

## Passover with COVID-19

Based on a Question and Answer session held with Rabbi Eliyahu Ben-Hayim

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*Disclaimer: The tshuvot herein are exclusively in regards to the effect of the global COVID-19 pandemic and not to be generalized for use during other years. No tshuvot should be used to institute a regular practice without consultation with a trusted rabbi.*

### Concerns Regarding Community Practices

#### **Women's Use of Mikvah**

Rabbi Ben-Hayim advised the following protocols for *mikvaot*:

Appointments should be set for only one woman at a time,<sup>1</sup> thereby preventing any interpersonal contact. The time in the water should be brief (despite it being chemically treated for hygiene).

Women should complete all their *chafifa* preparations at home. They should soak and thoroughly clean their bodies<sup>2</sup> and comb their hair immediately before leaving home. When they arrive at the *mikvah*, they are to only inspect and immerse themselves to prevent the use of communal facilities and utensils.

Women should immerse only once.<sup>3</sup>

Due to the communal use of the water, women are particularly advised to shower again upon returning home immediately after immersion<sup>4</sup> as is permitted by the prevalent custom for *Sephardic* women.

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<sup>1</sup> In order to allow this, they may also allow the *mikvaot* to accept appointments during the day, after midday. Obviously, refraction from physical contact must be kept until nightfall - the end of seven days.

<sup>2</sup> A thorough shower is sufficient if no bathtub is available.

<sup>3</sup> The Torah requirement for immersion is only once. Common custom is to immerse two or three times, even cited by the Ben Ish Hai (*Shemini* 2:19) that the custom in Baghdad was to immerse three times. During this pandemic, stringencies are not advised so as to promote the health of the community.

<sup>4</sup> See Rama to *Yoreh De'ah* 201:75 and Gra there. See also *Yabia Omer* (Vol. 8, No. 19) and *Taharat Habayit* (3, pp. 195-202).

## ***Tevilat Kellim***

Utensils purchased from a non-Jew need to be immersed before their use by Jews. This year, as *mikvaot* are closed due to the ongoing pandemic, Rabbi Ben-Hayim advises that one should use a natural body of water to immerse the utensil. If that is not possible, one can give the utensil to a non-Jew through a *kinyan hagbah* (the non-Jew must lift the item, thereby obtaining “ownership” of it) and in that way be exempt from the requirement of immersion.

## ***Brit Milah***

The *Brit Milah* ceremony does not require a quorum of ten men, despite the prevalent custom to perform the ceremony during communal prayer. These ceremonies should be attended solely by the child’s father, the *sandak*, and the *mohel*. All blessings may be recited as usual.<sup>5</sup>

Rabbi Ben-Hayim ruled that *mohalim* should not perform *metzitzah b’peh*, oral suction, at all.<sup>6</sup>

## **Concerns Regarding Food**

### **The Use of *Shmura* Matzah and Hand-Baked Matzah During the Seder**

The verse in *Shemot* 12:17 instructs us to watch unleavened breads. The Talmudic Sages derive from here<sup>7</sup> that *matzah* must be guarded and prepared with the intention of fulfilling the *mitzvah* to consume *matzah*. The Pri Hadash and others hold that this includes the reaping and grinding of the wheat as well as the kneading and baking of the *matzah* and is an obligatory requirement of *shmura* rather than a stringency.

The Industrial Revolution in the first half of the nineteenth century brought the introduction of machine-made *matzah*. Rabbi Hayim Halberstam of Sanz held that a

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<sup>5</sup> See *Shulhan Arukh Yoreh De’ah* (265:6) who writes: “When it is possible, the circumcision should be done among ten individuals, and when it is not possible, it can be done among less than ten”, see *Darkhei Moshe* for an explanation of this law. Due to our present situation and the danger of large gatherings, Rabbi Ben-Hayim explained that this falls under what the *Shulhan Arukh* calls “not possible” and therefore a minyan should not be present. Rabbi Avigdor Nebenzahl (COVID-19 Hizzuk and Halakhah Teleconference March 22 2020, min. 6) advised this way as well.

<sup>6</sup> Similarly, the Chatam Sofer observed that the *Gemara* states that the rationale for this part of the ritual was merely hygienic. He issued leniency to perform *metzitzah* with a sponge in place of oral suction in a letter to his student, Rabbi Eliezer Horowitz of Vienna, after a number of children in his community had become infected with sores after oral suction, some resulting in death, as brought down by the Maharam Shick (*Orach Hayim*, No. 152) and Har Tzvi (*Yoreh De’ah*, No. 214).

Rabbi Ben-Hayim also related how Rabbi Dr. Mordechai Tendler once mentioned to him that in his opinion, *metzitza* is not a requirement for circumcision at all (and should never be performed on Shabbat). See however, *Sdei Hemed* (vol. 8 p. 238) and Responsa *Da’at Kohen* (No. 140-142).

