Rav Yosef Karo *zt”l*, rules like the Rambam and the Rosh, whereas the Rema follows the view of the *Tosafot* and Rabbeinu Tam, and adds that the custom in his area is to wait an hour after eating meat and then to eat dairy products, but he also adds that it is proper to wait 6 hours like the more stringent opinion.

Here we see how a debate in understanding the Talmud’s wording, which stated that one could eat cheese after meat in another meal, is also a debate in practical halacha among different Jewish communities according to the customs of their halachic rulings.

Indeed this is the situation in all areas of halacha. In conclusion, since the loosening of the institution of the *Sanhedrin*, debates cannot be resolved. It follows that there remain a variety of opinions, and each individual is accustomed to follow the accepted practice of his community and group affiliation.

91. The religious significance of trees

Question: For you, what is the religious significance of the tree as a symbol?

Answer: Regarding your above question, please let us know if you are referring to something you have seen before. If you are asking a general question please be more specific about the context, as a tree can refer to many different areas. We await your clarification.

Clarification: I am pursuing an academic interest in personal religiosity, and I would like to ascertain from you what comes to mind when you think of tree(s) in a religious context?

Answer: In *Devarim* 5: 19, it is written, “For Man is a tree of the field...” Take a look at the verse’s association and the explanations of the commentators of Rashi, the Ramban and the Ibn Ezra. However our Sages expounded on this verse in various ways:

The Talmud, Tractate *Taanit* 7a states: “Rebbi Yochanan stated: What is the meaning of the verse ‘For Man is a tree of the field?’ Is Man a tree of the field? It is rather because of what is written, ‘For from it shall you eat but from it you shall not cut down.’ Yet it is written, ‘[Only the trees of which you know that are not trees for food,] them you may destroy and cut down!’ How could that be? If he is a just scholar, from him you shall eat and you shall not destroy him; and if not, that one you should destroy and cut down...”

The *Sifri Devarim* 203 states: “Man’s association with a tree of the field teaches that Man’s existence is only from the tree. Rebbi Yishmael states, ‘From here [we can deduce] that Hashem is concerned with the fruits of the tree, from a comparison to the tree itself. If for a tree that produces fruits the Torah warns you about, all the more so regarding the fruits of the tree.”

Mishlei 3:18 states: “It is a tree of life to them that lay hold upon it and happy is everyone that holds it fast.” The Talmud, Tractate

Taanit 7a states: “Rebbi Nachman bar Yitzchak said, ‘Why is the Torah compared to a tree, as it is written, ‘It is a tree of life to them that lay hold upon it?’ In order to tell you that just like a small tree can ignite a big [tree], so too, minor Torah scholars sharpen the major [Torah scholars].”

It is likewise written in *Taanit*: “Tanya. Rebbi Banah would say, ‘Anyone who engages in Torah study for its own sake, his Torah learning makes an elixir of life for him, as it is written, ‘It is a tree of life to them that lay hold upon it’ and it states, ‘It shall be health to your navel (*Mishlei* 3: 8)’ and it says, ‘For whoever finds Me, finds life (*Mishlei* 8: 35).”

In the *Talmud Yerushalmi*, Tractate *Sotah* (*perek* 7, *halacha* 4): “Rebbi Chana said in the name of Rebbi Yirmiyah, who said in the name of Rebbi Chiya, ‘In the future, Hakadosh Baruch Hu will create shade for those who possess positive character traits and honor for those who possess Torah.’ What is the reason? Because all the silver is in the shadow of wisdom, as it is written, ‘It is a tree of life to them that lay hold upon it.’ It is furthermore stated in *Tehillim* 1: 3, ‘And he shall be like a tree planted by streams of water, that brings forth its fruit in its season, and whose leaf does not wither; and in whatever he does, he shall prosper.’”

Look in the Talmud, Tractate *Taanit* 5b where the story is related about Rav Nachman and Rav Yitzchak who were eating a meal together. When one of them finished, he blessed, ‘I will relate a parable to you to what this can be compared with – to a man that was walking in the wilderness and he was hungry, tired, and thirsty. He [afterwards] discovered a tree which had sweet fruits, enjoyable shade, and a stream of water passing under it. He ate from its fruits, drank its water, and sat in its shade. On his departure, he said, ‘Tree, tree, in what can I bless you? If I will bless you with sweet fruits, your fruits are already sweet. [If I will bless you] that your shade will be pleasant, your shade is already pleasant. [If I will bless you] that a stream of water should pass underneath you, a stream of water is already passing underneath. Rather, may it be Hashem’s will that all the saplings that are

ASK THE RABBI IV

planted from you will be just like you! Just like you, what can I bless you? If in Torah, you already have Torah. If in actions, you already perform actions. If in children, you already have children. Rather, may it be His Will that your descendants shall be like you.”

92. Performing multiple *mitzvot* at the same time

Question: Can one have in mind to get two or three *mitzvot* at the same time? For example, when one is reciting *Tehillim*, can one have in mind to learn Torah and to *daven*, so she gets two *mitzvot*? Or, on *Yom Tov* that is Shabbat, can one have in mind while drinking wine that she wants the *mitzva* of *simchat Yom Tov* and *oneg Yom Tov* and Shabbat?

Answer: It is obviously possible to fulfill several *mitzvot* with one action. Nevertheless, one must look at each case separately. Regarding the examples that you brought, such as the recital of *Tehillim*, the *Midrash Socher Tov* states that King David asked Hakadosh Baruch Hu to consider the recitation of *Tehillim* as if the reader was involved in learning negaim and ohalot, tractates dealing with spiritual afflictions and the transmission of spiritual impurities.

The *Shlah* wrote that from here, the recitation of *Tehillim* is considered akin to the *mitzva* of learning Torah. However in his *Nefesh HaChaim* (*sha'ar* 4, 82), Rav Chaim Volozhin *zt"l* asked, “Who could tell us that HaKadosh Baruch Hu accepted King David’s request?” After all, we have not been privy to Hakadosh Baruch Hu’s response to David. Therefore, one should not view the recitation of *Tehillim* as Torah learning.

Regarding drinking wine on *Yom Tov* that falls on Shabbat: It seems certain that the two *mitzvot* join together as one, since the idea is that the enjoyment and happiness created from the drinking of wine infuse the nature of the day with two types of holiness, *kedushat Shabbat* and *Yom Tov*.

Miscellaneous Halachic Issues

93. Scope of a man's requirement to have children

Question: If someone had children from a prior relationship, dose he have to have more kids when he remarries? What if it is difficult to find a woman who is of child bearing age? What if the prior relationship was with a non-Jew? Can one fulfill some aspect of the obligation to procreate by having children in the past even with a daughter of Noah or gentile?

Answer: If one had a son and daughter from his previous marriages, he has fulfilled the Torah obligation of procreation (*Shulchan Aruch, Even Haezer* 1:5). The fact that he is married to a new wife does not obligate him to have additional children. Nevertheless, even after he has fulfilled his Torah obligation, there still exists a rabbinic *mitzva* to have more children (*Ibid.* 1:8).

If it is hard for a man to find a woman to marry who is fertile, he may still marry a woman who is unable to conceive. According to halacha, the reason for getting married is not dependent on whether or not a person is able to procreate (*Ibid.* 1:8).

In a case where a non-Jew married a non-Jewish woman who gave birth to a son and daughter, and he later converts, he has nevertheless fulfilled the *mitzva* of procreation and this is even if his children did not convert (*Shulchan Aruch, Even Haezer* 1:7, *Beit Shmuel, sif katan* 12). However, if the man is a Jew who married a non-Jewish woman or if he is a non-Jew who married a Jewish woman, since his children are not considered his heirs, he has not fulfilled the *mitzva* of procreation (*Even Haezer* 156:2).

94. Requirement to attend a *brit mila*

Question: I remember learning something about it being a negative thing not to go to a *brit*, but maybe that only applies to someone who goes but doesn't participate in the meal. What is it and is it halacha?

Answer: One should be stringent to attend and eat at the *brit mila* that one was invited to, because of what the Talmud states in Tractate *Pesachim* (113b) that some say that whoever does not eat at a *mitzva* gathering is spiritually excised by Heaven. Rashi and the *Tosafot* explain there that an example of a *seudat mitzva* is a *brit mila*. The Rema likewise rules this way in the *Shulchan Aruch, Yoreh Deah* 265: 12. However, the *Tosafot* (and the Rema) add that this rule is only applicable when the people attending the meal are upright.

The *Acharonim* write that if one would lose the opportunity for public prayer by his going to the *brit*, or if he has to go to work to support his household – and some say even if he would be interrupting his Torah learning, then he is not obligated to go to a *seudat brit*.

Therefore, the custom is not to invite people to the *brit* in order that they will not be obligated to come. One rather informs where and when the *brit* will be taking place, and whoever wants to participate in the *brit* ceremony will come.

95. Whether *Kiddush* expenses can be counted as *ma'aser*

Question: If I were to pay for a *Kiddush* in shul to celebrate a special occasion, can the amount be deducted from my *maaser* money obligation? Any idea if some or all of the amount would be tax deductible? Thank you!

Answer: No, it would not. It is a good thing and even can be a *mitzva* per se to thank Hashem for His kindness. However, it would not be more than a personal *mitzva*, like *lulav* or a *sukka* that are not deductible for *ma'aser* (see *Shulchan Aruch Yoreh Deah* 249:1 in the Rema). The exceptions could be if it is important for the *shul* to have a *Kiddush*, and you make it for this sake, not intending mainly for your celebration.