<sup>7</sup> *Pesahim* 38

requirement of *matzah* is that it is prepared “*lishma*” (with proper intent) and that a machine is incapable of fulfilling this requirement.<sup>8</sup>

Rabbi Tzvi Pesah Frank<sup>9</sup> and many others disagreed and held that he who initiates the machine can have the intention to produce the *matzah lishma*, thus since fulfilling the requirement. Rabbi Frank and other *gedolim* even preferred the usage of machine *matzah* over hand *matzah* because it is baked more quickly.

Rabbi Ben-Hayim ruled that although we hold that machine *matzah* is made *lishma*, the *matzot* used by the *seder* should be hand-baked *matzah*.<sup>10</sup> In a circumstance that a person simply cannot get hand-made *matzah*—as is happening this year due to shortages in some communities—machine *matzah* may be used.<sup>11</sup>

### **Milk Without Passover Certification**

Concerning the usage of milk that does not state that it is certified for Passover, Rabbi Ben-Hayim explained that the additive of Vitamin D may contain a slight *hametz* risk, though it is not clear to him. It is best to purchase milk that is certified as kosher for Passover.

### **Milk From a Cow Which Was Fed *Hametz***

One may purchase milk from a cow that was fed *hametz*. Rabbi Ben-Hayim brought a Ma'aseh Rav who quoted from the Vilna Gaon as permitting this. The ruling is based on the principle of “*zeh vezeh gorem*” (if one benefits from something which was made through a both permitted and prohibited substances, the item is permitted).

### **Citric Acid on Passover**

Citric acid used to be produced from natural sources, such as lemons and other fruit, but is now produced industrially using wheat flour.

Rabbi Ovadiah Yosef permits eating products containing citric acid on Passover.<sup>12</sup> He reasons that although during the production, flour is mixed with water and may become *hametz*, it later loses both its taste and appearance, thereby rendering it as considered “unfit for a dog’s consumption” and losing its status of *hametz* and is thus permitted.<sup>13</sup>

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<sup>8</sup> *Diveri Haim*, Vol. 1, No. 23-24. He famously declared machine-made *matzah* to be *hametz gamur*.

<sup>9</sup> *Mikraei Kodesh* Vol. 8, No. 2

<sup>10</sup> This too was the opinion of Rabbi Ovadiah Yosef (*Yechave Da'at* Vol. 1, No. 14) and Rabbi Mordechai Eliyahu (*Mamar Mordechai* pg. 40), who ruled that machine *matzah* is permitted, but that hand *matzah* should be used at the Seder.

<sup>11</sup> This too was the ruling of Rabbi Hershel Schachter and Rabbi Asher Weiss (COVID-19 Halacha Teleconference March 22 2020, min 19). See also *Hazon Ovadiah (Hilkhos Pesah*, pg. 221). Rabbi Ben-Hayim related that when he was in Iran, hand *matzah* was not available, so he used the Halpern machine *matzahs*.

<sup>12</sup> *Yecheve Da'at* Vol. 2, No. 62

<sup>13</sup> Rabbi Ben-Hayim also related how Rabbi Ovadiah Yosef once used this *heter* in order to give Passover certification on a certain alcoholic beverage, although Rabbi Shlomo Goren at the time was not

Rabbi Ben-Hayim ruled that if one can refrain from the consumption of a product with citric acid, then it is best to not purchase such an item. However, when necessary, one may rely on Rabbi Yosef's leniency.

## **Kashering Food Utensils**

### **Kashering Plastic or Rubber Utensils**

Rabbi Ben-Hayim cites the opinion of Rabbi Eliezer Waldenberg<sup>14</sup> who holds that plastic and rubber are not similar to *klei heres* (earthenware vessels) for they have been scientifically proven to both absorb and release flavor and, when possible, *hagalah* (immersing in boiling water) would work to kasher them.<sup>15</sup>

### **Kashering Steam-Ovens<sup>16</sup>**

According to the precept of "*ke'bolo kach polto*" (the means by which flavor is absorbed, so must it be purged) in the kashering of utensils, the way by which a kosher item lost its status would be how it would be kashered. One would be able to infer that steam-ovens would thus be able to be kashered with the use of steam. However, there is a dispute among the Later Achronim<sup>17</sup> as to whether steam is capable of kashering utensils.

Rabbi Ben-Hayim ruled that one should kasher a steam-oven using regular hot water. If this cannot be done, one may rely on those who are lenient with steam.

### **Kashering a Bread Toaster**

Rabbi Ben-Hayim ruled that bread toasters cannot be kashered for two reasons: 1) It has small holes where bread and crumbs get stuck, and 2) based on the aforementioned principle of "*ke'volo kach polto*" these toasters would require kashering through *libun* (heating the material until it begins to glow or spark) which, if done properly, would irreparably damage the toaster.<sup>18</sup> If one wishes to use a toaster on Passover, he must purchase one for Passover use.