We do not want to guess about tax deductibility, which is not our field.

96. Owning clown figurines

Question: My relative had collected various types of figurine clowns and upon her passing each of her relatives received part of her collection. At that point many people brought me various clowns to add to my collection. Since then I became observant and married. I never took the clowns from my parent's home, but they are currently in the process of moving and want me to take the clowns. What is the halachic status of having clown figurines? Are there any that are acceptable? Any suggestions on how to deal with my parents if I have to get rid of them all, especially if they say they want to keep them? Thanks in advance

Answer: Whoever wants to keep such dolls in his home has whom to rely upon, since in contemporary times, creating a doll into a human form is not considered idolatry.

This lenient ruling is based on the *Chochmat Adam*, klal 85, sif 6, and the author of the *Nachal Eshkol* (*Sefer HaEshkol*), volume 3, siman 50.

However, the *Shulchan Aruch*, *Yoreh Deah* 141: 5, along with the Rema and other commentaries, take a strict view and forbid the use of dolls in human form.

97. Precision needed in observing halachic times

Question: Since *Chazal* did not have clocks and they gave us ways to determine when *sof zeman kriyat shema* is, when *Shabbat* starts etc. What sense does it make for us to have calendars that give us exact times? E.g. when they announce that *sof zeman kriyat shema* is 9:44 AM, what is wrong with saying it a little after this, since as I noted, *Chazal* never gave such exact times (the same question applies regarding the size of an *ammah*, *kezayit* etc.)

Answer: Even though *Chazal* did not have watches, this should not imply that the times of day in halacha are less than exact or imprecise. The established halachic times are based on different astronomical realities like the sunrise, sunset, and nightfall. Also, different parts of the day, for example in regards to *Kriyat Shema*, are clear realities that can be seen.

In cases where the reality could not be seen clearly, for different logistical considerations, in the time of *Chazal* they were more stringent and would make it earlier or later because of the uncertainty. We see this in Tractate *Shabbat* 118b, there it describes that the people in Teveria accepted Shabbat upon themselves earlier, since (Teveria) is in a valley and they were not able to see the sunset in the horizon.

Today, the (halachic) charts of times of day are predominantly based on astronomical calculations. We should know that relying on them in an exact way is problematic, because according to many opinions the thing that is decisive is the reality that is seen visually in every place and the astronomical calculations cannot describe the exact reality in every place. Therefore, one should rely on what is visible to the eyes or on someone that knows the parameters of halacha in every area, or be stringent by being earlier or later by a few minutes.

98. Which custom of Hebrew pronunciation one should follow

Question: Is pronunciation of words a binding halachic matter? I'm trying to determine which speaking style to use in reciting Hebrew: the type used in *Yeshivas* (where the *taf* is pronounced as *saf* in the absence of a *chirik* - dot) or the type used in Israel where the *taf* is always said with a hard T sound and accent is usually on the last syllable of the word. If it helps at all, my father and grandfather were not frum and didn't know Hebrew or Yiddish. My great grandfather is from Russia, was also nonobservant, but did speak Yiddish. Is there a distinction between speech in prayer and in study?

Answer: We find in halacha and other sources that being particular regarding the pronunciation applies only to the case of davening and Torah leining, because they in particular ought to be recited in the Hebrew language. However, with regular study, or even with Jewish studies, the content is what counts most, and therefore they may be recited and learned in any language, and in this case, there is then no need to be particular regarding which pronunciation to use. However, it is preferable to study Torah in the Hebrew language both because one understands better when learning from the source as opposed to a translation, and because according to the Rambam, there is a *mitzva* to learn in Hebrew. In your case, regarding which pronunciation to use, the majority of *poskim* in our time hold that ideally, it is best that each individual follow his father's custom when praying, and therefore if anyone switched to praying with a different pronunciation, it is preferable for one to go back to using the pronunciation which his father had used.¹

Sources:

¹ Harav Kook (*Orach Mishpat* 16:18); *Har Tzvi* (*Orach Chaim* 1:4); *Igrot Moshe* (*Orach Chaim* 3,5)

² *Piskei Uziel* (1:1); *Shchol Levadi* (*Orach Chaim* 2:3); *Bnei Banim* pg 10-11

Therefore even if one's father or grandfather did not speak the Hebrew language using any specific pronunciation, if you do know the custom which they followed regarding the pronunciation, you should adhere to it.

Apparently, in Russia, where your great grandfather lived, the *Ashkenazi* pronunciation was used (where the *taf* among other letters, is not stressed, but is pronounced as *saf*). However, if you have accustomed yourself to pray with a particular pronunciation, and readapting your father's custom may cause difficulty for you and confuse you while praying, it is best to continue praying with the pronunciation you are accustomed to.

Similarly, *poskim* have explained that it is best to be consistent with using a particular pronunciation and not use the *Ashkenazi* pronunciation for one thing and the *Sefardi* pronunciation for another, except in cases where the pronunciation is clearly mistaken, such as the lack of distinction between the letters, *chet* and *chaf*, and between an *aleph* and an *ayin*.

Although it is ideal to follow the rules mentioned above, one fulfills the mitzva of prayer and Torah study using any customary pronunciation.

99. Standing for a Rav that one sees frequently

Question: If one learns in a *shul* or *beit midrash* where there is a resident Rav or *Rosh Yeshiva* also learning, is he required to get up in respect every time the Rav passes by the place where he sits?

Answer: “It is a positive commandment to stand up for a wise man... even if he is not his Rabbi, rather only someone who is greater than him and someone from whom he can learn” (*Shulchan Aruch, Yoreh Deah* 244:1).

One should stand every time one sees the Rabbi. However, if one is learning Torah one is not obligated to stand for him. If however the Rabbi is his main Rabbi or *Rosh Yeshiva* and he is learning Torah, one should stand up for him twice a day. (*Chayei Moshe* – Respect for *Talmidei Chachamim*. See also more details of this halacha).

100. Euthanasia for animals

Question: I'm a college student studying to be a veterinarian, and I'm wondering if having to put an animal to sleep, euthanasia, is against Jewish law. (If I'm the one performing the task.) Thank you so much for any help you'll be able to give me!

Answer:

Regarding animal euthanasia

In general, the Torah has demonstrated numerous times the positive relationship one should have with animals. This expresses itself in numerous mitzvot in the Torah and statements of our Sages regarding the great importance of preventing cruelty to animals and the need to be merciful towards them, and the need to spare them pain.

Many of the *mitzvot* are possibly related to the prohibition of being cruel to animals. For example: the obligation of allowing one's animal to rest on Shabbat, the obligation to assist in the removal of a load from an animal, the prohibition of eating blood, the mitzva of covering the blood [of non-domesticated animals that were ritually slaughtered], the prohibition of slaughtering an animal and its mother on the same day, the mitzva of ritual slaughtering, the prohibition of eating a limb from a live animal, the mitzva of sending the mother bird away, and many other *mitzvot*.

The principal of the prohibition of inflicting pain on animals is precisely when one inflicts pain on an animal without any benefit to humans, and one's ability to obtain benefit without inflicting pain upon animals. However, when the matter is essential for mankind's benefit, the prohibition of inflicting pain upon animals does not exist.

Some authorities have written that the killing of an animal is also prohibited because of inflicting pain to animals. However, the majority of halachic authorities regard the prohibition of inflicting

ASK THE RABBI IV

pain to animals to not apply when killing an animal. Nevertheless, the reason for killing the animal must be justified. Therefore, hunting animals for pleasure and sport alone is forbidden because of its cruel act and various additional serious prohibitions. Similarly, unnecessary killing of animals is prohibited because of *bal tashchit*, wasting natural resources. Therefore, for justified reasons euthanasia is permitted.

We recommended looking-up the entry of *tzar baalei chaim* in Professor Avraham Steinberg's Encyclopedia of Jewish Medical Ethics (volume 6, pp. 507-547 in the Hebrew edition); Rav Shlomo Aviner, "*Tzar ba'alei chaim b'eit Hadbarah*", Techumin, volume 6, p. 432; Rav Shlomo Rosenfeld, "*Hashmadat odfei baalei chaim*", Techumin, volume 10, p. 258.

101. Source for custom to shower the *bar mitzva* boy with candy

Question: What is the origin of the custom of showering candy on the *bar mitzva* celebrant?

Answer: The original custom was to shower the bride and groom with grain as a symbol of fertility in fulfillment of Psalm 147:14. *Berachot* 50b speaks of showering bride and groom with parched grain and nuts, but limits it to the dry season so that the food will not be spoiled. The custom is also recorded in *Shulchan Aruch, Orach Chaim*, section 171, 5.

There are conflicting customs about showering bride and groom. Some did it on the way to the *chuppah*, some in the synagogue when the groom was called to the Torah.

A similar custom was observed on *Simchat Torah* for the *Chatan Torah* and *Chatan Bereshit*.¹

In recent years it has become customary to extend these customs to *bar mitzva* celebrants as well.

¹ See Daniel Sperber, *Minhagei Yisrael*, Volume 6, Chapter 14, pp. 140 ff. and Avraham Yaari, *Toledot Hag Simhat Torah*, pp.231 ff.