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happy with this ruling. Rabbi Goren held like many authorities who are stringent. In their opinion, *hametz* only loses its status if it becomes unfit for a dog's consumption due to spoilage rather than intent for other uses, such as flavoring, and its status as *hametz* remains unchanged for all purposes (See *Minhat Yitzhak* Vol. 7, No. 27; *Or Letziyon* Vol. 1, Nov. 34; *Shevet Halevi* Vol. 4, No. 47).

<sup>14</sup> Responsa *Tzitz Eliezer*, Vol. 4, No. 6

<sup>15</sup> This is also the opinion of Rabbi Ovadiah Yosef (*Hazon Ovadiah Hilkhos Hagalah*, 7). However, Rabbi Moshe Feinstein in *Iggrot Moshe* (Vol. 2, No. 92) considers plastic and rubber as earthenware vessels which cannot be *kashered* by *hagalah*.

<sup>16</sup> Steam-ovens have a reservoir that is filled with water. Heat from the oven turns the water into steam to heat the oven and cook food.

<sup>17</sup> This dispute is between Rabbi Hayim Ozer Grodzinski and the Hazon Ish.

<sup>18</sup> It is forbidden to attempt to kasher items that would be damaged by the appropriate kashering method due to concerns that one would not complete the process properly out of fear of damaging his utensil.

## The Fast of the Bekhorim

### **Siyum for the Fast of the Behorim Via Phone or Video**

Due to the restrictions against gatherings this year, firstborns will not be able to break their fast through a *siyum massekhet* at the synagogue with a *minyán*. Rabbi Ben-Hayim ruled that it would be ideal for one to make a *siyum* himself<sup>19</sup>, even on a tractate of *mishna*.<sup>20</sup> If one cannot do so, it is acceptable to listen in to another's *siyum* via phone and/or video, especially as this fast is a custom, not a *din*.<sup>21</sup>

## Hol Hamoed

### **Trading Stocks on Hol Hamoed**

Rabbi Ben-Hayim ruled that trading stocks is only allowed when otherwise refraining from trading will result in an actual loss of the principal, which can be deemed as a *dvar ha'aved* (work done to avoid a loss), as opposed trading in an effort to accrue a profit, which would be classified as “work” and forbidden on *hol hamoed*.<sup>22</sup>

## Sefirat Haomer

### **Haircuts**

*Shulhan Arukh* (*Orach Hayim* 493) rules that haircuts are not to be performed during the days of the *Omer*. The Radbaz (responsa 787), however, points out that this ruling of Rabbi Yosef Karo is not an edict of the Sages and is merely a custom. He relates that many were accustomed to getting haircuts before *Shabbat* and on *Rosh Hodesh*.

Based on this, Rabbi Ben-Hayim ruled that in cases of great need or distress, such as this year when non-essential barbershops have been closed due to the pandemic, there is room to rely on the Radbaz to get a haircut on Friday or *Rosh Hodesh* during the *Omer*.

### **Weddings During Sefira; Weddings Delayed Due to COVID-19**

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<sup>19</sup> There is no obligation for a quorum of ten men by a *siyum massekhet* (*Be'erot Yitskhak*, responsa, No. 8; *Pesakim Ve'teshuvot Yoreh De'ah* pg. 322; Rabbi Avigdor Nebenzahl, *ibid.* min. 6)

<sup>20</sup> Rabbi Ovadiah Yosef in *Yabia Omer* (Vol. 1, No. 26) and *Yechave Da'at* (Vol. 1, No. 40), rules that a *siyum* on *mishnah* can exempt only the person making the *siyum* and not partakers. Rabbi Mordechai Eliyahu, however, posits that even partakers can exempt their fast from a *siyum* on *mishnah*. Rabbi Ben-Hayim's opinion is like that of Rabbi Eliyahu. This is the opinion of Rabbi Meir Mazuz as well.

<sup>21</sup> This is also the opinion of Rabbi Hershel Schachter (responsa, *ibid.*, p. 2), Rabbi Asher Weiss (COVID-19 Teleconference, March 22 2020, min. 7) and Rabbi Shmuel Fuerst.

<sup>22</sup> Based on *Shulhan Arukh* (*Orach Hayim* 539:1). See *Sefer Hilkhot Hol HaMoed* (pg. 90-91) and *Ya'alkut Yosef* (Holidays, pg. 514).

The *Shulhan Arukh* (ibid) records the custom not to get married during *Sefirat Haomer*.

It is the opinion of some authorities, most notably the Pri Hadash, that only marriages wherein the groom was previously married and has fulfilled the Torah obligation to have children must be avoided and that a childless man is still permitted to marry during the *Omer* as the commandment to marry and have children takes precedence over the custom to refrain from wedding.

The common practice was established by later authorities to have all refrain from weddings during this period.<sup>23</sup>

Rabbi Ben-Hayim said that because many weddings were pushed off this year as a result of the ongoing pandemic, one can rely on the Pri Hadash and schedule a wedding during the *omer*, though it would be preferable for the wedding to be scheduled for *Rosh Hodesh* if possible.

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<sup>23</sup> See *Mishna Berurah*, ibid